

if included in the enactment of the Help America Vote Act of 2002 [Pub. L. 107-252, see Tables for classification].”

§ 20903. Guaranteed minimum payment amount

(a) In general

In addition to any other payments made under this subchapter, the Administrator shall make a payment to each State to which a payment is made under either section 20901 or 20902 of this title and with respect to which the aggregate amount paid under such sections is less than \$5,000,000 in an amount equal to the difference between the aggregate amount paid to the State under sections 20901 and 20902 of this title and \$5,000,000. In the case of the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands, the previous sentence shall be applied as if each reference to “\$5,000,000” were a reference to “\$1,000,000”.

(b) Pro rata reductions

The Administrator shall make such pro rata reductions to the amounts described in sections 20901(d) and 20902(c) of this title as are necessary to comply with the requirements of subsection (a).

(Pub. L. 107-252, title I, §103, Oct. 29, 2002, 116 Stat. 1672.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15303 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20904. Authorization of appropriations

(a) In general

There are authorized to be appropriated for payments under this subchapter \$650,000,000, of which—

- (1) 50 percent shall be for payments under section 20901 of this title; and
- (2) 50 percent shall be for payments under section 20902 of this title.

(b) Continuing availability of funds after appropriation

Any payment made to a State under this subchapter shall be available to the State without fiscal year limitation (subject to subsection (c)(2)(B)).

(c) Use of returned funds and funds remaining unexpended for requirements payments

(1) In general

The amounts described in paragraph (2) shall be transferred to the Election Assistance Commission (established under subchapter II) and used by the Commission to make requirements payments under subpart 1 of part D of subchapter II.

(2) Amounts described

The amounts referred to in this paragraph are as follows:

- (A) Any amounts paid to the Administrator by a State under section 20902(d)(1) of this title.
- (B) Any amounts appropriated for payments under this subchapter which remain unobligated as of September 1, 2003.

(d) Deposit of amounts in State election fund

When a State has established an election fund described in section 21004(b) of this title, the State shall ensure that any funds provided to the State under this subchapter are deposited and maintained in such fund.

(e) Authorization of appropriations for Administrator

In addition to the amounts authorized under subsection (a), there are authorized to be appropriated to the Administrator such sums as may be necessary to administer the programs under this subchapter.

(Pub. L. 107-252, title I, §104, Oct. 29, 2002, 116 Stat. 1672.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15304 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20905. Administration of programs

In administering the programs under this subchapter, the Administrator shall take such actions as the Administrator considers appropriate to expedite the payment of funds to States.

(Pub. L. 107-252, title I, §105, Oct. 29, 2002, 116 Stat. 1673.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15305 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20906. Effective date

The Administrator shall implement the programs established under this subchapter in a manner that ensures that the Administrator is able to make payments under the program not later than the expiration of the 45-day period which begins on October 29, 2002.

(Pub. L. 107-252, title I, §106, Oct. 29, 2002, 116 Stat. 1673.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15306 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

SUBCHAPTER II—COMMISSION

PART A—ESTABLISHMENT AND GENERAL ORGANIZATION

SUBPART 1—ELECTION ASSISTANCE COMMISSION

§ 20921. Establishment

There is hereby established as an independent entity the Election Assistance Commission (hereafter in this subchapter referred to as the “Commission”), consisting of the members appointed under this subpart. Additionally, there

is established the Election Assistance Commission Standards Board (including the Executive Board of such Board) and the Election Assistance Commission Board of Advisors under subpart 2 of this part (hereafter in this subpart referred to as the “Standards Board” and the “Board of Advisors”, respectively) and the Technical Guidelines Development Committee under subpart 3 of this part.

(Pub. L. 107-252, title II, §201, Oct. 29, 2002, 116 Stat. 1673.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15321 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20922. Duties

The Commission shall serve as a national clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of Federal elections by—

(1) carrying out the duties described in subpart 3 of this part (relating to the adoption of voluntary voting system guidelines), including the maintenance of a clearinghouse of information on the experiences of State and local governments in implementing the guidelines and in operating voting systems in general;

(2) carrying out the duties described in part B of this subchapter (relating to the testing, certification, decertification, and recertification of voting system hardware and software);

(3) carrying out the duties described in part C of this subchapter (relating to conducting studies and carrying out other activities to promote the effective administration of Federal elections);

(4) carrying out the duties described in part D of this subchapter (relating to election assistance), and providing information and training on the management of the payments and grants provided under such part;

(5) carrying out the duties described in part B of subchapter III (relating to the adoption of voluntary guidance); and

(6) developing and carrying out the Help America Vote College Program under subchapter V.

(Pub. L. 107-252, title II, §202, Oct. 29, 2002, 116 Stat. 1673.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15322 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20923. Membership and appointment

(a) Membership

(1) In general

The Commission shall have four members appointed by the President, by and with the advice and consent of the Senate.

(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.

(4) Date of appointment

The appointments of the members of the Commission shall be made not later than 120 days after October 29, 2002.

(b) Term of service

(1) In general

Except as provided in paragraphs (2) and (3), members shall serve for a term of 4 years and may be reappointed for not more than one additional term.

(2) Terms of initial appointees

As designated by the President at the time of nomination, of the members first appointed—

(A) two of the members (not more than one of whom may be affiliated with the same political party) shall be appointed for a term of 2 years; and

(B) two of the members (not more than one of whom may be affiliated with the same political party) shall be appointed for a term of 4 years.

(3) Vacancies

(A) In general

A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

(B) Expired terms

A member of the Commission shall serve on the Commission after the expiration of the member's term until the successor of such member has taken office as a member of the Commission.

(C) Unexpired terms

An individual appointed to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(c) Chair and vice chair

(1) In general

The Commission shall select a chair and vice chair from among its members for a term of 1 year, except that the chair and vice chair may not be affiliated with the same political party.

(2) Number of terms

A member of the Commission may serve as the chairperson and vice chairperson for only

1 term each during the term of office to which such member is appointed.

(d) Compensation

(1) In general

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.

(2) Other activities

No member appointed to the Commission under subsection (a) 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.

(Pub. L. 107-252, title II, §203, Oct. 29, 2002, 116 Stat. 1674.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15323 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20924. Staff

(a) Executive Director, General Counsel, and other staff

(1) Executive Director

The Commission shall have an Executive Director, who shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5.

(2) Term of service for Executive Director

The Executive Director shall serve for a term of 4 years. An Executive Director may serve for a longer period only if reappointed for an additional term or terms by a vote of the Commission.

(3) Procedure for appointment

(A) In general

When a vacancy exists in the position of the Executive Director, the Standards Board and the Board of Advisors shall each appoint a search committee to recommend at least three nominees for the position.

(B) Requiring consideration of nominees

Except as provided in subparagraph (C), the Commission shall consider the nominees recommended by the Standards Board and the Board of Advisors in appointing the Executive Director.

(C) Interim service of General Counsel

If a vacancy exists in the position of the Executive Director, the General Counsel of the Commission shall serve as the acting Executive Director until the Commission appoints a new Executive Director in accordance with this paragraph.

(D) Special rules for interim Executive Director

(i) Convening of search committees

The Standards Board and the Board of Advisors shall each appoint a search com-

mittee and recommend nominees for the position of Executive Director in accordance with subparagraph (A) as soon as practicable after the appointment of their members.

(ii) Interim initial appointment

Notwithstanding subparagraph (B), the Commission may appoint an individual to serve as an interim Executive Director prior to the recommendation of nominees for the position by the Standards Board or the Board of Advisors, except that such individual's term of service may not exceed 6 months. Nothing in the previous sentence may be construed to prohibit the individual serving as the interim Executive Director from serving any additional term.

(4) General Counsel

The Commission shall have a General Counsel, who shall be appointed by the Commission and who shall serve under the Executive Director. The General Counsel shall serve for a term of 4 years, and may serve for a longer period only if reappointed for an additional term or terms by a vote of the Commission.

(5) Other staff

Subject to rules prescribed by the Commission, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers appropriate.

(6) Applicability of certain civil service laws

The Executive Director, General Counsel, and staff of the Commission may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of that title.

(b) Experts and consultants

Subject to rules prescribed by the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5 by a vote of the Commission.

(c) Staff of Federal agencies

Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this chapter.

(d) Arranging for assistance for Board of Advisors and Standards Board

At the request of the Board of Advisors or the Standards Board, the Commission may enter into such arrangements as the Commission considers appropriate to make personnel available to assist the Boards with carrying out their duties under this subchapter (including contracts with private individuals for providing temporary personnel services or the temporary detailing of personnel of the Commission).

(e) Consultation with Board of Advisors and Standards Board on certain matters

In preparing the program goals, long-term plans, mission statements, and related matters for the Commission, the Executive Director and staff of the Commission shall consult with the Board of Advisors and the Standards Board.

(Pub. L. 107-252, title II, §204, Oct. 29, 2002, 116 Stat. 1675.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), 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 Tables.

CODIFICATION

Section was formerly classified to section 15324 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20925. Powers

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) Contracts

The Commission may contract with and compensate persons and Federal agencies for supplies and services without regard to section 6101 of title 41.

(Pub. L. 107-252, title II, §205, Oct. 29, 2002, 116 Stat. 1677.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (d), 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 Tables.

CODIFICATION

Section was formerly classified to section 15325 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

In subsec. (e), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes of the United States (41 U.S.C. 5)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 20926. Dissemination of information

In carrying out its duties, the Commission shall, on an ongoing basis, disseminate to the public (through the Internet, published reports, and such other methods as the Commission considers appropriate) in a manner that is consistent with the requirements of chapter 19 of title 44 information on the activities carried out under this chapter.

(Pub. L. 107-252, title II, §206, Oct. 29, 2002, 116 Stat. 1677.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, 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 Tables.

CODIFICATION

Section was formerly classified to section 15326 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20927. Annual report

Not later than January 31 of each year (beginning with 2004), the Commission shall submit a report to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate detailing its activities during the fiscal year which ended on September 30 of the previous calendar year, and shall include in the report the following information:

(1) A detailed description of activities conducted with respect to each program carried out by the Commission under this chapter, including information on each grant or other payment made under such programs.

(2) A copy of each report submitted to the Commission by a recipient of such grants or payments which is required under such a program, including reports submitted by States receiving requirements payments under subpart 1 of part D of this subchapter, and each other report submitted to the Commission under this chapter.

(3) Information on the voluntary voting system guidelines adopted or modified by the Commission under subpart 3 of this part and information on the voluntary guidance adopted under part B of subchapter III.

(4) All votes taken by the Commission.

(5) Such other information and recommendations as the Commission considers appropriate.

(Pub. L. 107-252, title II, §207, Oct. 29, 2002, 116 Stat. 1677.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in pars. (1) and (2), 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 Tables.

CODIFICATION

Section was formerly classified to section 15327 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20928. Requiring majority approval for actions

Any action which the Commission is authorized to carry out under this chapter may be carried out only with the approval of at least three of its members.

(Pub. L. 107-252, title II, §208, Oct. 29, 2002, 116 Stat. 1678.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, 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 Tables.

CODIFICATION

Section was formerly classified to section 15328 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20929. Limitation on rulemaking authority

The Commission shall not have any authority to issue any rule, promulgate any regulation, or take any other action which imposes any requirement on any State or unit of local government, except to the extent permitted under section 20508(a) of this title.

(Pub. L. 107-252, title II, §209, Oct. 29, 2002, 116 Stat. 1678.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15329 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20930. Authorization of appropriations

In addition to the amounts authorized for payments and grants under this subchapter and the amounts authorized to be appropriated for the program under section 21123 of this title, there are authorized to be appropriated for each of the fiscal years 2003 through 2005 such sums as may be necessary (but not to exceed \$10,000,000 for each such year) for the Commission to carry out this subchapter.

(Pub. L. 107-252, title II, §210, Oct. 29, 2002, 116 Stat. 1678.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15330 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

SUBPART 2—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD AND BOARD OF ADVISORS

§ 20941. Establishment

There are hereby established the Election Assistance Commission Standards Board (hereafter in this subchapter referred to as the “Standards Board”) and the Election Assistance Commission Board of Advisors (hereafter in this subchapter referred to as the “Board of Advisors”).

(Pub. L. 107-252, title II, §211, Oct. 29, 2002, 116 Stat. 1678.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15341 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20942. Duties

The Standards Board and the Board of Advisors shall each, in accordance with the procedures described in subpart 3 of this part, review the voluntary voting system guidelines under such subpart, the voluntary guidance under subchapter III, and the best practices recommendations contained in the report submitted under section 20982(b) of this title.

(Pub. L. 107-252, title II, §212, Oct. 29, 2002, 116 Stat. 1678.)

Editorial Notes

REFERENCES IN TEXT

Subchapter III, referred to in text, 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 (§21081 et seq.) of this chapter. For complete classification of title III to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 15342 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20943. Membership of Standards Board

(a) Composition

(1) In general

Subject to certification by the chair of the Federal Election Commission under subsection (b), the Standards Board shall be composed of 110 members as follows:

(A) Fifty-five shall be State election officials selected by the chief State election official of each State.

(B) Fifty-five shall be local election officials selected in accordance with paragraph (2).

(2) List of local election officials

Each State’s local election officials, including the local election officials of Puerto Rico and the United States Virgin Islands, shall se-

lect (under a process supervised by the chief election official of the State) a representative local election official from the State for purposes of paragraph (1)(B). In the case of the District of Columbia, Guam, and American Samoa, the chief election official shall establish a procedure for selecting an individual to serve as a local election official for purposes of such paragraph, except that under such a procedure the individual selected may not be a member of the same political party as the chief election official.

(3) Requiring mix of political parties represented

The two members of the Standards Board who represent the same State may not be members of the same political party.

(b) Procedures for notice and certification of appointment

(1) Notice to chair of Federal Election Commission

Not later than 90 days after October 29, 2002, the chief State election official of the State shall transmit a notice to the chair of the Federal Election Commission containing—

(A) the name of the State election official who agrees to serve on the Standards Board under this subchapter; and

(B) the name of the representative local election official from the State selected under subsection (a)(2) who agrees to serve on the Standards Board under this subchapter.

(2) Certification

Upon receiving a notice from a State under paragraph (1), the chair of the Federal Election Commission shall publish a certification that the selected State election official and the representative local election official are appointed as members of the Standards Board under this subchapter.

(3) Effect of failure to provide notice

If a State does not transmit a notice to the chair of the Federal Election Commission under paragraph (1) within the deadline described in such paragraph, no representative from the State may participate in the selection of the initial Executive Board under subsection (c).

(4) Role of Commission

Upon the appointment of the members of the Election Assistance Commission, the Election Assistance Commission shall carry out the duties of the Federal Election Commission under this subsection.

(c) Executive Board

(1) In general

Not later than 60 days after the last day on which the appointment of any of its members may be certified under subsection (b), the Standards Board shall select nine of its members to serve as the Executive Board of the Standards Board, of whom—

(A) not more than five may be State election officials;

(B) not more than five may be local election officials; and

(C) not more than five may be members of the same political party.

(2) Terms

Except as provided in paragraph (3), members of the Executive Board of the Standards Board shall serve for a term of 2 years and may not serve for more than 3 consecutive terms.

(3) Staggering of initial terms

Of the members first selected to serve on the Executive Board of the Standards Board—

(A) three shall serve for 1 term;

(B) three shall serve for 2 consecutive terms; and

(C) three shall serve for 3 consecutive terms,

as determined by lot at the time the members are first appointed.

(4) Duties

In addition to any other duties assigned under this subchapter, the Executive Board of the Standards Board may carry out such duties of the Standards Board as the Standards Board may delegate.

(Pub. L. 107-252, title II, §213, Oct. 29, 2002, 116 Stat. 1678.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15343 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20944. Membership of Board of Advisors

(a) In general

The Board of Advisors shall be composed of 37 members appointed as follows:

(1) Two members appointed by the National Governors Association.

(2) Two members appointed by the National Conference of State Legislatures.

(3) Two members appointed by the National Association of Secretaries of State.

(4) Two members appointed by the National Association of State Election Directors.

(5) Two members appointed by the National Association of Counties.

(6) Two members appointed by the National Association of County Recorders, Election Administrators, and Clerks.¹

(7) Two members appointed by the United States Conference of Mayors.

(8) Two members appointed by the Election Center.

(9) Two members appointed by the International Association of County Recorders, Election Officials, and Treasurers.²

(10) Two members appointed by the United States Commission on Civil Rights.

(11) Two members appointed by the Architectural and Transportation Barrier³ Compliance Board under section 792 of title 29.

¹ So in original. Probably should be "National Association of County Recorders, Election Officials and Clerks."

² So in original. Probably should be "International Association of Clerks, Recorders, Election Officials and Treasurers."

³ So in original. Probably should be "Barriers".

(12) The chief of the Office of Public Integrity of the Department of Justice,⁴ or the chief's designee.

(13) The chief of the Voting Section of the Civil Rights Division of the Department of Justice or the chief's designee.

(14) The director of the Federal Voting Assistance Program of the Department of Defense.

(15) Four members representing professionals in the field of science and technology, of whom—

(A) one each shall be appointed by the Speaker and the Minority Leader of the House of Representatives; and

(B) one each shall be appointed by the Majority Leader and the Minority Leader of the Senate.

(16) Eight members representing voter interests, of whom—

(A) four members shall be appointed by the Committee on House Administration of the House of Representatives, of whom two shall be appointed by the chair and two shall be appointed by the ranking minority member; and

(B) four members shall be appointed by the Committee on Rules and Administration of the Senate, of whom two shall be appointed by the chair and two shall be appointed by the ranking minority member.

(b) Manner of appointments

Appointments shall be made to the Board of Advisors under subsection (a) in a manner which ensures that the Board of Advisors will be bipartisan in nature and will reflect the various geographic regions of the United States.

(c) Term of service; vacancy

Members of the Board of Advisors shall serve for a term of 2 years, and may be reappointed. Any vacancy in the Board of Advisors shall be filled in the manner in which the original appointment was made.

(d) Chair

The Board of Advisors shall elect a Chair from among its members.

(Pub. L. 107-252, title II, §214, Oct. 29, 2002, 116 Stat. 1680.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15344 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20945. Powers of Boards; no compensation for service

(a) Hearings and sessions

(1) In general

To the extent that funds are made available by the Commission, the Standards Board (acting through the Executive Board) and the Board of Advisors may each hold such hearings for the purpose of carrying out this chap-

ter, sit and act at such times and places, take such testimony, and receive such evidence as each such Board considers advisable to carry out this subchapter, except that the Boards may not issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence.

(2) Meetings

The Standards Board and the Board of Advisors shall each hold a meeting of its members—

(A) not less frequently than once every year for purposes of voting on the voluntary voting system guidelines referred to it under section 20962 of this title;

(B) in the case of the Standards Board, not less frequently than once every 2 years for purposes of selecting the Executive Board; and

(C) at such other times as it considers appropriate for purposes of conducting such other business as it considers appropriate consistent with this subchapter.

(b) Information from Federal agencies

The Standards Board and the Board of Advisors may each secure directly from any Federal department or agency such information as the Board considers necessary to carry out this chapter. Upon request of the Executive Board (in the case of the Standards Board) or the Chair (in the case of the Board of Advisors), the head of such department or agency shall furnish such information to the Board.

(c) Postal services

The Standards Board and the Board of Advisors may use the United States mails in the same manner and under the same conditions as a department or agency of the Federal Government.

(d) Administrative support services

Upon the request of the Executive Board (in the case of the Standards Board) or the Chair (in the case of the Board of Advisors), the Administrator of the General Services Administration shall provide to the Board, on a reimbursable basis, the administrative support services that are necessary to enable the Board to carry out its duties under this subchapter.

(e) No compensation for service

Members of the Standards Board and members of the Board of Advisors shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Board.

(Pub. L. 107-252, title II, §215, Oct. 29, 2002, 116 Stat. 1681.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (b), 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

⁴ So in original. Probably means the Public Integrity Section of the Criminal Division of the Department of Justice.

chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 15345 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20946. Status of Boards and members for purposes of claims against Board

(a) In general

The provisions of chapters 161 and 171 of title 28 shall apply with respect to the liability of the Standards Board, the Board of Advisors, and their members for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the Board.

(b) Exception for criminal acts and other willful conduct

Subsection (a) may not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of a member of the Standards Board or the Board of Advisors.

(Pub. L. 107-252, title II, §216, Oct. 29, 2002, 116 Stat. 1681.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15346 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

SUBPART 3—TECHNICAL GUIDELINES DEVELOPMENT COMMITTEE

§ 20961. Technical Guidelines Development Committee

(a) Establishment

There is hereby established the Technical Guidelines Development Committee (hereafter in this subpart referred to as the “Development Committee”).

(b) Duties

(1) In general

The Development Committee shall assist the Executive Director of the Commission in the development of the voluntary voting system guidelines.

(2) Deadline for initial set of recommendations

The Development Committee shall provide its first set of recommendations under this section to the Executive Director of the Commission not later than 9 months after all of its members have been appointed.

(c) Membership

(1) In general

The Development Committee shall be composed of the Director of the National Institute of Standards and Technology (who shall serve as its chair), together with a group of 14 other individuals appointed jointly by the Commission and the Director of the National Institute of Standards and Technology, consisting of the following:

(A) An equal number of each of the following:

- (i) Members of the Standards Board.
- (ii) Members of the Board of Advisors.
- (iii) Members of the Architectural and Transportation Barrier Compliance Board under section 792 of title 29.

(B) A representative of the American National Standards Institute.

(C) A representative of the Institute of Electrical and Electronics Engineers.

(D) Two representatives of the National Association of State Election Directors selected by such Association who are not members of the Standards Board or Board of Advisors, and who are not of the same political party.

(E) Other individuals with technical and scientific expertise relating to voting systems and voting equipment.

(2) Quorum

A majority of the members of the Development Committee shall constitute a quorum, except that the Development Committee may not conduct any business prior to the appointment of all of its members.

(d) No compensation for service

Members of the Development Committee shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Development Committee.

(e) Technical support from National Institute of Standards and Technology

(1) In general

At the request of the Development Committee, the Director of the National Institute of Standards and Technology shall provide the Development Committee with technical support necessary for the Development Committee to carry out its duties under this part.

(2) Technical support

The technical support provided under paragraph (1) shall include intramural research and development in areas to support the development of the voluntary voting system guidelines under this subpart, including—

(A) the security of computers, computer networks, and computer data storage used in voting systems, including the computerized list required under section 21083(a) of this title;

(B) methods to detect and prevent fraud;

(C) the protection of voter privacy;

(D) the role of human factors in the design and application of voting systems, including assistive technologies for individuals with disabilities (including blindness) and varying levels of literacy; and

(E) remote access voting, including voting through the Internet.

(3) No private sector intellectual property rights in guidelines

No private sector individual or entity shall obtain any intellectual property rights to any

guideline or the contents of any guideline (or any modification to any guideline) adopted by the Commission under this chapter.

(f) Publication of recommendations in Federal Register

At the time the Commission adopts any voluntary voting system guideline pursuant to section 20962 of this title, the Development Committee shall cause to have published in the Federal Register the recommendations it provided under this section to the Executive Director of the Commission concerning the guideline adopted.

(Pub. L. 107-252, title II, § 221, Oct. 29, 2002, 116 Stat. 1682.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(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 Tables.

CODIFICATION

Section was formerly classified to section 15361 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20962. Process for adoption

(a) General requirement for notice and comment

Consistent with the requirements of this section, the final adoption of the voluntary voting system guidelines (or modification of such a guideline) shall be carried out by the Commission in a manner that provides for each of the following:

- (1) Publication of notice of the proposed guidelines in the Federal Register.
- (2) An opportunity for public comment on the proposed guidelines.
- (3) An opportunity for a public hearing on the record.
- (4) Publication of the final guidelines in the Federal Register.

(b) Consideration of recommendations of Development Committee; submission of proposed guidelines to Board of Advisors and Standards Board

(1) Consideration of recommendations of Development Committee

In developing the voluntary voting system guidelines and modifications of such guidelines under this section, the Executive Director of the Commission shall take into consideration the recommendations provided by the Technical Guidelines Development Committee under section 20961 of this title.

(2) Board of Advisors

The Executive Director of the Commission shall submit the guidelines proposed to be adopted under this subpart (or any modifications to such guidelines) to the Board of Advisors.

(3) Standards Board

The Executive Director of the Commission shall submit the guidelines proposed to be

adopted under this subpart (or any modifications to such guidelines) to the Executive Board of the Standards Board, which shall review the guidelines (or modifications) and forward its recommendations to the Standards Board.

(c) Review

Upon receipt of voluntary voting system guidelines described in subsection (b) (or a modification of such guidelines) from the Executive Director of the Commission, the Board of Advisors and the Standards Board shall each review and submit comments and recommendations regarding the guideline (or modification) to the Commission.

(d) Final adoption

(1) In general

A voluntary voting system guideline described in subsection (b) (or modification of such a guideline) shall not be considered to be finally adopted by the Commission unless the Commission votes to approve the final adoption of the guideline (or modification), taking into consideration the comments and recommendations submitted by the Board of Advisors and the Standards Board under subsection (c).

(2) Minimum period for consideration of comments and recommendations

The Commission may not vote on the final adoption of a guideline described in subsection (b) (or modification of such a guideline) until the expiration of the 90-day period which begins on the date the Executive Director of the Commission submits the proposed guideline (or modification) to the Board of Advisors and the Standards Board under subsection (b).

(e) Special rule for initial set of guidelines

Notwithstanding any other provision of this subpart, the most recent set of voting system standards adopted by the Federal Election Commission prior to October 29, 2002, shall be deemed to have been adopted by the Commission as of October 29, 2002, as the first set of voluntary voting system guidelines adopted under this subpart.

(Pub. L. 107-252, title II, § 222, Oct. 29, 2002, 116 Stat. 1683.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15362 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PART B—TESTING, CERTIFICATION, DECERTIFICATION, AND RECERTIFICATION OF VOTING SYSTEM HARDWARE AND SOFTWARE

§ 20971. Certification and testing of voting systems

(a) Certification and testing

(1) In general

The Commission shall provide for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories.