

§ 362. Requirements applicable to recommendations

Notwithstanding any other provision of this chapter, the recommendations submitted by the Commission to the President under section 357 of this title, and the recommendations transmitted by the President to the Congress under section 358 of this title, shall be in conformance with the following:

(1) Any recommended pay adjustment shall specify the date as of which it is proposed that such adjustment take effect.

(2) The proposed effective date of a pay adjustment may occur no earlier than January 1 of the second fiscal year, and no later than December 31 next following the close of the fifth fiscal year, beginning after the fiscal year in which the Commission conducts its review under section 356 of this title.

(3)(A)(i) The rates of pay recommended for the Speaker of the House of Representatives, the Vice President of the United States, and the Chief Justice of the United States, respectively, shall be equal.

(ii) The rates of pay recommended for the majority and minority leaders of the Senate and the House of Representatives, the President pro tempore of the Senate, and each office or position under section 5312 of title 5 (relating to level I of the Executive Schedule), respectively, shall be equal.

(iii) The rates of pay recommended for a Senator, a Member of the House of Representatives, the Resident Commissioner from Puerto Rico, a Delegate to the House of Representatives, a judge of a district court of the United States, a judge of the United States Court of International Trade, and each office or position under section 5313 of title 5 (relating to level II of the Executive Schedule), respectively, shall be equal.

(B) Nothing in this section shall be considered to require that the rate recommended for any office or position by the President under section 358 of this title be the same as the rate recommended for such office or position by the Commission under section 357 of this title.

(Pub. L. 90-206, title II, § 225(l), as added Pub. L. 101-194, title VII, § 701(i), Nov. 30, 1989, 103 Stat. 1766.)

§ 363. Additional function

The Commission shall, whenever it conducts a review under section 356 of this title, also conduct a review under this section relating to any recruitment or retention problems, and any public policy issues involved in maintaining appropriate ethical standards, with respect to any offices or positions within the Federal public service. Any findings or recommendations under this section shall be included by the Commission as part of its report to the President under section 357 of this title.

(Pub. L. 90-206, title II, § 225(m), as added Pub. L. 101-194, title VII, § 701(j), Nov. 30, 1989, 103 Stat. 1767.)

§ 364. Provision relating to certain other pay adjustments

(1) A provision of law increasing the rate of pay payable for an office or position within the

purview of subparagraph (A), (B), (C), or (D) of section 356 of this title shall not take effect before the beginning of the Congress following the Congress during which such provision is enacted.

(2) For purposes of this section, a provision of law enacted during the period beginning on the Tuesday following the first Monday of November of an even-numbered year of any Congress and ending at noon on the following January 3 shall be considered to have been enacted during the first session of the following Congress.

(3) Nothing in this section shall be considered to apply with respect to any pay increase—

(A) which takes effect under the preceding sections of this chapter;

(B) which is based on a change in the Employment Cost Index (as determined under section 704(a)(1) of the Ethics Reform Act of 1989) or which is in lieu of any pay adjustment which might otherwise be made in a year based on a change in such index (as so determined); or

(C) which takes effect under section 702 or 703 of the Ethics Reform Act of 1989.

(Pub. L. 90-206, title II, § 225(n), as added Pub. L. 101-194, title VII, § 701(k), Nov. 30, 1989, 103 Stat. 1767.)

REFERENCES IN TEXT

Sections 702, 703, and 704(a)(1) of the Ethics Reform Act of 1989, referred to in par. (3)(B), (C), are sections 702, 703, and 704(a)(1) of Pub. L. 101-194 which are set out as notes under sections 5303 and 5318 of Title 5, Government Organization and Employees.

CHAPTER 12—CONTESTED ELECTIONS

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§ 381. Definitions

For purposes of this chapter:

(1) The term "election" means an official general or special election to choose a Representative in, or Delegate or Resident Commissioner to, the Congress, but that term does not include a primary election, or a caucus or convention of a political party.

(2) The term "candidate" means an individual (A) whose name is printed on the official ballot for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, or (B) notwithstanding his name is not printed on such ballot, who seeks election to the office of Representative in, or

Delegate or Resident Commissioner to, the Congress by write-in votes, provided that he is qualified for such office and that, under the law of the State in which the congressional district is located, write-in voting for such office is permitted and he is eligible to receive write-in votes in such election.

(3) The term “contestant” means an individual who contests the election of a Member of the House of Representatives under this chapter.

(4) The term “contestee” means a Member of the House of Representatives whose election is contested under this chapter.

(5) The term “Member of the House of Representatives” means an incumbent Representative in, or Delegate or Resident Commissioner to, the Congress, or an individual who has been elected to such office but has not taken the oath of office.

(6) The term “Clerk” means the Clerk of the House of Representatives.

(7) The term “committee” means the Committee on House Oversight of the House of Representatives.

(8) The term “State” means a State of the United States and any territory or possession of the United States.

(9) The term “write-in vote” means a vote cast for a person whose name does not appear on the official ballot by writing in the name of such person on such ballot or by any other method prescribed by the law of the State in which the election is held.

(Pub. L. 91-138, § 2, Dec. 5, 1969, 83 Stat. 284; Pub. L. 104-186, title II, § 211(1), (2), Aug. 20, 1996, 110 Stat. 1743, 1744.)

AMENDMENTS

1996—Pub. L. 104-186, § 211(1)(A)-(C), substituted “chapter:” for “chapter—” in introductory provisions, redesignated subdvs. (a) to (i) as pars. (1) to (9), respectively, and realigned margins of pars. (1) to (9).

Par. (1). Pub. L. 104-186, § 211(2)(A), substituted “, or Delegate or Resident Commissioner to, the Congress, but that term” for “or Resident Commissioner to the Congress of the United States, but”.

Par. (2). Pub. L. 104-186, § 211(2)(B), substituted “office of Representative in, or Delegate or Resident Commissioner to, the Congress” for “House of Representatives of the United States” in subpar. (A) and “House of Representatives” in subpar. (B).

Pub. L. 104-186, § 211(1)(D), redesignated pars. (1) and (2) as subpars. (A) and (B), respectively.

Pars. (3), (4). Pub. L. 104-186, § 211(2)(C), (D), struck out “of the United States” after “House of Representatives”.

Par. (5). Pub. L. 104-186, § 211(2)(E), substituted “term ‘Member of the House of Representatives’ means an incumbent Representative in, or Delegate or Resident Commissioner to, the Congress, or an individual who has been elected to such office” for “term ‘Member’ means an incumbent Representative in or Resident Commissioner to the Congress of the United States, or an individual who has been elected to either of such offices”.

Par. (6). Pub. L. 104-186, § 211(2)(F), struck out “of the United States” after “House of Representatives”.

Par. (7). Pub. L. 104-186, § 211(2)(G), substituted “House Oversight of the House of Representatives” for “House Administration of the House of Representatives of the United States”.

Par. (8). Pub. L. 104-186, § 211(2)(H), substituted “means a State of the United States and any territory or” for “includes territory and”.

Par. (9). Pub. L. 104-186, § 211(1)(A), (C), redesignated former subsec. (i) as par. (9).

CHANGE OF NAME

Committee on House Oversight of House of Representatives changed to Committee on House Administration of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

EFFECTIVE DATE

Pub. L. 91-138, § 19, Dec. 5, 1969, 83 Stat. 291, provided that: “The provisions of, and the repeals made by, this Act [enacting this chapter and repealing sections 201 to 226 of this title] shall apply with respect to any general or special election for Representative in, or Resident Commissioner to, the Congress of the United States occurring after the date of enactment of this Act [Dec. 5, 1969].”

SHORT TITLE

Pub. L. 91-138, § 1, Dec. 5, 1969, 83 Stat. 284, provided that: “This Act [enacting this chapter and repealing sections 201 to 226 of this title] may be cited as the ‘Federal Contested Election Act.’”

§ 382. Notice of contest

(a) Filing of notice

Whoever, having been a candidate for election in the last preceding election and claiming a right to such office, intends to contest the election of a Member of the House of Representatives, shall, within thirty days after the result of such election shall have been declared by the officer or Board of Canvassers authorized by law to declare such result, file with the Clerk and serve upon the contestee written notice of his intention to contest such election.

(b) Contents and form of notice

Such notice shall state with particularity the grounds upon which contestant contests the election and shall state that an answer thereto must be served upon contestant under section 383 of this title within thirty days after service of such notice. Such notice shall be signed by contestant and verified by his oath or affirmation.

(c) Service of notice; proof of service

Service of the notice of contest upon contestee shall be made as follows:

- (1) by delivering a copy to him personally;
- (2) by leaving a copy at his dwelling house or usual place of abode with a person of discretion not less than sixteen years of age then residing therein;
- (3) by leaving a copy at his principal office or place of business with some person then in charge thereof;
- (4) by delivering a copy to an agent authorized by appointment to receive service of such notice;
- (5) by mailing a copy by registered or certified mail addressed to contestee at his residence or principal office or place of business. Service by mail is complete upon mailing; or
- (6) the verified return by the person so serving such notice, setting forth the time and manner of such service shall be proof of same, and the return post office receipt shall be proof of the service of said notice mailed by registered or certified mail as aforesaid. Proof of service shall be made to the Clerk promptly