

TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES

PART III - EMPLOYEES

Subpart D - Pay and Allowances

CHAPTER 53 - PAY RATES AND SYSTEMS

SUBCHAPTER I - PAY COMPARABILITY SYSTEM

§ 5304a. Authority to fix an alternative level of comparability payments

(a) If, because of national emergency or serious economic conditions affecting the general welfare, the President should consider the level of comparability payments which would otherwise be payable under section 5304 in any year to be inappropriate, the President shall—

(1) prepare and transmit to Congress, at least 1 month before those comparability payments (disregarding this section) would otherwise become payable, a report describing the alternative level of payments which the President instead intends to provide, including the reasons why such alternative level is considered necessary; and

(2) implement the alternative level of payments beginning on the same date as would otherwise apply, for the year involved, under section 5304.

(b) The requirements set forth in paragraphs (2) and (3), respectively, of section 5303 (b) shall apply with respect to any decision to exercise any authority to fix an alternative level of comparability payments under this section.

(Added Pub. L. 101–509, title V, § 529 [title I, § 101(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1436.)

Effective Date

Section effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

Special Rule Relating to Comparability Payments in 1994

Section 634 of Pub. L. 101–509 provided that:

“Notwithstanding any other provision of law (including any provision of the Federal Employees Pay Comparability Act of 1990 [see Short Title of 1990 Amendment note set out under section 5301 of this title] and any provision of law amended by such Act), for purposes of any comparability payments scheduled to take effect under section 5304 of title 5, United States Code (as amended by such Act) during calendar year 1994—

“(1) deem section 5304a of such title (as so amended) to be amended as follows:

“(A) in subsection (a), strike ‘If’ and all that follows thereafter through ‘welfare,’ and insert ‘Subject to subsection (c), if’; and

“(B) add after subsection (b) the following:

“(c)(1) For the purpose of this section—

“(A) the ‘‘threshold amount’’ is \$1,800,000,000; and

“(B) ‘‘severe economic conditions’’ shall be considered to exist relative to comparability payments scheduled to take effect on a given date if, during the 12-month period ending 2 calendar quarters before such date, there occurred 2 consecutive quarters of negative growth in the GNP.

“(2) Authority under this section to provide an alternative level of comparability payments in any year may not be exercised except in accordance with the following:

“(A) If the estimated cost of the comparability payments which (but for this section) would otherwise be payable in such year would be equal to the threshold amount or less, no alternative level may be fixed under this section unless necessary because a state of war or severe economic conditions exist.

“(B) If the estimated cost of the comparability payments which (but for this section) would otherwise be payable in such year would be greater than the threshold amount, no alternative level may be fixed—

5 USC 5304a

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

“(i) at a level which would result in an estimated cost equal to or greater than the threshold amount, unless necessary because of national emergency or serious economic conditions affecting the general welfare; or

“(ii) at a level which would result in an estimated cost less than the threshold amount, unless necessary because of either of the reasons set forth in subparagraph (A).

“(d)(1) The President’s agent (as referred to in section 5304 (d)) shall develop and include in the appropriate report under section 5304 (d)(1) the methodology for estimating any costs under this section, and any estimate under this section shall be in accordance with such methodology.

“(2) In making any estimate under this section, costs attributable to any authority under section 5304 (h) may not be taken into account.”; and

“(2) the President’s pay agent (referred to in section 5304(d) of such title, as so amended) may use appropriate estimates in lieu of BLS survey data if such data is not available for use in preparing the agent’s report with respect to comparability payments payable during calendar year 1994.”