

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

Section 19 of Pub. L. 91-138 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 and in any event within the time during which the contestee must answer the notice of contest. Failure to make proof of service does not affect the validity of the service.

(Pub. L. 91-138, §3, Dec. 5, 1969, 83 Stat. 284; Pub. L. 104-186, title II, §211(3), Aug. 20, 1996, 110 Stat. 1744.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-186, §211(3)(A), struck out “to the House of Representatives” after “for election”.

Subsec. (c)(4), (5). Pub. L. 104-186, §211(3)(B), struck out “or” at end of par. (4) and inserted “or” at end of par. (5).

§ 383. Response of contestee

(a) Answer

Any contestee upon whom a notice of contest as described in section 382 of this title shall be served, shall, within thirty days after the service thereof, serve upon contestant a written answer to such notice, admitting or denying the averments upon which contestant relies. If contestee is without knowledge or information sufficient to form a belief as to the truth of an averment, he shall so state and this shall have the effect of a denial. Such answer shall set forth affirmatively any other defenses, in law or fact, on which contestee relies. Contestee shall sign and verify such answer by oath or affirmation.

(b) Defenses by motion prior to answer

At the option of contestee, the following defenses may be made by motion served upon contestant prior to contestee’s answer:

- (1) Insufficiency of service of notice of contest.
- (2) Lack of standing of contestant.
- (3) Failure of notice of contest to state grounds sufficient to change result of election.
- (4) Failure of contestant to claim right to contestee’s seat.