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SENATE

BILL: S. 1864
ACTION: PASSED

DATE: July 23, 1958
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BOARD OF APPEALS OF THE PATENT OFFICE AND CERTAIN SALARIES

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1818, Senate bill 1864.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 1864) to authorize an increase in the membership of the Board of Appeals of the Patent Office; to provide increased salaries for certain officers and employees of the Patent Office; and for other purposes, which had been reported from the Committee on the Judiciary, with amendments on page 1, at the beginning of line 7, to strike out:

(b) The fourth sentence of such paragraph is repealed.

At the beginning of line 8, to strike out "(c)" and insert "(b)"; on page 2, line 3, after the word "annual", to strike out "basic"; in line 4, after the word "be", to strike out '$20,500" and insert "$20,000", and after the amendment just above stated, to strike out "that of the First Assistant Commissioner shall be $20,000;"; in line 9, after the word "examiners-in-chief", to insert "subject to the approval of the Civil Service Commission; in line 16, after the word "amended", to strike out "The Commissioner is authorized, in accordance with the civil service laws and the Classification Act of 1949, as amended, to appoint, fix the compensation, and prescribe the powers and duties of all other officers and employees of the Patent Office."; and in line 23, after the word "sentence", to strike out "The Commissioner is authorized, without regard to the Classification Act of 1949, as amended, to fix the annual rate of basic compensation of any acting examiner-in-chief who is designated under this paragraph to serve as an examiner-in-chief at any rate not in excess of that authorized by law for examiners-in-chief while such acting examiner-in-chief is so serving." and insert "Such designated examiners-in-chief may be compensated at the established rate for the position in which they are temporarily serving, provided, that at the end of the period for which designated their rate of compensation shall be adjusted to what it would have been had such designation not been made,"; so as to make the bill read:

Be it enacted, etc., That (a) the first sentence of the first paragraph of section 3 of title 35 of the United States Code is amended by striking out the word "nine" and inserting in lieu thereof the words "not more than fifteen."

(b) Such section is amended by inserting therein, immediately after the first paragraph thereof, the following new paragraph:

"The annual rate of compensation of the Commissioner shall be $20,000; and that of each Assistant Commissioner shall be $19,500. The Commissioner is authorized, without regard to the provisions of the Classification Act of 1949, as amended, to fix the annual rates of basic compensation of the examiners-in-chief, subject to the approval of the Civil Service Commission, at rates not exceeding the maximum rate now or hereafter prescribed by law for employees of the classes described in the first section of the act entitled 'An act to authorize the creation of additional positions in the professional and scientific service in the War and Navy Departments,' approved August 1, 1947 (61 Stat. 715), as amended.

SEC. 2. Section 7 of title 35 of the United States Code is amended by adding at the end thereof the following new sentence: Such designated examiners-in-chief may be compensated at the established rate for the positions in which they are temporarily serving: *Provided*, That at the end of the period for which designated their rate of compensation shall be adjusted to what it would have been had such designation not been made."

Mr. O'MAHONEY. Mr. President, this bill, which was introduced by me, for the distinguished Senator from Wisconsin [Mr. WILEY] and myself, has been approved unanimously by the Senate Judiciary Committee, with instructions, however, that consultation be had with the Committee on Post Office and Civil Service.

The Senator from South Carolina [Mr. JOHNSTON], the chairman of the Committee on Post Office and Civil Service, as well as a member of the Judiciary Committee, took up the bill with the Committee on Post Office and Civil Service; and on the first of July he stated on the floor of the Senate that the Post Office and Civil Service Committee also had endorsed the bill.

The bill is designed to clear away the backlog which has developed in the Patent Office.

There is no objection to the bill. I have consulted the minority leader; and the leadership on this side of the aisle has also been consulted.

As I have stated, there is no objection to the bill.

So I hope the bill will be passed.

Mr. WILEY. Mr. President, I join the distinguished Senator from Wyoming [Mr. O'MAHONEY] in requesting that the bill be passed.

As he has stated, in substance the bill is for the purpose of clearing away a backlog which has developed in the work of the Patent Office. It is our judgment that the bill will enable that backlog to be cleared away.

In view of the great importance of the work of the Board of Appeals of the Patent Office and the necessity to attract to it patent lawyers of the highest capacity, the bill provides for increasing the compensation of patent examiners at the level of membership on the Board of Appeals.

The bill authorizes an increase in the membership of the Board of Appeals in the Patent Office from 9 to not more than 15.

There is still a serious backlog in the Patent Office, even though the recruiting of additional examiners in the lower grades has helped to lessen the backlog.

In order to increase the incentive to enter the patent service, and to bring into the Patent Office younger lawyers of the greatest ability, the annual basic compensation of the Commissioner would be increased to what it should be, namely $20,500; that of the First Assistant Commissioner, to $20,000; and that of each Assistant Commissioner, to $19,500.

As the committee report states:

Inadequate compensation at this level affects adversely the salaries of the career employees and is probably the paramount factor in the high losses from the examining corps to private patent practice and industry. Examiners with as little as 5 years of experience and training in the Patent Office are accepting salaries in industry which are equal to, or in excess of, the present salaries of the Assistant Commissioners. The salary of the Commissioner is now $16,000 (GS-18). The base salary of the Assistant Commissioners is now $11,610. Thse salaries are in accordance with the Classification Act of 1949, even though these positions are filled by Executive appointment.

Their compensation should not adversely affect the rates of compensation of the highly skilled professional examining corps. The bill provides that the Commissioner and Assistant Commissioners of Patents be compensated at a rate which is reasonable in view of their required backgrounds and responsibilities.

Mr. President, a workman is worthy of his hire. I think the whole patent bar would agree that the work of the Commissioner of Patents has been so outstanding that his compensation should be at least the amount provided in the bill.

Therefore, I urge my colleagues to support Senate bill 1864.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

The bill is open to further amendment.

If there be no further amendment to be offered, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.