

Public Law 85-550

AN ACT

July 25, 1958
[S. 1850]

To implement item 1 of a Memorandum of Understandings attached to the treaty of January 25, 1955, entered into by the Government of the United States of America and the Government of the Republic of Panama with respect to wage and employment practices of the Government of the United States of America in the Canal Zone.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States—
Panama.
Wage and em-
ployment prac-
tices.

FINDINGS

SECTION 1. (a) The Congress of the United States of America hereby finds that the Government of the United States of America and the Government of the Republic of Panama on January 25, 1955, entered into a treaty (known as the Treaty of Mutual Understanding and Cooperation), to which was attached a Memorandum of Understandings Reached (otherwise referred to as the Memorandum of Understandings), signed by such governments on such date.

(b) The Congress further finds that, under such Memorandum of Understandings, the Government of the United States assumed certain obligations set forth in item 1 of such Memorandum as follows:

"1. Legislation will be sought which will authorize each agency of the United States Government in the Canal Zone to conform its existing wage practices in the Zone to the following principles:

"(a) The basic wage for any given grade level will be the same for any employee eligible for appointment to the position without regard to whether he is a citizen of the United States or of the Republic of Panama.

"(b) In the case of an employee who is a citizen of the United States, there may be added to the base pay an increment representing an overseas differential plus an allowance for those elements, such as taxes, which operate to reduce the disposable income of such an employee as compared with an employee who is a resident of the area.

"(c) The employee who is a citizen of the United States will also be eligible for greater annual leave benefits and travel allowances because of the necessity for periodic vacations in the United States for recuperation purposes and to maintain contact with the employee's home environment.

"Legislation will be sought to make the Civil Service Retirement Act uniformly applicable to citizens of the United States and the Republic of Panama employed by the Government of the United States in the Canal Zone.

70 Stat. 743.
5 USC 2251 et
seq.

"The United States will afford equality of opportunity to citizens of Panama for employment in all United States Government positions in the Canal Zone for which they are qualified and in which the employment of United States citizens is not required, in the judgment of the United States, for security reasons.

"The agencies of the United States Government will evaluate, classify, and title all positions in the Canal Zone without regard to the nationality of the incumbent or proposed incumbent.

"Citizens of Panama will be afforded opportunity to participate in such training programs as may be conducted for employees by the United States agencies in the Canal Zone."

(c) The Congress further finds that the enactment of legislation containing a statement of general policies and principles and other provisions in implementation of item 1 of such Memorandum of Understandings is necessary to the faithful and proper discharge of the

obligations assumed by the Government of the United States under such item.

DEFINITIONS

SEC. 2. As used in the following provisions of this Act, the term—

(1) "department" means a department, agency, or independent establishment in the executive branch of the Government of the United States (including a corporation wholly owned or controlled by the United States) which conducts operations in the Canal Zone;

(2) "position" means those duties and responsibilities of a civilian nature under the jurisdiction of a department (A) which are performed in the Canal Zone or (B) with respect to which the exclusion of individuals from the Classification Act of 1949, as amended, is provided for by section 202 (21) (B) of such Act as amended by section 16 (a) of this Act;

(3) "employee" means any individual holding a position; and

(4) "continental United States" means the several States of the United States of America existing on the date of enactment of this Act and the District of Columbia.

Post, p. 410.

GENERAL RULES FOR EMPLOYMENT AND WAGE PRACTICES OF UNITED STATES GOVERNMENT IN THE CANAL ZONE

SEC. 3. (a) The head of each department is authorized and directed to conduct the employment and wage practices in the Canal Zone of such department in accordance with—

(1) the principles established in item 1 of the Memorandum of Understandings set forth in section 1 (b) of this Act,

(2) the provisions of this Act;

(3) the regulations promulgated by, or under authority of, the President of the United States in accordance with this Act; and

(4) provisions of applicable law.

(b) The President is authorized, to the extent he deems appropriate—

(1) to exclude any employee or position from this Act or from any provision of this Act, and

(2) to extend to any employee, whether or not such employee is a citizen of the United States, the same rights and privileges as are provided by applicable laws and regulations for citizens of the United States employed in the competitive civil service of the Government of the United States.

EMPLOYMENT STANDARDS

SEC. 4. (a) The head of each department shall establish written standards, in conformity with this Act, the regulations promulgated under section 15 (b) of this Act, and the Canal Zone Merit System established under section 10 of this Act, for—

(1) the determination of the qualifications and fitness of employees and of individuals under consideration for appointment to positions, and

(2) the selection of individuals for appointment, promotion, or transfer to positions.

(b) Such standards shall be placed in effect on such date as the President shall prescribe but not later than the one hundred and eightieth day following the date of enactment of this Act.

COMPENSATION

SEC. 5. (a) The head of each department shall establish and may revise, from time to time, in accordance with this Act, the rates of basic compensation for positions and employees under his jurisdiction.

(b) Such rates of basic compensation may be established and revised in relation to the rates of compensation for the same or similar work performed in the continental United States or in such areas outside the continental United States as may be designated in regulations promulgated under section 15 (b) of this Act.

(c) The head of each department may grant increases in such rates of basic compensation in amounts not to exceed the amounts of the increases granted, from time to time, by Act of Congress in corresponding rates of compensation in the appropriate schedule or scale of pay. The head of the department concerned may make such increases effective as of such date as he may designate but not earlier than the effective date of the corresponding increases provided by Act of Congress.

(d) No rate of basic compensation established under this section shall exceed by more than 25 per centum, when increased by the amounts of the allowance and the differential authorized by section 7 of this Act, the rate of basic compensation for the same or similar work performed in the continental United States by employees of the Government of the United States.

(e) The initial adjustments in rates of basic compensation under authority of this section shall be effective on the first day of the first pay period which begins more than sixty days after the date on which regulations are promulgated under section 15 (b) of this Act.

UNIFORM APPLICATION OF EMPLOYMENT STANDARDS AND RATES OF
COMPENSATION

SEC. 6. The employment standards established under section 4 of this Act and the rates of basic compensation established under section 5 of this Act shall be applied uniformly, within and among all departments, to the respective positions, employees (other than employees who are citizens of the United States and are assigned to work in the Canal Zone on temporary detail), and individuals under consideration for appointment to positions, irrespective of whether the employee or individual concerned is a citizen of the United States or a citizen of the Republic of Panama.

ADDITIONAL ALLOWANCE AND DIFFERENTIAL

SEC. 7. (a) Each employee who is a citizen of the United States shall receive, in addition to basic compensation at the rate established under section 5 of this Act, such amounts as the head of the department concerned may determine to be payable, as follows:

(1) an allowance for taxes which operate to reduce the disposable income of such United States citizen employee in comparison with the disposable incomes of those employees who are not citizens of the United States; and

(2) an overseas (tropical) differential not in excess of an amount equal to 25 per centum of the aggregate amount of the rate of basic compensation established under section 5 of this Act and the amount of the allowance provided in accordance with paragraph (1) of this subsection.

(b) The allowances and differentials provided for by subsection (a) of this section shall become effective initially on the first day of the first pay period which begins more than sixty days after the date on which regulations are promulgated under section 15 (b) of this Act.

SECURITY POSITIONS

SEC. 8. Notwithstanding any other provision of this Act but subject to regulations promulgated under section 15 (b) of this Act, the head of each department may designate any position under his jurisdiction as a position which for security reasons shall be filled by a citizen of the United States.

BENEFITS BASED ON COMPENSATION

SEC. 9. For the purposes of determining—

- 68 Stat. 736. (1) amounts of insurance under the Federal Employees' Group Life Insurance Act of 1954, as amended (5 U. S. C. 2091-2103),
- 39 Stat. 742.
63 Stat. 854. (2) amounts of compensation for death or disability under the Federal Employees' Compensation Act, as amended (5 U. S. C. 751 et seq.),
- 70 Stat. 743. (3) amounts of overtime pay or other premium compensation,
- (4) benefits under the Civil Service Retirement Act, as amended (5 U. S. C. 2251-2267),
- (5) annual leave benefits, and
- (6) any other benefits which are related to basic compensation, the basic compensation of each employee who is a citizen of the United States shall include—
- (A) the rate of basic compensation for his position established in the manner provided by section 5 of this Act, and
- (B) the amount of the allowance and the differential determined in the manner provided by section 7 of this Act.

CANAL ZONE MERIT SYSTEM

SEC. 10. (a) There shall be established, in conformity with this Act, and by regulations promulgated by, or under authority of, the President, a Canal Zone Merit System of selection for appointment, reappointment, reinstatement, reemployment, and retention with respect to positions, employees, and individuals under consideration for appointment to positions.

(b) The Canal Zone Merit System, irrespective of whether the employees or individuals concerned are citizens of the United States or citizens of the Republic of Panama, shall—

(1) be based solely on the merit of the employee or individual and upon his qualifications and fitness to hold the position concerned, and

(2) apply uniformly within and among all departments to positions, employees, and individuals concerned.

(c) The Canal Zone Merit System—

(1) shall conform generally to policies, principles, and standards established by or in accordance with the Civil Service Act of January 16, 1883, as amended and supplemented, and

(2) shall include provision for appropriate interchange of citizens of the United States employed by the Government of the United States between such merit system and the competitive civil service of the Government of the United States.

(d) The Canal Zone Merit System shall be placed in effect on such date as the President shall prescribe but not later than the one hundred and eightieth day following the date of enactment of this Act.

SALARY PROTECTION IN CONNECTION WITH CONVERSION OF COMPENSATION
BASE

SEC. 11. Whenever the rate of basic compensation of an employee established prior to, on, or after the date of enactment of this Act in relation to rates of compensation for the same or similar work in the continental United States is converted on or after the effective date of the initial adjustments under authority of section 5 of this Act to a rate of basic compensation established in relation to rates in areas other than the continental United States in the manner provided by section 5 (b) of this Act, such employee shall, pending transfer to a position for which the rate of basic compensation is established in relation to rates of compensation in the continental United States in the manner provided by such section 5 (b), continue to receive a rate of basic compensation not less than the rate of basic compensation to which he was entitled immediately prior to such conversion so long as he remains in the same position or in a position of equal or higher grade.

APPEALS

SEC. 12. (a) There shall be established, in conformity with this Act and by regulations promulgated by, or under authority of, the President, a Canal Zone Board of Appeals. It shall be the duty of the Board to review and determine the appeals of employees in accordance with this section.

Canal Zone
Board of Appeals.

(b) The regulations referred to in subsection (a) shall provide for, in accordance with this Act, the number of members of the Board, the appointment, compensation, and terms of office of such members, the selection of a Chairman of the Board, the appointment and compensation of employees of the Board, and such other matters as may be relevant and appropriate.

(c) Any employee may request at any time that the department in which he is employed—

(1) review the classification of his position or the grade or pay level for his position, or both, and

(2) revise or adjust such classification, grade, and pay level, or any of them, as the case may be.

Such request for review and revision or adjustment shall be submitted and adjudicated in accordance with the regularly established appeals procedure of such department.

(d) Each employee shall have the right to appeal to the Board from an adverse determination made under subsection (c) of this section. Such appeal shall be made in writing within a reasonable time, as prescribed in regulations promulgated by, or under authority of, the President, after the date of the transmittal by the department to the employee of written notice of such adverse determination.

(e) The Board, in its discretion, may authorize, in connection with an appeal under subsection (d) of this section, a personal appearance before the Board by such employee, or by his representative designated for such purpose.

(f) After investigation and consideration of the evidence submitted, the Board shall—

(1) prepare a written decision on each such appeal,

(2) transmit its decision to the department concerned, and

(3) transmit copies of such decision to the employee concerned or to his designated representative.

(g) The decision of the Board on any question or other matter relating to any such appeal shall be final and conclusive. It shall be mandatory on the department concerned to take action in accordance with the decision of the Board.

CIVIL SERVICE RETIREMENT COVERAGE

SEC. 13. (a) Effective on and after the first day of the first pay period which begins in the third calendar month following the calendar month in which this Act is enacted—

(1) the Act of July 8, 1937 (50 Stat. 478; 68 Stat. 17; Public Numbered 191, Seventy-fifth Congress; Public Law 299, Eighty-third Congress), shall apply only with respect to those individuals within the classes of individuals subject to such Act of July 8, 1937, whose employment shall have been terminated, prior to such first day of such first pay period, in the manner provided by the first section of such Act; and

70 Stat. 743.

(2) the Civil Service Retirement Act (5 U. S. C. 2251-2267) shall apply with respect to those individuals who are in the service of the Canal Zone Government or the Panama Canal Company and who, except for the operation of paragraph (1) of this subsection, would be within the classes of individuals subject to such Act of July 8, 1937.

(b) On or before the first day of the first pay period which begins in the third calendar month following the calendar month in which this Act is enacted, the Panama Canal Company shall pay, as an agency contribution, into the civil service retirement and disability fund created by the Act of May 22, 1920, for each individual—

41 Stat. 618,
5 USC 719-721.

(1) who is employed, on such first day of such first pay period, by the Canal Zone Government or by the Panama Canal Company, and

(2) who, by reason of the enactment of this section and the operation of the Civil Service Retirement Act (5 U. S. C. 2251-2267), is subject to such Act on and after such first day of such first pay period,

for service performed by such individual in the employment of—

(A) the Panama Railroad Company during the period which began on June 29, 1948, and ended on June 30, 1951, or

(B) the Panama Canal (former independent agency), the Canal Zone Government, or the Panama Canal Company during the period which began on July 1, 1951, and which ends immediately prior to such first day of such first pay period,

an amount equal to the aggregate amount which such individual would have been required to contribute for retirement purposes if he had been subject to the Civil Service Retirement Act during such periods of service.

(c) Nothing contained in this section shall affect—

(1) the rights of any individual existing immediately prior to such first day of such first pay period above specified, or

(2) the continuing obligations of the Canal Zone Government and the Panama Canal Company under section 4 (a) of the Civil Service Retirement Act (5 U. S. C. 2254 (a)), to reimburse the civil service retirement and disability fund for Government contributions to such fund covering service performed, on or after such first day of such first pay period above specified, by the employees concerned.

PARTICIPATION IN TRAINING PROGRAMS

SEC. 14. Any training program established by a department shall be applied uniformly to each employee irrespective of whether such employee is a citizen of the United States or of the Republic of Panama. Each such employee who is a citizen of the Republic of

Panama shall be afforded opportunity to participate in such training program on the same basis as that upon which opportunity to participate in such training program is afforded to employees who are citizens of the United States.

ADMINISTRATION

SEC. 15. (a) The President shall coordinate the policies and activities of the respective departments under this Act.

(b) The President is authorized to promulgate such regulations as may be necessary and appropriate to carry out the provisions and accomplish the purposes of this Act.

(c) The President is authorized to delegate any authority vested in him by this Act and to provide for the redelegation of any such authority.

CHANGES IN EXISTING LAW

SEC. 16. (a) Paragraph (21) of section 202 of the Classification Act of 1949, as amended (5 U. S. C. 1082), is amended to read as follows:

63 Stat. 954.

“(21) (A) employees of any department who are stationed in the Canal Zone and (B) upon approval by the Civil Service Commission of the request of any department which has employees stationed in both the Republic of Panama and the Canal Zone, employees of such department who are stationed in the Republic of Panama;”.

(b) The following provisions of law are hereby repealed:

Repeals.

(1) paragraph (32) of section 202 of the Classification Act of 1949, as amended (5 U. S. C. 1182);

(2) subsection (c) of the first section of the Act of October 25, 1951 (65 Stat. 637);

(3) section 804 of the Postal Field Service Compensation Act of 1955 (69 Stat. 130; 39 U. S. C. 1034); and

(4) section 404 of the Act of May 27, 1958 (72 Stat. 146; Public Law 85-426).

(c) Subsections (a) and (b) of this section shall become effective on the first day of the first pay period which begins more than sixty days after the date on which regulations are promulgated under section 15 (b) of this Act.

APPLICABILITY OF CERTAIN EXISTING LAW

SEC. 17. Nothing contained in this Act shall affect the applicability of—

(1) the Veterans' Preference Act of 1944, as amended (5 U. S. C. 851-869),

58 Stat. 387.

(2) section 6 of the Act of August 24, 1912, as amended (5 U. S. C. 652), and

62 Stat. 354.

(3) section 23 of the Independent Offices Appropriation Act, 1935 (48 Stat. 522), as amended (5 U. S. C. 673c), or section 205 of the Federal Employees Pay Act of 1945, as amended (5 U. S. C. 913), to those classes of employees within the scope of such sections 23 and 205 on the date of enactment of this Act.

59 Stat. 297.

EFFECTIVE DATES

SEC. 18. Except as otherwise provided in sections 4, 5, 7, 10, 13, and 16 of this Act, this Act shall become effective on the date of its enactment.

Approved July 25, 1958.