

ance of their duties, and for other purposes,' approved September 7, 1916, as amended" on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

#### AMENDMENTS

2004—Pub. L. 108-447 added subsec. (a), designated existing provisions as subsec. (b) and inserted heading, and struck out former first undesignated par. which read as follows: "The board shall without regard to the provisions of Civil Service laws applicable to officers and employees of the United States, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation, define their duties, and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the board may be removed in the discretion of the board. No regular officer or employee of the Corporation shall receive a salary in excess of that received by the members of the board."

1972—Pub. L. 92-310 struck out provisions which permitted the board to require bonds from managers, assistant managers, officers, employees, attorneys, and agents.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108-447 take office or May 18, 2005, see section 604(b) of Pub. L. 108-447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

#### PAYMENT OF PHYSICIANS ALLOWANCES

Pub. L. 102-377, title IV, Oct. 2, 1992, 106 Stat. 1342, provided: "That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code".

Similar provisions were contained in the following prior appropriation acts:

- Pub. L. 102-104, title IV, Aug. 17, 1991, 105 Stat. 535.
- Pub. L. 101-514, title IV, Nov. 5, 1990, 104 Stat. 2097.
- Pub. L. 101-101, title IV, Sept. 29, 1989, 103 Stat. 665.
- Pub. L. 100-371, title IV, July 19, 1988, 102 Stat. 873.
- Pub. L. 100-202, §101(d) [title IV], Dec. 22, 1987, 101 Stat. 1329-104, 1329-129.
- Pub. L. 99-500, §101(e) [title IV], Oct. 18, 1986, 100 Stat. 1783-194, 1783-212, and Pub. L. 99-591, §101(e) [title IV], Oct. 30, 1986, 100 Stat. 3341-194, 3341-212.

#### LEGAL REPRESENTATION

Customs Courts Act of 1980 as not affecting authority of Tennessee Valley Authority under this chapter to represent itself by attorneys of its choosing, see Pub. L. 96-417, title VII, §705, Oct. 10, 1980, 94 Stat. 1748, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

#### § 831b-1. Acceptance of services of volunteers

The Tennessee Valley Authority may on and after September 29, 1989, accept the services of volunteers and, from any funds available to it, provide for their incidental expenses to carry out any activity of the Tennessee Valley Authority except policymaking or law or regulatory enforcement. Such volunteers shall not be deemed employees of the United States Government, except for the purposes of chapter 81 of title 5 relating to compensation for work injuries, and shall not be deemed employees of the Tennessee Valley Authority except for the purposes of tort claims to the same extent as a regular employee of the Tennessee Valley Authority would be under identical circumstances.

(Pub. L. 101-101, title IV, Sept. 29, 1989, 103 Stat. 665.)

#### CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1990, and not as part of the Tennessee Valley Authority Act of 1933 which comprises this chapter.

#### § 831c. Corporate powers generally; eminent domain; construction of dams, transmission lines, etc.

Except as otherwise specifically provided in this chapter, the Corporation—

(a) Shall have succession in its corporate name.

(b) May sue and be sued in its corporate name.

(c) May adopt and use a corporate seal, which shall be judicially noticed.

(d) May make contracts, as herein authorized.

(e) May adopt, amend, and repeal bylaws.

(f) May purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal property held by it.

The Board shall select a treasurer and as many assistant treasurers as it deems proper: *Provided*, That any member of said Board may be removed from office at any time by a concurrent resolution of the Senate and the House of Representatives.

(g) Shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation.

(h) Shall have power in the name of the United States of America to exercise the right of eminent domain, and in the purchase of any real estate or the acquisition of real estate by condemnation proceedings, the title to such real estate shall be taken in the name of the United States of America, and thereupon all such real estate shall be entrusted to the Corporation as the agent of the United States to accomplish the purposes of this chapter.

(i) Shall have power to acquire real estate for the construction of dams, reservoirs, transmission lines, power houses, and other structures, and navigation projects at any point along the Tennessee River, or any of its tributaries, and in the event that the owner or owners of such property shall fail and refuse to sell to the Corporation at a price deemed fair and reasonable by the Board, then the Corporation may proceed to exercise the right of eminent domain, and to condemn all property that it deems necessary for carrying out the purposes of this chapter, and all such condemnation proceedings shall be had pursuant to the provisions and requirements hereinafter specified, with reference to any and all condemnation proceedings: *Provided*, That nothing contained herein or elsewhere in this chapter shall be construed to deprive the Corporation of the rights conferred by sections 3114, 3115, and 3118 of title 40.

(j) Shall have power to construct such dams, and reservoirs, in the Tennessee River and its tributaries, as in conjunction with Wilson Dam, and Norris, Wheeler, and Pickwick Landing Dams, now under construction, will provide a

nine-foot channel in the said river and maintain a water supply for the same, from Knoxville to its mouth, and will best serve to promote navigation on the Tennessee River and its tributaries and control destructive flood waters in the Tennessee and Mississippi River drainage basins; and shall have power to acquire or construct power houses, power structures, transmission lines, navigation projects, and incidental works in the Tennessee River and its tributaries, and to unite the various power installations into one or more systems by transmission lines.

(k) Shall have power in the name of the United States—

(a) to convey by deed, lease, or otherwise, any real property in the possession of or under the control of the Corporation to any person or persons, for the purpose of recreation or use as a summer residence, or for the operation on such premises of pleasure resorts for boating, fishing, bathing, or any similar purpose;

(b) to convey by deed, lease, or otherwise, the possession and control of any such real property to any corporation, partnership, person, or persons for the purpose of erecting thereon docks and buildings for shipping purposes or the manufacture or storage thereon of products for the purpose of trading or shipping in transportation: *Provided*, That no transfer authorized herein in (b) shall be made without the approval of Congress: *And provided further*, That said corporation, without further action of Congress, shall have power to convey by deed, lease, or otherwise, to the Ingalls Shipbuilding Corporation, a tract or tracts of land at or near Decatur, Alabama, and to the Commercial Barge Lines, Inc., a tract or tracts of land at or near Guntersville, Alabama;

(c) to transfer any part of the possession and control of the real estate now in possession of and under the control of said Corporation to any other department, agency, or instrumentality of the United States: *Provided, however*, That no land shall be conveyed, leased, or transferred, upon which there is located any permanent dam, hydroelectric power plant, or munitions plant heretofore or hereafter built by or for the United States or for the Authority, except that this prohibition shall not apply to the transfer of Nitrate Plant Numbered 1, at Muscle Shoals, Alabama, or to Waco Quarry: *And provided further*, That no transfer authorized herein in (a) or (c) except leases for terms of less than twenty years, shall be made without the approval of the President of the United States, if the property to be conveyed exceeds \$500 in value; and

(d) to convey by warranty deed, or otherwise, lands, easements, and rights-of-way to States, counties, municipalities, school districts, railroad companies, telephone, telegraph, water, and power companies, where any such conveyance is necessary in order to replace any such lands, easements, or rights-of-way to be flooded or destroyed as the result of the construction of any dam or reservoir now under construction by the Corporation, or subsequently authorized by Congress, and easements and rights-of-way upon which are located transmission or distribution lines. The

Corporation shall also have power to convey or lease Nitrate Plant Numbered 1, at Muscle Shoals, Alabama, and Waco Quarry, with the approval of the Department of the Army and the President.

(l) Shall have power to advise and cooperate in the readjustment of the population displaced by the construction of dams, the acquisition of reservoir areas, the protection of watersheds, the acquisition of rights-of-way, and other necessary acquisitions of land, in order to effectuate the purposes of the chapter; and may cooperate with Federal, State, and local agencies to that end.

(May 18, 1933, ch. 32, § 4, 48 Stat. 60; Aug. 31, 1935, ch. 836, §§ 1-3, 13, 49 Stat. 1075, 1076, 1080; July 18, 1941, ch. 309, 55 Stat. 599; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 92-310, title II, § 225(b), June 6, 1972, 86 Stat. 206; Pub. L. 108-447, div. C, title VI, § 603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

#### CODIFICATION

“Sections 3114, 3115, and 3118 of title 40” substituted in subsec. (i) for “the Act of February 26, 1931 (46 Stat. 1422, ch. 307, secs. 1 to 5, inclusive), as now compiled in section 258a to 258e, inclusive, of Title 40 of the United States Code” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Subsec. (j), last sentence, directed the directors of the Authority to report their recommendations to Congress not later than April 1, 1936, and has been omitted as executed.

#### AMENDMENTS

2004—Subsecs. (f), (i). Pub. L. 108-447 substituted “Board” for “board” wherever appearing.

1972—Subsec. (f). Pub. L. 92-310 struck out provisions which required the treasurer and assistant treasurers to give bonds for the safekeeping of securities and moneys of the Corporation.

1941—Subsec. (k). Act July 18, 1941, amended subsec. (k) generally.

1935—Subsec. (i). Act Aug. 31, 1935, § 1, inserted proviso.

Subsec. (j). Act Aug. 31, 1935, § 2, amended subsec. (j) generally.

Subsec. (k). Act Aug. 31, 1935, § 3, added subsec. (k).

Subsec. (l). Act Aug. 31, 1935, § 13, added subsec. (l).

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108-447 take office or May 18, 2005, see section 604(b) of Pub. L. 108-447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

#### DELEGATION OF FUNCTIONS

Authority of President under subsec. (k) of this section to approve transfers under subsecs. (a) and (c) of this section, other than leases for terms of less than 20

years and conveyances of property having a value not in excess of \$500, delegated to Administrator of General Services, see section 1(16) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

**§ 831c-1. Bridges endangered or damaged by dams, etc.; compensation of and contracts with owner for protection, replacement, etc.**

**(a) Structures on Tennessee River or tributaries**

Whenever, as the result of the construction of any dam, reservoir, or other improvement under the provisions of this chapter, or amendments thereto, including any improvement of the navigable channel to accommodate the growth of navigation or changes in navigation requirements within the reservoir created by any dam in the custody of the Tennessee Valley Authority, any bridge, trestle, or other highway or railroad structure located over, upon, or across the Tennessee River or any of its navigable tributaries, including approaches, fenders and appurtenances thereto, is endangered or otherwise adversely affected and damaged, including any interference with or impairment of its use, or, in the judgment of the Board of Directors of the Tennessee Valley Authority, needs to be raised, widened, or otherwise altered to provide the navigation clearances required for completion of the navigable channel to be provided by such improvement, to the extent that protection, alteration, reconstruction, relocation, or replacement is necessary or proper to preserve its safety or utility or to meet the requirements of navigation or flood control, or both, the owner or owners of such bridge, trestle, or structure shall be compensated by the Tennessee Valley Authority in the sum of the reasonable actual cost of such protection, alteration, reconstruction, relocation, or replacement: *Provided*, That in arriving at the amount of such compensation the bridge owner shall be charged with a sum which shall equal the net value to the owner of any direct and special benefits accruing to the owner from any improvement or addition or betterment of the altered, reconstructed, relocated, or replaced bridge, trestle, or structure. The Tennessee Valley Authority is empowered to contract with such owner with respect to any such protection, alteration, reconstruction, relocation, or replacement, the payment of the cost thereof and its proper division, which contract may provide either for money compensation or for the performance of all or any part of the work by the Tennessee Valley Authority.

**(b) Suit on contracts**

In the event of a failure to agree upon the terms and conditions of any such contract, or upon any default in the performance of any contract entered into pursuant to this section, the bridge owner or the Tennessee Valley Authority shall have the right to bring suit to enforce its rights or for a declaration of its rights under this section, or under any such contract, in the district court of the United States for the district in which the property in question is located. In any such proceeding the court shall apportion the total cost of the work between the Tennessee Valley Authority and the owner in accord with the provisions contained in this sec-

tion. The Tennessee Valley Authority's share of the cost of any such protection, alteration, reconstruction, relocation, or replacement, under any contract made or judgment, award, or decree rendered under the provisions of this section may be paid out of any funds available for carrying out the provisions of this chapter, and appropriations for that purpose are hereby authorized: *Provided*, That, prior to such alteration, reconstruction, or relocation of said bridges, the location and plans shall be submitted to and approved by the Secretary of Transportation in accordance with existing laws.

(Nov. 21, 1941, ch. 480, 55 Stat. 773; Pub. L. 90-524, Sept. 26, 1968, 82 Stat. 876.)

CODIFICATION

Section was not enacted as part of the Tennessee Valley Authority Act which comprises this chapter.

AMENDMENTS

1968—Pub. L. 90-524 permitted the Authority to use appropriated funds to cover the Federal share of the cost of necessary bridge alterations where the alterations are obtained by agreement with the bridge owner, made this section applicable to alterations required by new reservoir projects and by realignment or other changes of the navigation channel to accommodate the growth of traffic or changes in navigation requirements within existing reservoirs, and substituted the Secretary of Transportation for the Chief of Engineers and the Secretary of the Army as the approving official.

**§ 831c-2. Civil actions for injury or loss of property or personal injury or death**

**(a) Exclusiveness of remedy**

(1) An action against the Tennessee Valley Authority for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful act or omission of any employee of the Tennessee Valley Authority while acting within the scope of this office or employment is exclusive<sup>1</sup> of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim. Any other civil action or proceeding arising out of or relating to the same subject matter against the employee or his estate is precluded without regard to when the act or omission occurred.

(2) Paragraph (1) does not extend or apply to a cognizable action against an employee of the Tennessee Valley Authority for money damages for a violation of the Constitution of the United States.

**(b) Representation and removal**

(1) Upon certification by the Tennessee Valley Authority that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding heretofore or hereafter commenced upon such claim in a United States district court shall be deemed an action against the Tennessee Valley Authority pursuant to 16 U.S.C. 831c(b) and the Tennessee Valley Authority shall be substituted as the party defendant.

(2) Upon certification by the Tennessee Valley Authority that the defendant employee was act-

<sup>1</sup> So in original. Probably should be "exclusive".