

JUDICIAL REVIEW

Pub. L. 107-155, title IV, §403, Mar. 27, 2002, 116 Stat. 113, provided that:

“(a) SPECIAL RULES FOR ACTIONS BROUGHT ON CONSTITUTIONAL GROUNDS.—If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act [see Short Title of 2002 Amendment note set out under section 431 of this title] or any amendment made by this Act, the following rules shall apply:

“(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

“(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

“(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

“(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

“(b) INTERVENTION BY MEMBERS OF CONGRESS.—In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised (including but not limited to an action described in subsection (a)), any member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

“(c) CHALLENGE BY MEMBERS OF CONGRESS.—Any Member of Congress may bring an action, subject to the special rules described in subsection (a), for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

“(d) APPLICABILITY.—

“(1) INITIAL CLAIMS.—With respect to any action initially filed on or before December 31, 2006, the provisions of subsection (a) shall apply with respect to each action described in such section.

“(2) SUBSEQUENT ACTIONS.—With respect to any action initially filed after December 31, 2006, the provisions of subsection (a) shall not apply to any action described in such section unless the person filing such action elects such provisions to apply to the action.”

§ 438. Administrative provisions

(a) Duties of Commission

The Commission shall—

(1) prescribe forms necessary to implement this Act;

(2) prepare, publish, and furnish to all persons required to file reports and statements under this Act a manual recommending uniform methods of bookkeeping and reporting;

(3) develop a filing, coding, and cross-indexing system consistent with the purposes of this Act;

(4) within 48 hours after the time of the receipt by the Commission of reports and statements filed with it, make them available for public inspection, and copying, at the expense

of the person requesting such copying, except that any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee. A political committee may submit 10 pseudonyms on each report filed in order to protect against the illegal use of names and addresses of contributors, provided such committee attaches a list of such pseudonyms to the appropriate report. The Secretary or the Commission shall exclude these lists from the public record;

(5) keep such designations, reports, and statements for a period of 10 years from the date of receipt, except that designations, reports, and statements that relate solely to candidates for the House of Representatives shall be kept for 5 years from the date of their receipt;

(6)(A) compile and maintain a cumulative index of designations, reports, and statements filed under this Act, which index shall be published at regular intervals and made available for purchase directly or by mail;

(B) compile, maintain, and revise a separate cumulative index of reports and statements filed by multi-candidate committees, including in such index a list of multi-candidate committees; and

(C) compile and maintain a list of multi-candidate committees, which shall be revised and made available monthly;

(7) prepare and publish periodically lists of authorized committees which fail to file reports as required by this Act;

(8) prescribe rules, regulations, and forms to carry out the provisions of this Act, in accordance with the provisions of subsection (d) of this section; and

(9) transmit to the President and to each House of the Congress no later than June 1 of each year, a report which states in detail the activities of the Commission in carrying out its duties under this Act, and any recommendations for any legislative or other action the Commission considers appropriate.

(b) Audits and field investigations

The Commission may conduct audits and field investigations of any political committee required to file a report under section 434 of this title. All audits and field investigations concerning the verification for, and receipt and use of, any payments received by a candidate or committee under chapter 95 or chapter 96 of title 26 shall be given priority. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. Such thresholds for compliance shall be established by the Commission. The Commission may, upon an affirmative vote of 4 of its members, conduct an audit and field investigation of any committee which does meet the threshold requirements established by the Commission. Such audit shall be commenced

within 30 days of such vote, except that any audit of an authorized committee of a candidate, under the provisions of this subsection, shall be commenced within 6 months of the election for which such committee is authorized.

(c) Statutory provisions applicable to forms and information-gathering activities

Any forms prescribed by the Commission under subsection (a)(1) of this section, and any information-gathering activities of the Commission under this Act, shall not be subject to the provisions of section 3512¹ of title 44.

(d) Rules, regulations, or forms; issuance, procedures applicable, etc.

(1) Before prescribing any rule, regulation, or form under this section or any other provision of this Act, the Commission shall transmit a statement with respect to such rule, regulation, or form to the Senate and the House of Representatives, in accordance with this subsection. Such statement shall set forth the proposed rule, regulation, or form, and shall contain a detailed explanation and justification of it.

(2) If either House of the Congress does not disapprove by resolution any proposed rule or regulation submitted by the Commission under this section within 30 legislative days after the date of the receipt of such proposed rule or regulation or within 10 legislative days after the date of receipt of such proposed form, the Commission may prescribe such rule, regulation, or form.

(3) For purposes of this subsection, the term “legislative day” means, with respect to statements transmitted to the Senate, any calendar day on which the Senate is in session, and with respect to statements transmitted to the House of Representatives, any calendar day on which the House of Representatives is in session.

(4) For purposes of this subsection, the terms “rule” and “regulation” mean a provision or series of interrelated provisions stating a single, separable rule of law.

(5)(A) A motion to discharge a committee of the Senate from the consideration of a resolution relating to any such rule, regulation, or form or a motion to proceed to the consideration of such a resolution, is highly privileged and shall be decided without debate.

(B) Whenever a committee of the House of Representatives reports any resolution relating to any such form, rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and is not in order to move to reconsider the vote by which the motion is agreed to or disagreed with.

(e) Scope of protection for good faith reliance upon rules or regulations

Notwithstanding any other provision of law, any person who relies upon any rule or regulation prescribed by the Commission in accordance with the provisions of this section and who acts in good faith in accordance with such rule

or regulation shall not, as a result of such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of title 26.

(f) Promulgation of rules, regulations, and forms by Commission and Internal Revenue Service; report to Congress on cooperative efforts

In prescribing such rules, regulations, and forms under this section, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules, regulations, and forms which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this subsection.

(Pub. L. 92-225, title III, §311, formerly §308, Feb. 7, 1972, 86 Stat. 16; renumbered §316 and amended Pub. L. 93-443, title II, §§208(a), (c)(7)-(10), 209(a)(1), (b), Oct. 15, 1974, 88 Stat. 1279, 1286, 1287; renumbered §315 and amended Pub. L. 94-283, title I, §§105, 110, May 11, 1976, 90 Stat. 481, 486; renumbered §311 and amended Pub. L. 96-187, title I, §§105(4), 109, Jan. 8, 1980, 93 Stat. 1354, 1362; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 104-79, §3(c), Dec. 28, 1995, 109 Stat. 792; Pub. L. 107-252, title VIII, §801(b), Oct. 29, 2002, 116 Stat. 1726.)

REFERENCES IN TEXT

This Act, referred to in text, means the Federal Election Campaign Act of 1971, as amended, as defined by section 431 of this title.

Section 3512 of title 44, referred to in subsec. (c), which related to requirements for the collection of information by independent Federal regulatory agencies, was a part of chapter 35 of Title 44, Public Printing and Documents. Chapter 35 was amended generally by the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and subsequently by the Paperwork Reduction Act of 1995 (Pub. L. 104-13).

PRIOR PROVISIONS

A prior section 311 of Pub. L. 92-225 was classified to section 437e of this title, prior to repeal by Pub. L. 96-187.

Another prior section 311 of Pub. L. 92-225 was renumbered section 307, and is classified to section 437d of this title.

Another prior section 311 of Pub. L. 92-225 was renumbered section 320, and was classified to section 441 of this title, prior to repeal by Pub. L. 94-283.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-252 inserted “and” at end of par. (8), substituted a period for “; and” at end of par. (9), and struck out par. (10) and concluding sentences which read as follows: “serve as a national clearinghouse for the compilation of information and review of procedures with respect to the administration of Federal elections. The Commission may enter into contracts for the purpose of conducting studies under this paragraph. Reports or studies made under this paragraph shall be available to the public upon the payment of the cost thereof, except that copies shall be made available without cost, upon request, to agencies and branches of the Federal Government.”

1995—Subsec. (a)(4). Pub. L. 104-79 substituted “Secretary” for “Clerk, Secretary,”.

1986—Subsecs. (b), (e). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1980—Subsec. (a). Pub. L. 96-187, §109, substituted in introductory clause “The Commission shall” for “It shall be the duty of the Commission”.

¹ See References in Text note below.

Subsec. (a)(1). Pub. L. 96-187, §109, substituted "prescribe forms necessary to implement this Act" for "to develop and furnish to the person required by the provisions of this Act prescribed forms for the making of the reports and statements required to be filed with it under this subchapter".

Subsec. (a)(2). Pub. L. 96-187, §109, substituted "prepare, publish, and furnish to all persons required to file reports and statements under this Act" for "to prepare, publish, and furnish to the person required to file such reports and statements".

Subsec. (a)(3). Pub. L. 96-187, §109, struck out "to" before "develop" and substituted "consistent with the purposes of this Act" for "consonant with the purposes of this subchapter".

Subsec. (a)(4). Pub. L. 96-187, §109, substituted provisions making available for inspection and copying reports and statements within 48 hours after receipt and prohibiting the sale or use of any information for soliciting contributions or for commercial purposes other than using names and addresses of any political committee and allowing a political committee to submit 10 pseudonyms on each report to protect against illegal use of names and addresses of contributors, such lists to be excluded from the public record, for provisions making available for public inspection and copying reports and statements as soon as practicable but no later than the end of the second day following the day during which it was received, and to permit copying by hand or duplicating machine at the person's own expense, provided that no information so copied be sold or utilized for purposes of soliciting contributions or for commercial purposes.

Subsec. (a)(5). Pub. L. 96-187, §109, substituted "keep such designations, reports" for "to preserve such reports", "except that designations, reports, and statements that relate" for "except that reports and statements relating" and "shall be kept" for "shall be preserved".

Subsec. (a)(6). Pub. L. 96-187, §109, redesignated existing provisions as subpar. (A), added subpars. (B) and (C), and in subpar. (A) as so designated substituted provisions for the compilation and maintenance of a cumulative index of designations, reports, and statements filed under this Act, to be published at regular intervals and made available for direct or mail purchase for provisions for compilation and maintenance of such index to be published in the Federal Register at regular intervals to be made available for direct or mail purchase at reasonable prices, and for compilation and maintenance of a separate cumulative index of reports and statements of political committees supporting more than one candidate including a listing of the date of registration of such committee and the date of qualification to make expenditures under section 441a(a)(2), to be revised on the same basis as the other cumulative indices.

Subsec. (a)(7). Pub. L. 96-187, §109, substituted provisions requiring preparation and publication periodically lists of committees failing to file reports as required by this Act for provisions requiring preparation and publication from time to time of special reports listing candidates for whom reports were filed as required and candidates for whom reports were not filed.

Subsec. (a)(8). Pub. L. 96-187, §109, substituted provisions for rules, regulations and forms to carry out the provisions of this Act in accordance with subsec. (d) for provisions mandating audits and field investigations with respect to reports and statements and failure to file such and giving priority to auditing and field investigation verification and receipt and use of payments received by a candidate.

Subsec. (a)(9). Pub. L. 96-187, §109, substituted provisions for transmittal to the President and Congress no later than June 1 of each year a report of Commission activities and recommendations for legislation for provisions for reporting apparent violations of law to appropriate law enforcement authorities.

Subsec. (a)(10). Pub. L. 96-187, §109, substituted provisions authorizing the Commission to serve as a na-

tional clearinghouse for compilation of information and review procedures with respect to administration of Federal elections, and to enter into contracts to conduct studies, to be made available to the public upon payment of costs except that copies be made available without cost to agencies and branches of the Federal Government for provisions for prescription of rules and regulations to carry out the provisions of this subchapter in accordance with the provisions of subsec. (c) of this section.

Subsec. (b). Pub. L. 96-187, §109, substituted provisions for the conduct of audits and field investigations with priority to verification for, and receipt and use of payments received by a candidate or committee under chapter 95 or 96 of title 26, and performance of internal review of reports of selected committees to determine compliance with threshold requirements of this Act, such requirements to be established by the Commission, audits and investigations to be undertaken upon affirmative vote of 4 members within 30 days of such vote except audits of an authorized committee of a candidate to be commenced within 6 months of the election for which such committee was authorized, for provisions declaring it the duty of the Commission to act as a national clearinghouse for information in respect to administration of elections, to enter into contracts to conduct independent studies of administration of elections, such studies to be published by the Commission and copies made available to the general public.

Subsec. (c). Pub. L. 96-187, §109, substituted provisions exempting from the provisions of section 3512 of title 44 any forms prescribed by the Commission and any information-gathering activities of the Commission for provisions of pars. (1) to (5) relating to prescribing of rules and regulations and approval thereof by either the Senate or the House of Representatives, and definition of "legislative days" and "rule or regulation".

Subsec. (d)(1). Pub. L. 96-187, §109, substituted provisions for transmittal to Congress of a statement with respect to any rule, regulation or form prior to its prescription, such statement setting forth such rule, etc., and a detailed explanation and justification, for provisions of subpars. (A) to (C) prescribing rules and regulations to carry out the provisions of this subchapter including rules and regulations relating to reports and statements to be filed by a candidate or delegate or Resident Commissioner to Congress, candidate for office of Senator, such reports to be made available to the public by the Clerk and Secretary of the House of Representatives and Senate, respectively.

Subsec. (d)(2). Pub. L. 96-187, §109, substituted provisions permitting the Commission to prescribe a rule or regulation in the absence of disapproval by resolution of either House of Congress within 30 legislative days after the date of receipt of such proposed rule or regulation or within 10 legislative days after receipt of such proposed form for provisions that it is the duty of the Clerk and Secretary of the House of Representatives and Senate, respectively, to cooperate with the Commission in carrying out its duties under this Act and to furnish such services and facilities as may be required.

Subsec. (d)(3), (4). Pub. L. 96-187, §109, added pars. (3) and (4).

Subsecs. (e), (f). Pub. L. 96-187, §109, added subsecs. (e) and (f).

1976—Subsec. (a)(6). Pub. L. 94-283, §110(a)(1), inserted provisions covering and index of reports and statements filed by committees supporting more than one candidate.

Subsec. (a)(8). Pub. L. 94-283, §110(a)(2), inserted provisions giving priority to auditing and field investigating of the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or 96 of title 26.

Subsec. (c)(2). Pub. L. 94-283, §110(b)(1), inserted provision for priority consideration by the House of Representatives of a motion to consider resolutions relating to a rule or regulation reported by a committee of the House.

Subsec. (c)(5). Pub. L. 94-283, §110(b)(2), added par. (5). 1974—Subsec. (a). Pub. L. 93-443, §208(c)(8), substituted “Commission” for “supervisory officer” in introductory provision.

Subsec. (a)(1), (4). Pub. L. 93-443, §208(c)(9)(A), (B), substituted “him” for “it” in pars. (1) and (4).

Subsec. (a)(6). Pub. L. 93-443, §209(a)(1), substituted provisions respecting index of reports and statements and publication thereof in Federal Register for provisions respecting compilation and maintenance of current list of candidate statements.

Subsec. (a)(7). Pub. L. 93-443, §209(a)(1), substituted provision for preparation and publication of special reports listing candidates for whom reports were filed as required by this subchapter and those candidates for whom such reports were not filed as so required for provisions respecting publication of annual reports and compilations of data.

Subsec. (a)(8). Pub. L. 93-443, §209(a)(1), redesignated par. (11) as (8) and struck out former par. (8) provision for preparation and publication of special reports comparing the various totals and categories of contributions and expenditures made with respect to preceding elections.

Subsec. (a)(9). Pub. L. 93-443, §209(a)(1), redesignated par. (12) as (9) and struck out former par. (9) provision for preparation and publication of other reports.

Subsec. (a)(10). Pub. L. 93-443, §209(a)(1), (b)(1), redesignated par. (13) as (10), inserted end text reading “, in accordance with the provisions of subsection (c) of this section”, and struck out former par. (10) provision for dissemination of information.

Subsec. (a)(11) to (13). Pub. L. 93-443, §209(a)(1), redesignated pars. (11) to (13) as (8) to (10), respectively.

Subsec. (b). Pub. L. 93-443, §§208(c)(10)(A), (B), 209(b)(2)(A), substituted “Commission” for “Comptroller General” wherever appearing and “its” for “his” in second sentence and struck out provision that “Nothing in this subsection shall be construed to authorize the Comptroller General to require the inclusion of any comment or recommendation of the Comptroller General in any such study.”, redesignated subsec. (c) as (b) and struck out former subsec. (b) provisions respecting Federal and State filing of reports, including procedures for Federal copies in satisfaction of State requirements to eliminate multiple filings.

Subsec. (c). Pub. L. 93-443, §209(b)(2)(A), (B), added subsec. (c) and redesignated former subsec. (c) as (b).

Subsec. (d). Pub. L. 93-443, §209(b)(2)(A), (B), added subsec. (d) and struck out former subsec. (d) provisions respecting violations, the paragraphs relating to: (1) complaints, investigations, notice and hearing, Federal civil actions for injunction, restraining orders, or other appropriate orders, venue, and bond; (2) subpoenas; (3) review by court of appeals and time for petition of review; (4) finality of appellate judgment and review by Supreme Court; and (5) docket advancement and priorities, provisions now covered by section 437g(a) of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-252 effective upon appointment of all members of the Election Assistance Commission under section 15323 of Title 42, The Public Health and Welfare, see section 15534(a) of Title 42.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-79 applicable with respect to reports, designations, and statements required to be filed after Dec. 31, 1995, see section 3(d) of Pub. L. 104-79, set out as a note under section 432 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96-187, set out as a note under section 431 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subssecs. (a)(9) and (f) of this section relating to sub-

mittal of annual reports to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 168 of House Document No. 103-7.

TRANSITION PROVISIONS

Disapproval of rules and regulations by either House of Congress under subsec. (d) of this section within 30 legislative days after receipt to be deemed to allow such disapproval within 15 days with respect to rules and regulations implementing Pub. L. 96-187 proposed under section 303(a) of Pub. L. 96-187, see section 303(b) of Pub. L. 96-187, set out as a note under section 431 of this title.

ANNUAL REPORTS FOR CALENDAR YEARS BEGINNING AFTER DEC. 31, 1972

Pub. L. 93-443, title II, §209(a)(2), Oct. 15, 1974, 88 Stat. 1287, provided that: “Notwithstanding section 308(a)(7) of the Federal Election Campaign Act of 1971 [subsec. (a)(7) of this section] (relating to an annual report by the supervisory officer), as in effect on the day before the effective date of the amendments made by paragraph (1) of this subsection, no such annual report shall be required with respect to any calendar year beginning after December 31, 1972.”

§ 438a. Maintenance of website of election reports

(a) In general

The Federal Election Commission shall maintain a central site on the Internet to make accessible to the public all publicly available election-related reports and information.

(b) Election-related report

In this section, the term “election-related report” means any report, designation, or statement required to be filed under the Federal Election Campaign Act of 1971.

(c) Coordination with other agencies

Any Federal executive agency receiving election-related information which that agency is required by law to publicly disclose shall cooperate and coordinate with the Federal Election Commission to make such report available through, or for posting on, the site of the Federal Election Commission in a timely manner.

(Pub. L. 107-155, title V, §502, Mar. 27, 2002, 116 Stat. 115.)

REFERENCES IN TEXT

The Federal Election Campaign Act of 1971, referred to in subsec. (b), is Pub. L. 92-225, Feb. 7, 1972, 86 Stat. 3, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 431 of this title and Tables.

CODIFICATION

Section was enacted as part of the Bipartisan Campaign Reform Act of 2002, and not as a part of the Federal Election Campaign Act of 1971 which comprises this chapter.

EFFECTIVE DATE

Section effective Nov. 6, 2002, but not applicable with respect to runoff elections, recounts, or election contests resulting from elections held prior to Nov. 6, 2002, see section 402 of Pub. L. 107-155, set out as an Effective Date of 2002 Amendment; Regulations note under section 431 of this title.