

during his term of service. The Counsel may remove any individual appointed under this paragraph.

(2) For purposes of pay (other than the rate of pay of the Counsel and Deputy Counsel) and employment benefits, right, and privileges, all personnel of the Office shall be treated as employees of the Senate.

(c) Consultants

In carrying out the functions of the Office, the Counsel may procure the temporary (not to exceed one year) or intermittent services of individual consultants (including outside counsel), or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 72a(i) of this title.

(d) Policies and procedures

The Counsel may establish such policies and procedures as may be necessary to carry out the provisions of this chapter.

(e) Delegation of duties

The counsel¹ may delegate authority for the performance of any function imposed by this chapter except any function imposed upon the Counsel under section 288e(b) of this title.

(f) Attorney-client relationship

The Counsel and other employees of the Office shall maintain the attorney-client relationship with respect to all communications between them and any Member, officer, or employee of the Senate.

(Pub. L. 95-521, title VII, §701, Oct. 26, 1978, 92 Stat. 1875.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1), (d), and (e), was in the original "this title", meaning title VII of Pub. L. 95-521, which enacted this chapter, section 118a of this title, and section 1364 of Title 28, Judiciary and Judicial Procedure, and amended sections 3210, 3216, and 3219 of Title 39, Postal Service. For complete classification of title VII to the Code, see Tables.

EFFECTIVE DATE

Section 717 of title VII of Pub. L. 95-521 provided that: "This title [enacting this chapter, section 118a of this title, section 1364 of Title 28, Judiciary and Judicial Procedure, amending sections 3210, 3216, and 3219 of Title 39, Postal Service, and enacting provisions set out as notes under this section] shall take effect on January 3, 1979."

SEPARABILITY

Section 715 of title VII of Pub. L. 95-521 provided that: "If any part of this title or any amendment made by this title [enacting this chapter, section 118a of this title, section 1364 of Title 28, Judiciary and Judicial Procedure, amending sections 3210, 3216, and 3219 of Title 39, Postal Service, and enacting provisions set out as notes under this section] is held invalid, the remainder of the title and any amendment made by this title shall not be affected thereby. If any provision of any part of this title or of any amendment made by this title, or the application thereof to any person or circumstance is held invalid, the provisions of other parts and of any amendment made by this title and their application to other persons or circumstances shall not be affected thereby."

¹ So in original. Probably should be capitalized.

INCREASES IN COMPENSATION

Increases in compensation for Senate officers and employees under authority of Federal Pay Comparability Act of 1970 (Pub. L. 91-656), see Salary Directives of President pro tempore of the Senate, set out as notes under section 60a-1 of this title.

§ 288a. Senate Joint Leadership Group

(a) Accountability of Office

The Office shall be directly accountable to the Joint Leadership Group in the performance of the duties of the Office.

(b) Membership

For purposes of this chapter, the Joint Leadership Group shall consist of the following Members:

(1) The President pro tempore (or if he so designates, the Deputy President pro tempore) of the Senate.

(2) The majority and minority leaders of the Senate.

(3) The Chairman and ranking minority Member of the Committee on the Judiciary of the Senate.

(4) The Chairman and ranking minority Member of the committee of the Senate which has jurisdiction over the contingent fund of the Senate.

(c) Assistance of Secretary of Senate

The Joint Leadership Group shall be assisted in the performance of its duties by the Secretary of the Senate.

(Pub. L. 95-521, title VII, §702, Oct. 26, 1978, 92 Stat. 1877.)

§ 288b. Requirements for authorizing representation activity

(a) Direction of Joint Leadership Group or Senate resolution

The Counsel shall defend the Senate or a committee, subcommittee, Member, officer, or employee of the Senate under section 288c of this title only when directed to do so by two-thirds of the Members of the Joint Leadership Group or by the adoption of a resolution by the Senate.

(b) Civil action to enforce subpoena

The Counsel shall bring a civil action to enforce a subpoena of the Senate or a committee or subcommittee of the Senate under section 288d of this title only when directed to do so by the adoption of a resolution by the Senate.

(c) Intervention or appearance

The Counsel shall intervene or appear as amicus curiae under section 288e of this title only when directed to do so by a resolution adopted by the Senate when such intervention or appearance is to be made in the name of the Senate or in the name of an officer, committee, subcommittee, or chairman of a committee or subcommittee of the Senate.

(d) Immunity proceedings

The Counsel shall serve as the duly authorized representative in obtaining an order granting immunity under section 288f of this title of—

(1) the Senate when directed to do so by an affirmative vote of a majority of the Members present of the Senate; or

(2) a committee or subcommittee of the Senate when directed to do so by an affirmative vote of two-thirds of the members of the full committee.

(e) Resolution recommendations

The Office shall make no recommendation with respect to the consideration of a resolution under this section.

(Pub. L. 95-521, title VII, § 703, Oct. 26, 1978, 92 Stat. 1877.)

§ 288c. Defending the Senate, committee, subcommittee, member, officer, or employee of Senate

(a) Except as otherwise provided in subsection (b) of this section, when directed to do so pursuant to section 288b(a) of this title, the Counsel shall—

(1) defend the Senate, a committee, subcommittee, Member, officer, or employee of the Senate in any civil action pending in any court of the United States or of a State or political subdivision thereof, in which the Senate, such committee, subcommittee, Member, officer, or employee is made a party defendant and in which there is placed in issue the validity of any proceeding of, or action, including issuance of any subpoena or order, taken by the Senate, or such committee, subcommittee, Member, officer, or employee in its or his official or representative capacity; or

(2) defend the Senate or a committee, subcommittee, Member, officer, or employee of the Senate in any proceeding with respect to any subpoena or order directed to the Senate or such committee, subcommittee, Member, officer, or employee in its or his official or representative capacity.

(b) Representation of a Member, officer, or employee under subsection (a) of this section shall be undertaken by the Counsel only upon the consent of such Member, officer, or employee.

(Pub. L. 95-521, title VII, § 704, Oct. 26, 1978, 92 Stat. 1877.)

§ 288d. Enforcement of Senate subpoena or order

(a) Institution of civil actions

When directed to do so pursuant to section 288b(b) of this title, the Counsel shall bring a civil action under any statute conferring jurisdiction on any court of the United States (including section 1365 of title 28), to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened failure or refusal to comply with, any subpoena or order issued by the Senate or a committee or a subcommittee of the Senate authorized to issue a subpoena or order.

(b) Actions in name of committees and subcommittees

Any directive to the Counsel to bring a civil action pursuant to subsection (a) of this section in the name of a committee or subcommittee of the Senate shall, for such committee or subcommittee, constitute authorization to bring such action within the meaning of any statute conferring jurisdiction on any court of the United States.

(c) Consideration of resolutions authorizing actions

It shall not be in order in the Senate to consider a resolution to direct the Counsel to bring a civil action pursuant to subsection (a) of this section in the name of a committee or subcommittee unless—

(1) such resolution is reported by a majority of the members voting, a majority being present, of such committee or committee of which such subcommittee is a subcommittee, and

(2) the report filed by such committee or committee of which such subcommittee is a subcommittee contains a statement of—

(A) the procedure followed in issuing such subpoena;

(B) the extent to which the party subpoenaed has complied with such subpoena;

(C) any objections or privileges raised by the subpoenaed party; and

(D) the comparative effectiveness of bringing a civil action under this section, certification of a criminal action for contempt of Congress, and initiating a contempt proceeding before the Senate.

(d) Rules of Senate

The provisions of subsection (c) of this section are enacted—

(1) as an exercise of the rulemaking power of the Senate, and, as such, they shall be considered as part of the rules of the Senate, and such rules shall supersede any other rule of the Senate only to the extent that rule is inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules (so far as relating to the procedure in the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

(e) Committee reports

A report filed pursuant to subsection (c)(2) of this section shall not be receivable in any court of law to the extent such report is in compliance with such subsection.

(f) Omitted

(g) Certification of failure to testify; contempt

Nothing in this section shall limit the discretion of—

(1) the President pro tempore of the Senate in certifying to the United States Attorney for the District of Columbia any matter pursuant to section 194 of this title; or

(2) the Senate to hold any individual or entity in contempt of the Senate.

(Pub. L. 95-521, title VII, § 705, Oct. 26, 1978, 92 Stat. 1878; Pub. L. 99-336, § 6(a)(2), June 19, 1986, 100 Stat. 639.)

CODIFICATION

Subsec. (f) of this section amended title 28 by adding section 1364 and by adding item 1364 to the chapter analysis.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-336 substituted “section 1365 of title 28” for “section 1364 of title 28”.