

Proposed Bill

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117th CONGRESS
2d Session

S. __

To amend the Help America Vote Act of 2002 to endow the Election Assistance Commission with enforcement and rulemaking authority, to add a fifth commissioner and chair, to grant permanent authorization, and for other administrative changes.

IN THE SENATE OF THE UNITED STATES

M. _____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Help America Vote Act of 2002 to endow the Election Assistance Commission with enforcement and rulemaking authority, to add a fifth commissioner and chair, to grant permanent authorization, and for other administrative changes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the “Help America Vote Act of 2022”.

SEC. 2. HELP AMERICA VOTE ACT OF 2002

The Help America Vote Act of 2002 (52 U.S.C. 209) is amended—

(1) Section 201 (52 U.S.C. 20921) is amended—

(A) By adding at the end the following:

“The principal office of the Commission shall be located in the District of Columbia. The Commission may establish such branch and regional offices in other places in the United States as may be determined by the Chair of the Commission. As used in this chapter, the term “United States” includes the several States, the Territories and possessions of the United States, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia.”.

(2) Section 203 (52 U.S.C. § 20923) is amended by striking subsections (a) through (f) and replacing with the following:

“(a) MEMBERSHIP.—

“(1) IN GENERAL.—The Commission shall consist of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. In making such appointments, the President shall consider individuals who, by reason of their background and expertise in areas related to state, local, and federal election law and administration, are qualified to serve as members of the Commission. The Chair shall be appointed by the President, by and with the advice and consent of the Senate, from among the members of the Commission. An individual may be appointed as a member of the Commission and as Chair at the same time. Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause. The President may remove the Chair alone at will.

“(2) RECOMMENDATIONS.—Before the initial appointment of the members of the Commission and before the appointment of any individual to fill a vacancy on the Commission, the Majority Leader of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives shall each submit to the President a candidate recommendation with respect to each vacancy on the Commission affiliated with the political party of the Member of Congress involved.

“(3) QUALIFICATIONS.—Each member of the Commission shall have experience with or expertise in election administration or the study of elections and will have worked in local or state election administration in some capacity for at least ten years.

“(4) DATE OF APPOINTMENT.—The appointments of the members of the Commission shall be made not later than 120 days after the date of the enactment of this Act.

“(b) TERM OF SERVICE; VACANCIES.—

“(1) Except as provided in paragraphs (2) and (3), the Commissioners first appointed under this revised section shall be appointed for terms ending three, four, five, six, and seven years, respectively, after [anticipated date of confirmations], the term of each to be designated by the President at the time of nomination; and each of their successors shall be appointed for a term of seven years from the date of the expiration of the term for which their predecessor was appointed.

“(2) Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which their predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of this term until their successor has taken office, except that they may not so continue to serve more than one year after the date on which their term would otherwise expire under this subsection.

“(3) A vacancy on the Commission shall not affect its powers and shall be filled in the manner in which the original appointment was made. The

appointment of the replacement member shall be made not later than 120 days after the date on which the vacancy occurs.

“(c) RESTRICTIONS ON COMMISSIONERS’ OUTSIDE ACTIVITIES.—Not more than three of the Commissioners shall be affiliated with the same political party. No member appointed to the Commission under subsection (a) of this section may engage in any other business, vocation, or employment while serving as a member of the Commission and shall terminate or liquidate such business, vocation, or employment before sitting as a member of the Commission.

“(d) QUORUM; SEAL; VICE CHAIR.—No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission, but three members of the Commission shall constitute a quorum for the transaction of business, except that if there are only three members serving on the Commission because of vacancies in the Commission, two members of the Commission shall constitute a quorum for the transaction of business, and if there are only two members serving on the Commission because of vacancies in the Commission, two members shall constitute a quorum for the six month period beginning on the date of the vacancy which caused the number of Commission members to decline to two. The Commission shall have an official seal of which judicial notice shall be taken. The Commission shall annually elect a Vice Chair to act in the absence or disability of the Chair or in case of a vacancy in the office of the Chair.

“(e) COMPENSATION.—Each member of the Commission shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(f) FUNCTIONS OF CHAIR; REQUEST FOR APPROPRIATIONS.—

“(1) The Chair of the Commission shall be the principal executive officer of the Commission, and shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chair) as outlined in subsection (g)(1); the distribution of business among personnel appointed and supervised by the Chair and among administrative units of the Commission; and the use and expenditure of funds.

“(2) In carrying out any of their functions under the provisions of this subsection the Chair shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

“(g) EXECUTIVE DIRECTOR; OFFICERS AND EMPLOYEES.—

“(1) APPOINTMENTS.—The Chair, subject to the approval of the Commission, shall appoint as officers of the Commission an Executive Director, a General Counsel, a Chief Operating Officer, a Chief Financial Officer, a Staff Director, a Communications and Clearinghouse Director, a Voting

Systems Certifications Director, an Election Administration Research and Programs Director, and a Grants Administrator. Any other individual appointed to a position designated as an Associate Executive Director shall be appointed by the Chair, subject to the approval of the Commission.

“(2) TERM OF APPOINTMENTS.—

“(A) No individual may be appointed to such a position on an acting basis for a period longer than 90 days unless such appointment is approved by the Commission.

“(B) The Chair, with the approval of the Commission, may remove any individual serving in a position appointed under paragraph (1).

“(3) Paragraph (1) shall not be construed to prohibit appropriate reorganizations or changes in classification.

“(4) The Chair, subject to subsection (f)(2), may employ such other officers and employees (including attorneys) as are necessary in the execution of the Commission’s functions.

“(5) The appointment of any officer (other than a Commissioner) or employee of the Commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President.”.

(3) Section 257 (52 U.S.C. 20930) is amended by striking subsections (a) and (b) and replacing with the following:

“(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this section:

“(1) \$20,000,000.00 for fiscal year 20(xx); and

“(2) Such sums as may be necessary for each succeeding fiscal year.

“(b) INFLATION ADJUSTMENT AND ROUNDING.—In the case of any calendar year after 20(xx), the \$20,000,000 amount in subsection (a)(1) shall be increased by an amount equal to—

“(1) such dollar amount, multiplied by—

“(2) the cost-of-living adjustment determined under subsection (c) for such calendar year with any increase determined under this clause being rounded to the nearest multiple of \$100,000.

“(c) COST OF LIVING ADJUSTMENT.—

“(1) IN GENERAL.—For purposes of this section, the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

“(i) the C-CPI-U for the preceding calendar year, exceeds

“(ii) the CPI for calendar year 20(xx), multiplied by the amount determined under paragraph (2).

“(2) AMOUNT DETERMINED.—The amount determined under this clause is the amount obtained by dividing—

“(i) the C-CPI-U for calendar year 20(xx), by

“(ii) the CPI for calendar year 20(xx).

“(3) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

“(4) CONSUMER PRICE INDEX.—For purposes of paragraph (3), the term “Consumer Price Index” means the last Consumer Price Index for all-urban consumers published by the Department of Labor. For purposes of the preceding sentence, the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1986 shall be used.

“(5) C-CPI-U.—

“(i) IN GENERAL.—The term “C-CPI-U” means the Chained Consumer Price Index for All Urban Consumers (as published by the Bureau of Labor Statistics of the Department of Labor). The values of the Chained Consumer Price Index for All Urban Consumers taken into account for purposes of determining the cost-of-living adjustment for any calendar year under this subsection shall be the latest values so published as of the date on which such Bureau publishes the initial value of the Chained Consumer Price Index for All Urban Consumers for the month of August for the preceding calendar year.

“(ii) DETERMINATION FOR CALENDAR YEAR.—The C-CPI-U for any calendar year is the average of the C-CPI-U as of the close of the 12-month period ending on August 31 of such calendar year.

“(d) AVAILABILITY.—Any amounts appropriated pursuant to the authority of subsection (a) or as adjusted by subsection (b) shall remain available without fiscal year limitation until expended.

“(e) EFFECTIVE DATE. This Act and the amendments made by this Act—

“(1) shall take effect on the date of the enactment of this Act; and

“(2) are repealed effective as of the date that is 10 years after that date.”.

(4) Section 209 (52 U.S.C. 20929) is stricken in its entirety.

(5) Section 205 (52 U.S.C. 20925) is amended by striking subsections (a) through (e) and replacing with the following:

“(a) ADMINISTRATION, ENFORCEMENT, AND FORMULATION OF POLICY; EXCLUSIVE JURISDICTION OF CIVIL ENFORCEMENT; CONGRESSIONAL AUTHORITIES OR FUNCTIONS WITH RESPECT TO ELECTIONS FOR FEDERAL OFFICE.—

“(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and Chapter 20 of Title 42, and Subtitles I and II of Title 52. The Commission shall have concurrent jurisdiction with the Department of Justice with respect to the civil enforcement of such provisions.

“(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.

“(b) SPECIFIC POWERS.—The specific powers of the Commission as in accordance with subsection (a) include, but are not limited to:

“(1) HEARINGS AND SESSIONS.—The Commission may hold such hearings for the purpose of carrying out this chapter, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this chapter. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

“(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this chapter. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

“(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government

“(4) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services that are necessary to enable the Commission to carry out its duties under this chapter.

“(5) CONTRACTS.—The Commission may contract with and compensate persons and Federal agencies for supplies and services without regard to section 6101 of title 41.”.