

required under section 15512 of this title (or has included such a plan in the State plan filed under paragraph (1)), and has such procedures in place for purposes of meeting the requirements of such section. If the State does not include such an implementation plan in the State plan filed under paragraph (1), the requirements of sections 15405(b) and 15406 of this title shall apply to the implementation plan in the same manner as such requirements apply to the State plan.

(B) Subparagraph (A) shall not apply for purposes of determining the eligibility of a State to receive a requirements payment appropriated pursuant to the authorization provided under section 15407(a)(4) of this title.

(3) The State is in compliance with each of the laws described in section 15545 of this title, as such laws apply with respect to this chapter.

(4) To the extent that any portion of the requirements payment is used for activities other than meeting the requirements of subchapter III of this chapter—

(A) the State's proposed uses of the requirements payment are not inconsistent with the requirements of subchapter III of this chapter; and

(B) the use of the funds under this paragraph is consistent with the requirements of section 15401(b) of this title.

(5)(A) Subject to subparagraph (B), the State has appropriated funds for carrying out the activities for which the requirements payment is made in an amount equal to 5 percent of the total amount to be spent for such activities (taking into account the requirements payment and the amount spent by the State) and, in the case of a State that uses a requirements payment as a reimbursement under section 15401(c)(2) of this title, an additional amount equal to the amount of such reimbursement.

(B) Subparagraph (A) shall not apply for purposes of determining the eligibility of a State to receive a requirements payment appropriated pursuant to the authorization provided under section 15407(a)(4) of this title for fiscal year 2010, except that if the State does not appropriate funds in accordance with subparagraph (A) prior to the last day of fiscal year 2011, the State shall repay to the Commission the requirements payment which is appropriated pursuant to such authorization.

(c) Methods of compliance left to discretion of State

The specific choices on the methods of complying with the elements of a State plan shall be left to the discretion of the State.

(d) Timing for filing of certification

A State may not file a statement of certification under subsection (a) of this section until the expiration of the 45-day period (or, in the case of a fiscal year other than the first fiscal year for which a requirements payment is made to the State under this part, the 30-day period) which begins on the date notice of the State plan under this part is published in the Federal Register pursuant to section 15405(b) of this title.

(e) Chief State election official defined

In this part, the “chief State election official” of a State is the individual designated by the State under section 10 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-8) to be responsible for coordination of the State's responsibilities under such Act.

(Pub. L. 107-252, title II, §253, Oct. 29, 2002, 116 Stat. 1693; Pub. L. 111-84, div. A, title V, §588(b)(1)(B)-(3), Oct. 28, 2009, 123 Stat. 2333; Pub. L. 112-74, div. C, title VI, §622(2), Dec. 23, 2011, 125 Stat. 927.)

REFERENCES IN TEXT

Section 253(b) of the Help America Vote Act of 2002, referred to in subsec. (a), is classified to subsec. (b) of this section.

This chapter, referred to in subsec. (b)(3), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 15301 of this title and Tables.

Subchapter III of this chapter, referred to in subsec. (b)(4), was in the original “title III”, meaning title III of Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1704, which is classified principally to subchapter III (§15481 et seq.) of this chapter. For complete classification of title III to the Code, see Tables.

The National Voter Registration Act of 1993, referred to in subsec. (e), is Pub. L. 103-31, May 20, 1993, 107 Stat. 77, which is classified principally to subchapter I-H (§1973gg et seq.) of chapter 20 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1971 of this title and Tables.

AMENDMENTS

2011—Subsec. (d). Pub. L. 112-74 inserted “notice of” before “the State plan”.

2009—Subsec. (b)(1)(A). Pub. L. 111-84, §588(b)(1)(B), substituted “section 15404(a) of this title (or, for purposes of determining the eligibility of a State to receive a requirements payment appropriated pursuant to the authorization provided under section 15407(a)(4) of this title, contains the element described in paragraph (14) of such section)” for “section 15404 of this title”.

Subsec. (b)(2). Pub. L. 111-84, §588(b)(2), designated existing provisions as subpar. (A), substituted “Subject to subparagraph (B), the State” for “The State”, and added subpar. (B).

Subsec. (b)(5). Pub. L. 111-84, §588(b)(3), designated existing provisions as subpar. (A), substituted “Subject to subparagraph (B), the State” for “The State”, and added subpar. (B).

§ 15404. State plan

(a) In general

The State plan shall contain a description of each of the following:

(1) How the State will use the requirements payment to meet the requirements of subchapter III of this chapter, and, if applicable under section 15401(a)(2) of this title, to carry out other activities to improve the administration of elections.

(2) How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of—

(A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and

(B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).

(3) How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of subchapter III of this chapter.

(4) How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 15481 of this title.

(5) How the State will establish a fund described in subsection (b) of this section for purposes of administering the State's activities under this subpart, including information on fund management.

(6) The State's proposed budget for activities under this subpart, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on—

(A) the costs of the activities required to be carried out to meet the requirements of subchapter III of this chapter;

(B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and

(C) the portion of the requirements payment which will be used to carry out other activities.

(7) How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

(8) How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.

(9) A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 15512 of this title.

(10) If the State received any payment under subchapter I of this chapter, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

(11) How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless notice of the change—

(A) is developed and published in the Federal Register in accordance with section 15405 of this title in the same manner as the State plan;

(B) is subject to public notice and comment in accordance with section 15406 of this

title in the same manner as the State plan; and

(C) takes effect only after the expiration of the 30-day period which begins on the date notice of the change is published in the Federal Register in accordance with subparagraph (A).

(12) In the case of a State with a State plan in effect under this part during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.

(13) A description of the committee which participated in the development of the State plan in accordance with section 15405 of this title and the procedures followed by the committee under such section and section 15406 of this title.

(14) How the State will comply with the provisions and requirements of and amendments made by the Military and Overseas Voter Empowerment Act.

(b) Requirements for election fund

(1) Election fund described

For purposes of subsection (a)(5) of this section, a fund described in this subsection with respect to a State is a fund which is established in the treasury of the State government, which is used in accordance with paragraph (2), and which consists of the following amounts:

(A) Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment is made to the State under this subpart.

(B) The requirements payment made to the State under this subpart.

(C) Such other amounts as may be appropriated under law.

(D) Interest earned on deposits of the fund.

(2) Use of fund

Amounts in the fund shall be used by the State exclusively to carry out the activities for which the requirements payment is made to the State under this subpart.

(3) Treatment of States that require changes to State law

In the case of a State that requires State legislation to establish the fund described in this subsection, the Commission shall defer disbursement of the requirements payment to such State until such time as legislation establishing the fund is enacted.

(c) Protection against actions based on information in plan

(1) In general

No action may be brought under this chapter against a State or other jurisdiction on the basis of any information contained in the State plan filed under this subpart.

(2) Exception for criminal acts

Paragraph (1) may not be construed to limit the liability of a State or other jurisdiction for criminal acts or omissions.

(Pub. L. 107-252, title II, §254, Oct. 29, 2002, 116 Stat. 1694; Pub. L. 111-84, div. A, title V, §588(b)(1)(A), Oct. 28, 2009, 123 Stat. 2333; Pub. L. 112-74, div. C, title VI, §622(3), (4), Dec. 23, 2011, 125 Stat. 927.)

REFERENCES IN TEXT

Subchapter III of this chapter, referred to in subsec. (a)(1), (3), (6)(A), was in the original “title III”, meaning title III of Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1704, which is classified principally to subchapter III (§15481 et seq.) of this chapter. For complete classification of title III to the Code, see Tables.

The Military and Overseas Voter Empowerment Act, referred to in subsec. (a)(14), is subtitle H (§§575-589) of title V of div. A of Pub. L. 111-84, Oct. 28, 2009, 123 Stat. 2318, which enacted sections 1973ff-2a, 1973ff-2b, 1973ff-4a, and 1973ff-7 of this title and section 1566a of Title 10, Armed Forces, amended sections 1973ff to 1973ff-2, 1973ff-3, 1973ff-4, 15401, 15403, 15404, and 15407 of this title, and enacted provisions set out as notes under sections 1971 and 1973ff to 1973ff-2 of this title. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 1971 of this title and Tables.

This chapter, referred to in subsec. (c)(1), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 15301 of this title and Tables.

AMENDMENTS

2011—Subsec. (a)(11). Pub. L. 112-74 inserted “notice of” before “the change” in introductory provisions and subpar. (C).

2009—Subsec. (a)(14). Pub. L. 111-84 added par. (14).

§ 15405. Process for development and filing of plan; publication by Commission

(a) In general

The chief State election official shall develop the State plan under this part through a committee of appropriate individuals, including the chief election officials of the two most populous jurisdictions within the States, other local election officials, stake holders (including representatives of groups of individuals with disabilities), and other citizens, appointed for such purpose by the chief State election official.

(b) Publication of plan by Commission

After receiving the State plan of a State under this part, the Commission shall cause to have the plan posted on the Commission’s website with a notice published in the Federal Register.

(Pub. L. 107-252, title II, §255, Oct. 29, 2002, 116 Stat. 1697; Pub. L. 112-74, div. C, title VI, §622(1), Dec. 23, 2011, 125 Stat. 926.)

AMENDMENTS

2011—Subsec. (b). Pub. L. 112-74 inserted “posted on the Commission’s website with a notice” after “cause to have the plan”.

§ 15406. Requirement for public notice and comment

For purposes of section 15401(a)(1)(C)¹ of this title, a State plan meets the public notice and comment requirements of this section if—

¹ See References in Text note below.

(1) not later than 30 days prior to the submission of the plan, the State made a preliminary version of the plan available for public inspection and comment;

(2) the State publishes notice that the preliminary version of the plan is so available; and

(3) the State took the public comments made regarding the preliminary version of the plan into account in preparing the plan which was filed with the Commission.

(Pub. L. 107-252, title II, §256, Oct. 29, 2002, 116 Stat. 1697.)

REFERENCES IN TEXT

Section 15401(a)(1)(C) of this title, referred to in text, probably should be a reference to section 15403(b)(1)(C) of this title because there is no subsec. (a)(1)(C) in section 15401 and subsec. (b)(1)(C) of section 15403 relates to public notice and comment requirements of section 15406 of this title.

§ 15407. Authorization of appropriations

(a) In general

In addition to amounts transferred under section 15304(c) of this title, there are authorized to be appropriated for requirements payments under this subpart the following amounts:

(1) For fiscal year 2003, \$1,400,000,000.

(2) For fiscal year 2004, \$1,000,000,000.

(3) For fiscal year 2005, \$600,000,000.

(4) For fiscal year 2010 and subsequent fiscal years, such sums as are necessary for purposes of making requirements payments to States to carry out the activities described in section 15401(b)(3) of this title.

(b) Availability

Any amounts appropriated pursuant to the authority of subsection (a) of this section shall remain available without fiscal year limitation until expended.

(Pub. L. 107-252, title II, §257, Oct. 29, 2002, 116 Stat. 1697; Pub. L. 111-84, div. A, title V, §588(c), Oct. 28, 2009, 123 Stat. 2334.)

AMENDMENTS

2009—Subsec. (a)(4). Pub. L. 111-84 added par. (4).

§ 15408. Reports

Not later than 6 months after the end of each fiscal year for which a State received a requirements payment under this subpart, the State shall submit a report to the Commission on the activities conducted with the funds provided during the year, and shall include in the report—

(1) a list of expenditures made with respect to each category of activities described in section 15401(b) of this title;

(2) the number and type of articles of voting equipment obtained with the funds; and

(3) an analysis and description of the activities funded under this subpart to meet the requirements of this chapter and an analysis and description of how such activities conform to the State plan under section 15404 of this title.

(Pub. L. 107-252, title II, §258, Oct. 29, 2002, 116 Stat. 1697.)

REFERENCES IN TEXT

This chapter, referred to in par. (3), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002,