

AUTHORIZING THE VETERANS' ADMINISTRATION TO
APPOINT AND EMPLOY RETIRED OFFICERS WITHOUT
AFFECTING THEIR RETIRED STATUS

JUNE 4 (legislative day, MARCH 5), 1946.—Ordered to be printed

Mr. JOHNSON of Colorado, from the Committee on Finance, submitted
the following

REPORT

[To accompany H. R. 5626]

The Committee on Finance, to whom was referred the bill (H. R. 5626) to authorize the Veterans' Administration to appoint and employ retired officers without affecting their retired status, and for other purposes, having considered the same, report favorably thereon, without amendment, and recommend that the bill do pass.

It is well known that the Veterans' Administration is urgently in need of the services of experienced and qualified personnel to administer its expanded program and to discharge its responsibilities to veterans. The Veterans' Administrator has advised your committee that there are available a number, estimated between 25 and 30, highly skilled and experienced retired officers which he is anxious to employ and who are particularly qualified to perform duties of considerable responsibility in the Veterans' Administration. Because of the restrictions of existing law, however, it is not possible for the Veterans' Administration to employ these persons at the present time. The bill under consideration is designed to remove these restrictions temporarily in order to permit the Veterans' Administration to secure the services of these persons.

Restrictions with respect to Federal employment of retired commissioned officers or retired warrant officers of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service are contained in section 2 of the act of July 31, 1894 (28 Stat. 205), as amended (5 U. S. C. 62), and section 6 of the act of May 10, 1916 (39 Stat. 120), as amended (5 U. S. C. 58, 59). Pertinent provisions of these acts are set out at the end of this report for the information of the Congress. The bill under consideration does not specifically amend or repeal the acts in question but authorizes an exception in the case of the Veterans' Administration. The

amendment proposed by your committee limits this exception to a period of 5 years. The limitation is a restriction on the time during which appointments without regard to the restrictions contained in present law may be made and is not to be construed as a limitation on the term of office of persons appointed or employed by the Veterans' Administration within the 5-year period.

There follows a letter from the Administrator of Veterans' Affairs to the President of the Senate explaining the need for the proposed legislation in considerable additional detail.

FEBRUARY 26, 1946.

The PRESIDENT OF THE SENATE,
The Capitol, Washington, D. C.

SIR: There is enclosed a draft of a proposed bill entitled "A bill to authorize the Veterans' Administration to appoint and employ retired officers without affecting their retired status, and for other purposes," with the request that the same be introduced and considered for enactment as soon as possible.

The purpose of the proposed measure is to enable the Veterans' Administration to secure the services of a number of outstanding physicians, executives, and hospital managers who have had highly specialized training and experience in the management of hospitals and offices and who are urgently needed in the expanding organization of the Veterans' Administration to provide adequate care for World War II veterans, particularly those having service-incurred disabilities or who are entitled to benefits under the Servicemen's Readjustment Act of 1944, as amended. A number of such persons are retired officers of the military or naval forces of the United States and it is not possible for the Veterans' Administration to secure the services of certain of such officers under existing laws. Others, whose services will be needed, contemplate early retirement.

Under the provisions of the proposed bill, any retired officer could accept employment in the Veterans' Administration and receive his retired pay and the pay of his civilian position, except as provided by section 212 of the act of June 30, 1932 (47 Stat. 406), as amended (5 U. S. C. 59a), without affecting his status as a retired commissioned officer or retired warrant officer.

The laws which affect the employment of certain retired officers in civilian positions in the Government are section 2 of the act of July 31, 1894 (28 Stat. 205), as amended (5 U. S. C. 62); section 6 of the act of May 10, 1916 (39 Stat. 120), as amended; and section 212 of the act of June 30, 1932 (47 Stat. 406), as amended (5 U. S. C. 59a). Section 2 of the act of July 31, 1894 (28 Stat. 205), as amended, reads:

"No person who holds an office the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars shall be appointed to or hold any other office to which compensation is attached unless specially authorized thereto by law; but this shall not apply to retired officers of the Army, Navy, Marine Corps, or Coast Guard whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate. Retired enlisted men of the Army, Navy, Marine Corps, or Coast Guard retired for any cause, and retired officers of the Army, Navy, Marine Corps, or Coast Guard who have been retired for injuries received in battle or for injuries or incapacity incurred in line of duty shall not, within the meaning of this section, be construed to hold or to have held an office during such retirement" (5 U. S. C. 62).

Section 6 of the act of May 10, 1916 (39 Stat. 120), as amended, reads:

"Unless otherwise specifically authorized by law, no money appropriated by any Act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of \$2,000 per annum" (5 U. S. C. 58).

"Section 58 of this title shall not apply to retired officers or enlisted men of the Army, Navy, Marine Corps, or Coast Guard, or to officers and enlisted men of the Organized Militia and Naval Militia in the several States, Territories, and the District of Columbia" (5 U. S. C. 59).

Section 212 of the act of June 30, 1932 (47 Stat. 406), as amended, reads:

"(a) After June 30, 1932, no person holding a civilian office or position, appointive or elective, under the United States Government or the municipal government of the District of Columbia or under any corporation, the majority of the stock of which is owned by the United States, shall be entitled, during the period of such incumbency, to retired pay from the United States for or on account

of services as a commissioned officer in any of the services mentioned in title 37, at a rate in excess of an amount which when combined with the annual rate of compensation from such civilian office or position, makes the total rate from both sources more than \$3,000; and when the retired pay amounts to or exceeds the rate of \$3,000 per annum such person shall be entitled to the pay of the civilian office or position or the retired pay, whichever he may elect. As used in this section, the term 'retired pay' shall be construed to include credits for all service that lawfully may enter into the computation thereof.

"(b) This section shall not apply to any person whose retired pay, plus civilian pay, amounts to less than \$3,000: *Provided*, That this section shall not apply to regular or emergency commissioned officers retired for disability incurred in combat with an enemy of the United States or for disabilities resulting from an explosion of an instrumentality of war in line of duty during an enlistment or employment as provided in Veterans Regulation Numbered 1 (a), part I, paragraph I" (5 U. S. C. 59 (a) (b)).

The proposed legislation will remove the restriction on appointment to positions in the Veterans' Administration as to certain retired officers not exempt from the provisions of section 2 of the act of July 31, 1894, as amended (5 U. S. C. 62), but the provisions of section 212 of the act of June 30, 1932, as amended (5 U. S. C. 59a), would apply to persons not exempt therefrom by the terms thereof, appointed as a result of the proposed legislation, so as to prohibit receipt of a combined amount of retired pay and civilian pay in excess of a rate of \$3,000 per year, while permitting such persons to receive either the full amount of their retired pay or the full amount of their civilian pay if the retired pay amounts to or exceeds the rate of \$3,000 per annum. The proposed legislation will exempt retired officers of the Coast and Geodetic Survey and Public Health Service when appointed and employed by the Veterans' Administration from the application of section 6 of the act of May 10, 1916, as amended (5 U. S. C. 58).

The need of immediate increase in personnel of the Veterans' Administration in Washington and in the field makes it imperative to secure the services of experienced and qualified personnel, if the laws providing benefits for veterans, particularly veterans of World War II, are to be adequately and promptly administered. Several of those best qualified at this time are on the retired rolls of the Army or the Navy or may soon assume that status.

Because of the restrictions under existing law, it will not be possible to secure the services of certain highly trained persons who, while in the armed forces during the war, demonstrated outstanding ability to handle large problems similar to those which now confront the Veterans' Administration. During the critical period which will continue for a number of years, the Veterans' Administration will be definitely handicapped if it is unable to utilize the services of such persons, who, under existing law, upon retirement may accept private employment without limitation.

It will be noted that under the act of July 31, 1894, as amended, heretofore cited, certain officers retired for disability are exempt from the restrictions therein contained. The considerations which justify exemption in the case of those retired for disability would appear to justify the proposed legislation to exempt other retired officers, particularly as the authorization for such exemption will be exercised only in a limited number of cases where there can be no question of the ability of the individual to discharge the responsibilities of the particular position.

In order that the Veterans' Administration may not be unnecessarily delayed in expanding its organization to serve World War II veterans, it is requested that the proposed measure receive prompt consideration.

Advice has been received from the Bureau of the Budget that there would be no objection by that Office to the submission of this proposed legislation to the Congress.

Very truly yours,

OMAR N. BRADLEY,
General, United States Army, Administrator.

There is set forth herewith for the information of the Congress certain provisions of law affected by the legislation under consideration. The legislation does not amend or repeal these acts but does constitute an exception thereto in favor of the Veterans' Administration.

Section 2 of the act of July 31, 1894 (28 Stat. 205), as amended:

No person who holds an office the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars shall be appointed to or hold any other office to which compensation is attached unless specially authorized thereto by law; but this shall not apply to retired officers of the Army, Navy, Marine Corps, or Coast Guard whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate. Retired enlisted men of the Army, Navy, Marine Corps, or Coast Guard retired for any cause, and retired officers of the Army, Navy, Marine Corps, or Coast Guard who have been retired for injuries received in battle or for injuries or incapacity incurred in line of duty shall not, within the meaning of this section, be construed to hold or have held an office during such retirement.

Section 6 of the act of May 10, 1916 (39 Stat. 120), as amended:

Unless otherwise specifically authorized by law, no money appropriated by any Act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of \$2,000 per annum.

Section 58 of this title shall not apply to retired officers or enlisted men of the Army, Navy, Marine Corps, or Coast Guard, or to officers and enlisted men of the Organized Militia and Naval Militia in the several States, Territories, and the District of Columbia.

Section 212 of the act of June 30, 1932 (47 Stat. 406), as amended:

(a) After June 30, 1932, no person holding a civilian office or position, appointive or elective, under the United States Government or the municipal government of the District of Columbia or under any corporation, the majority of the stock of which is owned by the United States, shall be entitled, during the period of such incumbency, to retired pay from the United States for or on account of services as a commissioned officer in any of the services mentioned in title 37, at a rate in excess of an amount which when combined with the annual rate of compensation from such civilian office or position, makes the total rate from both sources more than \$3,000; and when the retired pay amounts to or exceeds the rate of \$3,000 per annum such person shall be entitled to the pay of the civilian office or position or the retired pay, whichever he may elect. As used in this section, the term "retired pay" shall be construed to include credits for all service that lawfully may enter into the computation thereof.

(b) This section shall not apply to any person whose retired pay, plus civilian pay, amounts to less than \$3,000: *Provided*, That this section shall not apply to regular or emergency commissioned officers retired for disability incurred in combat with an enemy of the United States or for disabilities resulting from an explosion of an instrumentality of war in line of duty during an enlistment or employment as provided in Veterans Regulation Numbered 1 (a), part I, paragraph I.

