

(June 18, 1929, ch. 28, §22, 46 Stat. 26; Apr. 25, 1940, ch. 152, 54 Stat. 162; Nov. 15, 1941, ch. 470, §1, 55 Stat. 761; Pub. L. 104-186, title II, §201, Aug. 20, 1996, 110 Stat. 1724.)

#### Editorial Notes

##### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-186 struck out at end “; and in case of vacancies in the offices of both the Clerk and the Sergeant at Arms, or the absence or inability of both to act, such duty shall devolve upon the Doorkeeper of the House of Representatives”.

1941—Act Nov. 15, 1941, provided for reapportionment based on seventeenth and subsequent decennial censuses.

1940—Act Apr. 25, 1940, provided for reapportionment based on sixteenth decennial census.

#### Statutory Notes and Related Subsidiaries

##### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the report required by subsec. (a) of this section is listed on page 17), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

##### CONSTITUTIONAL PROVISIONS

Apportionment of Representatives among the several States, see Const. Art. I, §2, cl. 3, and Amend. XIV, §2.

##### TEMPORARY INCREASE IN MEMBERSHIP

Representation of States of Alaska and Hawaii in House of Representatives as not affecting basis of apportionment established by this section, see section 9 of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions, and section 8 of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

#### § 2b. Number of Representatives from each State in 78th and subsequent Congresses

Each State shall be entitled, in the Seventy-eighth and in each Congress thereafter until the taking effect of a reapportionment under a subsequent statute or section 2a of this title, to the number of Representatives shown in the statement transmitted to the Congress on January 8, 1941, based upon the method known as the method of equal proportions, no State to receive less than one Member.

(Nov. 15, 1941, ch. 470, §2(a), 55 Stat. 762.)

#### Statutory Notes and Related Subsidiaries

##### CERTIFICATES TO EXECUTIVES OF STATES

Act Nov. 15, 1941, ch. 470, §2(b), 55 Stat. 762, required Clerk of House of Representatives, within 15 days of Nov. 15, 1941, to send a new certificate of entitlement of a State to Representatives, if such a certificate had been sent prior to Nov. 15, 1941, under provisions of section 2a of this title.

#### § 2c. Number of Congressional Districts; number of Representatives from each District

In each State entitled in the Ninety-first Congress or in any subsequent Congress thereafter to more than one Representative under an apportionment made pursuant to the provisions of section 2a(a) of this title, there shall be estab-

lished by law a number of districts equal to the number of Representatives to which such State is so entitled, and Representatives shall be elected only from districts so established, no district to elect more than one Representative (except that a State which is entitled to more than one Representative and which has in all previous elections elected its Representatives at Large may elect its Representatives at Large to the Ninety-first Congress).

(Pub. L. 90-196, Dec. 14, 1967, 81 Stat. 581.)

#### §§ 3, 4. Omitted

#### Editorial Notes

##### CODIFICATION

Section 3, act Aug. 8, 1911, ch. 5, §3, 37 Stat. 14, which related to election by districts, expired by its own limitation on enactment of Reapportionment Act of June 18, 1929, ch. 28, §22, 46 Stat. 21 (section 2a of this title). It was not restated in act June 18, 1929, providing for reapportionment under Fifteenth Census, and hence it was not applicable thereto. See *Wood v. Broom*, 1932 (53 S. Ct. 1, 287 U.S. 1, 77 L. Ed. 131).

Section 4, act Aug. 8, 1911, ch. 5, §4, 37 Stat. 14, which related to additional Representatives at large, expired by its own limitation on enactment of Reapportionment Act of June 18, 1929, ch. 28, §22, 46 Stat. 21 (section 2a of this title). It was not restated in act June 18, 1929, providing for reapportionment under Fifteenth Census, and hence it was not applicable thereto. See *Wood v. Broom*, 1932 (53 S. Ct. 1, 287 U.S. 1, 77 L. Ed. 131).

#### § 5. Nominations for Representatives at large

Candidates for Representative or Representatives to be elected at large in any State shall be nominated in the same manner as candidates for governor, unless otherwise provided by the laws of such State.

(Aug. 8, 1911, ch. 5, §5, 37 Stat. 14.)

#### § 6. Reduction of representation

Should any State deny or abridge the right of any of the male inhabitants thereof, being twenty-one years of age, and citizens of the United States, to vote at any election named in the amendment to the Constitution, article 14, section 2, except for participation in the rebellion or other crime, the number of Representatives apportioned to such State shall be reduced in the proportion which the number of such male citizens shall have to the whole number of male citizens twenty-one years of age in such State.

(R.S. §22.)

#### Editorial Notes

##### CODIFICATION

R.S. §22 derived from act Feb. 2, 1872, ch. 11, §6, 17 Stat. 29.

#### § 7. Time of election

The Tuesday next after the 1st Monday in November, in every even numbered year, is established as the day for the election, in each of the States and Territories of the United States, of Representatives and Delegates to the Congress commencing on the 3d day of January next thereafter.

(R.S. §25; Mar. 3, 1875, ch. 130, §6, 18 Stat. 400; June 5, 1934, ch. 390, §2, 48 Stat. 879.)

**Editorial Notes****CODIFICATION**

R.S. §25 derived from act Feb. 2, 1872, ch. 11, §3, 17 Stat. 28.

The second sentence of this section, which was based on section 6 of the act Mar. 3, 1875 and made this section inapplicable to any State that had not yet changed its day of election and whose constitution required an amendment to change the day of election of its State officers, was omitted.

**AMENDMENTS**

1934—Act June 5, 1934, substituted “3d day of January” for “fourth day of March”.

**CONSTITUTIONAL PROVISIONS**

The first section of Amendment XX to the Constitution provides: “The terms of Senators and Representatives [shall end] at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.”

Time for election of Representatives, see Const. Art. I, §4, cl. 1.

**§ 8. Vacancies****(a) In general**

Except as provided in subsection (b), the time for holding elections in any State, District, or Territory for a Representative or Delegate to fill a vacancy, whether such vacancy is caused by a failure to elect at the time prescribed by law, or by the death, resignation, or incapacity of a person elected, may be prescribed by the laws of the several States and Territories respectively.

**(b) Special rules in extraordinary circumstances****(1) In general**

In extraordinary circumstances, the executive authority of any State in which a vacancy exists in its representation in the House of Representatives shall issue a writ of election to fill such vacancy by special election.

**(2) Timing of special election**

A special election held under this subsection to fill a vacancy shall take place not later than 49 days after the Speaker of the House of Representatives announces that the vacancy exists, unless, during the 75-day period which begins on the date of the announcement of the vacancy—

(A) a regularly scheduled general election for the office involved is to be held; or

(B) another special election for the office involved is to be held, pursuant to a writ for a special election issued by the chief executive of the State prior to the date of the announcement of the vacancy.

**(3) Nominations by parties**

If a special election is to be held under this subsection, the determination of the candidates who will run in such election shall be made—

(A) by nominations made not later than 10 days after the Speaker announces that the vacancy exists by the political parties of the State that are authorized by State law to nominate candidates for the election; or

(B) by any other method the State considers appropriate, including holding pri-

mary elections, that will ensure that the State will hold the special election within the deadline required under paragraph (2).

**(4) Extraordinary circumstances****(A) In general**

In this subsection, “extraordinary circumstances” occur when the Speaker of the House of Representatives announces that vacancies in the representation from the States in the House exceed 100.

**(B) Judicial review**

If any action is brought for declaratory or injunctive relief to challenge an announcement made under subparagraph (A), the following rules shall apply:

(i) Not later than 2 days after the announcement, the action shall be filed in the United States District Court having jurisdiction in the district of the Member of the House of Representatives whose seat has been announced to be vacant and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28.

(ii) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives.

(iii) A final decision in the action shall be made within 3 days of the filing of such action and shall not be reviewable.

(iv) The executive authority of the State that contains the district of the Member of the House of Representatives whose seat has been announced to be vacant shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the announcement of such vacancy.

**(5) Protecting ability of absent military and overseas voters to participate in special elections****(A) Deadline for transmittal of absentee ballots**

In conducting a special election held under this subsection to fill a vacancy in its representation, the State shall ensure to the greatest extent practicable (including through the use of electronic means) that absentee ballots for the election are transmitted to absent uniformed services voters and overseas voters (as such terms are defined in the Uniformed and Overseas Citizens Absentee Voting Act [52 U.S.C. 20301 et seq.]) not later than 15 days after the Speaker of the House of Representatives announces that the vacancy exists.

**(B) Period for ballot transit time**

Notwithstanding the deadlines referred to in paragraphs (2) and (3), in the case of an individual who is an absent uniformed services voter or an overseas voter (as such terms are defined in the Uniformed and Overseas Citizens Absentee Voting Act), a State shall accept and process any otherwise valid ballot or other election material from the voter so long as the ballot or other material is received by the appropriate State election official not later than 45 days after the State transmits the ballot or other material to the voter.