

DEPUTY ADMINISTRATOR, VETERANS' ADMINISTRATION

FEBRUARY 16, 1966.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

R E P O R T

[To accompany H.R. 11007]

The Committee on Finance, to which was referred the bill (H.R. 11007) to provide statutory authority for the Deputy Administrator of Veterans' Affairs to assume the duties of Administrator during the absence or disability of the Administrator, or during a vacancy in that office, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

EXPLANATION OF THE BILL

This bill, as passed by the House of Representatives and approved by the Committee on Finance, would provide statutory authority for the Deputy Administrator of Veterans' Affairs to assume the duties of the Administrator during the latter's absence or disability or during a vacancy in that Office. It would also authorize the Administrator to permit the redelegation of authority he may now delegate under existing law.

This proposal was formally requested by the Veterans' Administration and past experience has demonstrated the need for its enactment.

There would be no additional expenditure of public funds resulting from the enactment of this proposal.

The request of the Veterans' Administration follows:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., September 2, 1965.

Hon. HUBERT H. HUMPHREY,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a bill to provide statutory authority for the Deputy Administrator of Veterans' Affairs to assume the duties of Administrator during the absence or disability of the Administrator or during a vacancy in that office, and for other purposes, with the request that it be introduced in order that it may be considered for enactment.

As the title indicates, the primary purpose of this legislation is to insure administrative continuity in the Office of the Administrator of Veterans' Affairs. The proposed language is patterned after 5 U.S.C. 630(c) relating to the General Services Administration. The draft bill would also amend section 212 of title 38, United States Code, the provision of law which now authorizes the Administrator to delegate authority to act and render decisions with respect to laws administered by the Veterans' Administration, so as to permit the redelegation of such authority when the Administrator finds such power of redelegation to be necessary.

Past experience has demonstrated the need for the amendments proposed by this legislation. Its enactment will permit greater administrative flexibility and will insure continuity of operations. A full explanation of each proposed amendment, with justification therefor, is set forth in the enclosed section-by-section explanation of the bill.

There will be no additional expenditure of public funds resulting from the enactment of this legislation and we hope that it will receive early and favorable consideration.

We are advised by the Bureau of the Budget that there is no objection from the standpoint of the Administration's program to the presentation of this proposal to the Congress.

Sincerely,

W. J. DRIVER, *Administrator.*

A BILL To provide statutory authority for the Deputy Administrator of Veterans' Affairs to assume the duties of Administrator during the absence or disability of the Administrator, or during a vacancy in that office, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 210 of title 38, United States Code, is amended by adding a new subsection (d) to read as follows:

"(d) There shall be in the Veterans' Administration a Deputy Administrator of Veterans' Affairs who shall be appointed by the Administrator. The Deputy Administrator shall perform such functions as the Administrator shall designate and, unless the President shall designate another officer of the Government, shall be acting Administrator of Veterans' Affairs during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator."

(b) The catch line of such section 210 is amended by adding “; Deputy Administrator”, at the end thereof.

(c) The analysis at the head of chapter 3 of such title 38, regarding section 210, is amended by deleting the period at the end thereof and inserting the following: “; Deputy Administrator.”

SEC. 2 (a) Section 212(a) of such title 38 is amended by inserting immediately after the word “delegate”, in the first sentence thereof, the following: “, or authorize successive redelegation of,”.

(b) Such section 212(a) is further amended by inserting “, redelegations,” immediately after the word “delegations” in the second sentence thereof

SECTION-BY-SECTION EXPLANATION OF A BILL

To provide statutory authority for the Deputy Administrator of Veterans' Affairs to assume the duties of Administrator during the absence or disability of the Administrator, or during a vacancy in that office, and for other purposes

SECTION 1

Section 210 of title 38, United States Code, would be amended to read as follows:

§ 210. Appointment and general authority of Administrator: *Deputy Administrator*

(a) The Administrator of Veterans' Affairs is the head of the Veterans' Administration. He is appointed by the President, by and with the advice and consent of the Senate.

(b) The Administrator, under the direction of the President, is responsible for the proper execution and administration of all laws administered by the Veterans' Administration and for the control, direction, and management of the Veterans' Administration. Except to the extent inconsistent with law, he may consolidate, eliminate, abolish, or redistribute the functions of the bureaus, agencies, offices, or activities in the Veterans' Administration, create new bureaus, agencies, offices, or activities therein, and fix the functions thereof and the duties and powers of their respective executive heads.

(c) The Administrator has authority to make all rules and regulations which are necessary or appropriate to carry out the laws administered by the Veterans' Administration and are consistent therewith, including regulations with respect to the nature and extent of proofs and evidence and the method of taking and furnishing them in order to establish the right to benefits under such laws, the forms of application by claimants under such laws, the methods of making investigations and medical examinations, and the manner and form of adjudications and awards.

(d) *There shall be in the Veterans' Administration a Deputy Administrator of Veterans' Affairs who shall be appointed by the Administrator. The Deputy Administrator shall perform such functions as the Administrator shall designate and, unless the President shall designate another officer of the Government, shall be Acting Administrator of Veterans' Affairs during the*

absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

The purpose of this amendment is to insure continuity in the office of an Administrator of Veterans' Affairs. It would provide statutory authority whereby the incumbent of the position of Deputy Administrator of Veterans' Affairs (a position heretofore administratively established) would act as Administrator during the absence or disability of the Administrator, or during a vacancy in that office. It is similar to a number of statutory provisions applicable to other governmental establishments, and is patterned after the authority contained in 5 U.S.C. 630(c) with respect to the Deputy Administrator of the General Services Administration.

Since World War II there have been six different occupants of the position of Administrator of Veterans' Affairs. Two of these were appointed by means of recess appointments, concurrently with the resignation of their predecessors, inasmuch as Congress was not in session when the positions became vacant. On the other three occasions, however, there has been a time interval between the resignation of an Administrator and the appointment and qualification of his successor. In each of these cases it has been necessary to ask the President to designate an Acting Administrator, and in each instance the Deputy Administrator was designated.

Although the procedures used in the past have made administrative continuity possible, they have proven cumbersome and have, at times, caused procedural problems. And, if the vacancy is to be of short duration, it should not be necessary for the President to execute a formal instrument designating the Deputy Administrator to act as Administrator.

Subsections 1 (b) and (c) are merely technical changes, necessitated by the amendment contained in subsection 1(a).

SECTION 2

Section 212(a) of title 38, United States Code, would be amended to read as follows:

(a) The Administrator may assign duties and delegate, or authorize successive redelegation of, authority to act and to render decisions with respect to all laws administered by the Veterans' Administration, to such officers and employees as he may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

This amendment would authorize the redelegation of certain delegated functions where such redelegation is necessary to properly administer and carry out the activities of the agency.

The Administrator's present statutory authority to delegate, with respect to laws administered by the Veterans' Administration (38 U.S.C. 212(a)), has been construed as not conferring power to redelegate. In an agency the size of the Veterans' Administration, with its extensive operations and many field activities, it is neither feasible nor efficient for the Administrator to delegate authority to each individual delegee. In many instances it is possible to delegate authority to a

position, rather than to a named individual. This is not always feasible and, on certain occasions, it is necessary to delegate to a specific individual. In emergency situations, or when the specific delegee is unable to act or to fulfill his duties, it may be necessary for a subordinate official, such as the Manager or Director of a regional office or hospital, to designate the individual best qualified to act, either in a specific case, or generally, to insure continuity of operations. Referral to central office for issuance of a new, or stopgap, delegation of authority is obviously inefficient. We have tried to minimize these problems, within existing law, by delegating certain authority to a class of individuals, with authority given to one specific official to designate the particular individual who should exercise the delegated authority. This approach is cumbersome and has not always proven satisfactory, since it is impossible to anticipate all circumstances, or changing factual situations, which may occur within our organization.

The authority proposed is similar to that now contained by various other Government establishments (e.g., Administrator of General Services Administration, 40 U.S.C. 486), and will provide a remedy to the problems we have encountered in this area.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

CHAPTER 3, TITLE 38, UNITED STATES CODE

CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

SUBCHAPTER I—VETERANS' ADMINISTRATION

Sec.

- 201. Veterans' Administration an independent agency.
- 202. Seal of the Veterans' Administration.

SUBCHAPTER II—ADMINISTRATOR OF VETERANS' AFFAIRS

- 210. Appointment and general authority of Administrator; *Deputy Administrator*.
- 211. Decisions by Administrator; opinions of Attorney General.
- 212. Delegation of authority and assignment of duties.
- 213. Contracts and personal services.
- 214. Reports to the Congress.
- 215. Publication of laws relating to veterans.
- 216. Research by Administrator; indemnification of contractors.
- 217. Studies of rehabilitation of disabled persons.

SUBCHAPTER III—VETERANS' ADMINISTRATION REGIONAL OFFICES; EMPLOYEES

- 230. Central and regional offices.
- 231. Placement of employees in military installations.
- 232. Employment of translators.
- 233. Employees' apparel; school transportation; recreational equipment; visual exhibits; personal property.
- 234. Telephone service for medical officers.
- 235. Benefits to employees at oversea offices who are United States citizens.

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Subchapter II--Administrator of Veterans' Affairs

§ 210. Appointment and general authority of Administrator; *Deputy Administrator*

(a) The Administrator of Veterans' Affairs is the head of the Veterans' Administration. He is appointed by the President, by and with the advice and consent of the Senate.

(b) The Administrator, under the direction of the President, is responsible for the proper execution and administration of all laws administered by the Veterans' Administration and for the control, direction, and management of the Veterans' Administration. Except to the extent inconsistent with law, he may consolidate, eliminate, abolish, or redistribute the functions of the bureaus, agencies, offices, or activities in the Veterans' Administration, create new bureaus, agencies, offices, or activities therein, and fix the functions thereof and the duties and powers of their respective executive heads.

(c) The Administrator has authority to make all rules and regulations which are necessary or appropriate to carry out the laws administered by the Veterans' Administration and are consistent therewith including regulations with respect to the nature and extent of proofs and evidence and the method of taking and furnishing them in order to establish the right to benefits under such laws, the forms of application by claimants under such laws, the methods of making investigations and medical examinations, and the manner and form of adjudications and awards.

(d) *There shall be in the Veterans' Administration a Deputy Administrator of Veterans' Affairs who shall be appointed by the Administrator. The Deputy Administrator shall perform such functions as the Administrator shall designate and, unless the President shall designate another officer of the Government, shall be Acting Administrator of Veterans' Affairs during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.*

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§ 212. Delegation of authority and assignment of duties

(a) The Administrator may assign duties, and delegate, or *authorize successive redelegation of*, authority to act and to render decisions, with respect to all laws administered by the Veterans' Administration, to such officers and employees as he may find necessary. Within the limitations of such delegations, *redelegations*, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

(b) There shall be included on the technical and administrative staff of the Administrator such staff officers, experts, inspectors, and assistants (including legal assistants), as the Administrator may prescribe.

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