

115TH CONGRESS
1ST SESSION

S. 1683

To amend the Federal Election Campaign Act of 1971 to reduce the number of members of the Federal Election Commission from 6 to 5, to revise the method of selection and terms of service of members of the Commission, to distribute the powers of the Commission between the Chair and the remaining members, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2017

Mr. DONNELLY introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to reduce the number of members of the Federal Election Commission from 6 to 5, to revise the method of selection and terms of service of members of the Commission, to distribute the powers of the Commission between the Chair and the remaining members, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Restoring Integrity
5 to America’s Elections Act”.

1 **SEC. 2. MEMBERSHIP OF FEDERAL ELECTION COMMIS-**
2 **SION.**

3 (a) REDUCTION IN NUMBER OF MEMBERS; REMOVAL
4 OF SECRETARY OF SENATE AND CLERK OF HOUSE AS
5 EX OFFICIO MEMBERS.—

6 (1) IN GENERAL; QUORUM.—Section 306(a)(1)
7 of the Federal Election Campaign Act of 1971 (52
8 U.S.C. 30106(a)(1)) is amended by striking the sec-
9 ond and third sentences and inserting the following:
10 “The Commission is composed of 5 members ap-
11 pointed by the President by and with the advice and
12 consent of the Senate, of whom no more than 2 may
13 be affiliated with the same political party. A major-
14 ity of the number of members of the Commission
15 who are serving at the time shall constitute a
16 quorum, except that 3 members shall constitute a
17 quorum if there are 4 members serving at the
18 time.”.

19 (2) CONFORMING AMENDMENTS RELATING TO
20 REDUCTION IN NUMBER OF MEMBERS.—(A) The
21 second sentence of section 306(c) of such Act (52
22 U.S.C. 30106(c)) is amended by striking “affirma-
23 tive vote of 4 members of the Commission” and in-
24 serting “affirmative vote of a majority of the mem-
25 bers of the Commission who are serving at the
26 time”.

1 (B) Such Act is further amended by striking
 2 “affirmative vote of 4 of its members” and inserting
 3 “affirmative vote of a majority of the members of
 4 the Commission who are serving at the time” each
 5 place it appears in the following sections:

6 (i) Section 309(a)(2) (52 U.S.C.
 7 30109(a)(2)).

8 (ii) Section 309(a)(4)(A)(i) (52 U.S.C.
 9 30109(a)(4)(A)(i)).

10 (iii) Section 309(a)(5)(C) (52 U.S.C.
 11 30109(a)(5)(C)).

12 (iv) Section 309(a)(6)(A) (52 U.S.C.
 13 30109(a)(6)(A)).

14 (v) Section 311(b) (52 U.S.C. 30111(b)).

15 (3) CONFORMING AMENDMENT RELATING TO
 16 REMOVAL OF EX OFFICIO MEMBERS.—Section
 17 306(a) of such Act (52 U.S.C. 30106(a)) is amend-
 18 ed by striking “(other than the Secretary of the Sen-
 19 ate and the Clerk of the House of Representatives)”
 20 each place it appears in paragraphs (4) and (5).

21 (b) TERMS OF SERVICE.—Section 306(a)(2) of such
 22 Act (52 U.S.C. 30106(a)(2)) is amended to read as fol-
 23 lows:

24 “(2) TERMS OF SERVICE.—

1 “(A) CHAIR.—The Chair of the Commis-
2 sion shall serve for a single term of 10 years.

3 “(B) OTHER MEMBERS.—Each member of
4 the Commission other than the Chair shall
5 serve for a single term of 6 years.

6 “(C) SPECIAL RULE FOR INITIAL APPOINT-
7 MENTS.—Of the members (other than the
8 Chair) first appointed to serve terms that begin
9 in January 2020, the President shall designate
10 two to serve for a 3-year term.

11 “(D) NO REAPPOINTMENT PERMITTED.—
12 An individual who served a term as a Member
13 of the Commission (including the Chair) may
14 not serve for an additional term, except that—

15 “(i) an individual who served a 3-year
16 term under subparagraph (C) may also be
17 appointed to serve a 6-year term under
18 subparagraph (B) or a 10-year term as
19 Chair under subparagraph (A); and

20 “(ii) for purposes of this subpara-
21 graph, an individual who is appointed to
22 fill a vacancy under subparagraph (E)
23 shall not be considered to have served a
24 term if the portion of the unexpired term

1 the individual fills is less than 50 percent
 2 of the period of the term.

3 “(E) VACANCIES.—Any vacancy occurring
 4 in the membership of the Commission shall be
 5 filled in the same manner as in the case of the
 6 original appointment. Except as provided in
 7 subparagraph (D), an individual appointed to
 8 fill a vacancy occurring other than by the expi-
 9 ration of a term of office shall be appointed
 10 only for the unexpired term of the member he
 11 or she succeeds.

12 “(F) LIMITATION ON SERVICE AFTER EX-
 13 PIRATION OF TERM.—A member of the Com-
 14 mission may continue to serve on the Commis-
 15 sion after the expiration of the member’s term
 16 for an additional period, but only until the ear-
 17 lier of—

18 “(i) the date on which the member’s
 19 successor has taken office as a member of
 20 the Commission; or

21 “(ii) the expiration of the 1-year pe-
 22 riod that begins on the last day of the
 23 member’s term.”.

24 (c) QUALIFICATIONS.—Section 306(a)(3) of such Act
 25 (52 U.S.C. 30106(a)(3)) is amended to read as follows:

1 “(3) QUALIFICATIONS.—

2 “(A) IN GENERAL.—The President may
3 select an individual for service as a Member of
4 the Commission if the individual has experience
5 in election law and has a demonstrated record
6 of integrity, impartiality, and good judgment.

7 “(B) ASSISTANCE OF BLUE RIBBON ADVI-
8 SORY PANEL.—

9 “(i) IN GENERAL.—Prior to the regu-
10 larly scheduled expiration of the term of a
11 member of the Commission and upon the
12 occurrence of a vacancy in the membership
13 of the Commission prior to the expiration
14 of a term, the President shall convene a
15 Blue Ribbon Advisory Panel, consisting of
16 an odd number of individuals selected by
17 the President from retired Federal judges,
18 former law enforcement officials, or indi-
19 viduals with experience in election law, ex-
20 cept that the President may not select any
21 individual to serve on the panel who holds
22 any public office at the time of selection.

23 “(ii) RECOMMENDATIONS.—With re-
24 spect to each member of the Commission
25 whose term is expiring or each vacancy in

1 the membership of the Commission (as the
2 case may be), the Blue Ribbon Advisory
3 Panel shall recommend to the President at
4 least one but not more than 3 individuals
5 for nomination for appointment as a mem-
6 ber of the Commission.

7 “(iii) PUBLICATION.—At the time the
8 President submits to the Senate the nomi-
9 nations for individuals to be appointed as
10 members of the Commission, the President
11 shall publish the Blue Ribbon Advisory
12 Panel’s recommendations for such nomina-
13 tions.

14 “(iv) EXEMPTION FROM FEDERAL AD-
15 VISORY COMMITTEE ACT.—The Federal
16 Advisory Committee Act (5 U.S.C. App.)
17 does not apply to a Blue Ribbon Advisory
18 Panel convened under this subparagraph.

19 “(C) PROHIBITING ENGAGEMENT WITH
20 OTHER BUSINESS OR EMPLOYMENT DURING
21 SERVICE.—A member of the Commission shall
22 not engage in any other business, vocation, or
23 employment. Any individual who is engaging in
24 any other business, vocation, or employment at
25 the time of his or her appointment to the Com-

1 mission shall terminate or liquidate such activ-
 2 ity no later than 90 days after such appoint-
 3 ment.”.

4 **SEC. 3. ASSIGNMENT OF POWERS TO CHAIR OF FEDERAL**
 5 **ELECTION COMMISSION.**

6 (a) APPOINTMENT OF CHAIR BY PRESIDENT.—

7 (1) IN GENERAL.—Section 306(a)(5) of the
 8 Federal Election Campaign Act of 1971 (52 U.S.C.
 9 30106(a)(5)) is amended to read as follows:

10 “(5) CHAIR.—

11 “(A) INITIAL APPOINTMENT.—Of the
 12 members first appointed to serve terms that
 13 begin in January 2020, one such member (as
 14 designated by the President at the time the
 15 President submits nominations to the Senate)
 16 shall serve as Chair of the Commission.

17 “(B) SUBSEQUENT APPOINTMENTS.—Any
 18 individual who is appointed to succeed the
 19 Member who serves as Chair of the Commission
 20 for the term beginning in January 2020 (as
 21 well as any individual who is appointed to fill
 22 a vacancy if such Member does not serve a full
 23 term as Chair) shall serve as Chair of the Com-
 24 mission.

1 “(C) VICE CHAIR.—The Commission shall
 2 select, by majority vote of its members, one of
 3 its members to serve as Vice Chair, who shall
 4 act as Chair in the absence or disability of the
 5 Chair or in the event of a vacancy in the posi-
 6 tion of Chair.”.

7 (2) CONFORMING AMENDMENT.—Section
 8 309(a)(2) of such Act (52 U.S.C. 30109(a)(2)) is
 9 amended by striking “through its chairman or vice
 10 chairman” and inserting “through the Chair”.

11 (b) POWERS.—

12 (1) ASSIGNMENT OF CERTAIN POWERS TO
 13 CHAIR.—Section 307(a) of such Act (52 U.S.C.
 14 30107(a)) is amended to read as follows:

15 “(a) DISTRIBUTION OF POWERS BETWEEN CHAIR
 16 AND COMMISSION.—

17 “(1) POWERS ASSIGNED TO CHAIR.—

18 “(A) ADMINISTRATIVE POWERS.—The
 19 Chair of the Commission shall be the chief ad-
 20 ministrative officer of the Commission and shall
 21 have the authority to administer the Commis-
 22 sion and its staff, and (in consultation with the
 23 other members of the Commission) shall have
 24 the power—

1 “(i) to appoint and remove the staff
2 director and general counsel of the Com-
3 mission;

4 “(ii) to request the assistance (includ-
5 ing personnel and facilities) of other agen-
6 cies and departments of the United States,
7 whose heads may make such assistance
8 available to the Commission with or with-
9 out reimbursement; and

10 “(iii) to prepare and establish the
11 budget of the Commission and to make
12 budget requests to the President, the Di-
13 rector of the Office of Management and
14 Budget, and Congress.

15 “(B) OTHER POWERS.—The Chair of the
16 Commission shall have the power—

17 “(i) to require by special or general
18 orders, any person to submit, under oath,
19 such written reports and answers to ques-
20 tions as the Chair may prescribe;

21 “(ii) to administer oaths or affirma-
22 tions;

23 “(iii) to require by subpoena, signed
24 by the Chair, the attendance and testimony
25 of witnesses and the production of all doc-

1 umentary evidence relating to the execu-
2 tion of its duties;

3 “(iv) in any proceeding or investiga-
4 tion, to order testimony to be taken by
5 deposition before any person who is des-
6 ignated by the Chair, and shall have the
7 power to administer oaths and, in such in-
8 stances, to compel testimony and the pro-
9 duction of evidence in the same manner as
10 authorized under clause (iii); and

11 “(v) to pay witnesses the same fees
12 and mileage as are paid in like cir-
13 cumstances in the courts of the United
14 States.

15 “(2) POWERS ASSIGNED TO COMMISSION.—The
16 Commission shall have the power—

17 “(A) to initiate (through civil actions for
18 injunctive, declaratory, or other appropriate re-
19 lief), defend (in the case of any civil action
20 brought under section 309(a)(8) of this Act) or
21 appeal any civil action in the name of the Com-
22 mission to enforce the provisions of this Act
23 and chapter 95 and chapter 96 of the Internal
24 Revenue Code of 1954, through its general
25 counsel;

1 “(B) to render advisory opinions under
2 section 308 of this Act;

3 “(C) to develop such prescribed forms and
4 to make, amend, and repeal such rules, pursu-
5 ant to the provisions of chapter 5 of title 5,
6 United States Code, as are necessary to carry
7 out the provisions of this Act and chapter 95
8 and chapter 96 of the Internal Revenue Code of
9 1986;

10 “(D) to conduct investigations and hear-
11 ings expeditiously, to encourage voluntary com-
12 pliance, and to report apparent violations to the
13 appropriate law enforcement authorities; and

14 “(E) to transmit to the President and Con-
15 gress not later than June 1 of each year a re-
16 port which states in detail the activities of the
17 Commission in carrying out its duties under
18 this Act, and which includes any recommenda-
19 tions for any legislative or other action the
20 Commission considers appropriate.

21 “(3) PERMITTING COMMISSION TO EXERCISE
22 OTHER POWERS OF CHAIR.—With respect to any in-
23 vestigation, action, or proceeding, the Commission,
24 by an affirmative vote of a majority of the members

1 who are serving at the time, may exercise any of the
2 powers of the Chair described in paragraph (1)(B).”.

3 (2) CONFORMING AMENDMENTS RELATING TO
4 PERSONNEL AUTHORITY.—Section 306(f) of such
5 Act (52 U.S.C. 30106(f)) is amended—

6 (A) by amending the first sentence of
7 paragraph (1) to read as follows: “The Com-
8 mission shall have a staff director and a general
9 counsel who shall be appointed by the Chair of
10 the Commission in consultation with the other
11 members.”;

12 (B) in paragraph (2), by striking “With
13 the approval of the Commission” and inserting
14 “With the approval of the Chair of the Commis-
15 sion”; and

16 (C) by striking paragraph (3).

17 (3) CONFORMING AMENDMENT RELATING TO
18 BUDGET SUBMISSION.—Section 307(d)(1) of such
19 Act (52 U.S.C. 30107(d)(1)) is amended by striking
20 “the Commission submits any budget” and inserting
21 “the Chair (or, pursuant to subsection (a)(3), the
22 Commission) submits any budget”.

23 (4) OTHER CONFORMING AMENDMENTS.—Sec-
24 tion 306(c) of such Act (52 U.S.C. 30106(c)) is

1 amended by striking “All decisions” and inserting
 2 “Subject to section 307(a), all decisions”.

3 (5) TECHNICAL AMENDMENT.—The heading of
 4 section 307 of such Act (52 U.S.C. 30107) is
 5 amended by striking “THE COMMISSION” and insert-
 6 ing “THE CHAIR AND THE COMMISSION”.

7 **SEC. 4. REVISION TO CERTAIN ENFORCEMENT AUTHORI-**
 8 **TIES.**

9 (a) CLARIFYING AUTHORITY OF FEC ATTORNEYS
 10 TO REPRESENT FEC IN SUPREME COURT.—

11 (1) CLARIFYING AUTHORITY.—Section
 12 306(f)(4) of the Federal Election Campaign Act of
 13 1971 (52 U.S.C. 30106(f)(4)) is amended by strik-
 14 ing “any action instituted under this Act, either (A)
 15 by attorneys” and inserting “any action instituted
 16 under this Act, including an action before the Su-
 17 preme Court of the United States, either (A) by the
 18 General Counsel of the Commission and other attor-
 19 neys”.

20 (2) EFFECTIVE DATE.—The amendment made
 21 by paragraph (1) shall apply with respect to actions
 22 instituted before, on, or after the date of the enact-
 23 ment of this Act.

1 (b) PERMITTING APPEARANCE AT HEARINGS ON RE-
 2 QUESTS FOR ADVISORY OPINIONS BY PERSONS OPPOSING
 3 THE REQUESTS.—

4 (1) IN GENERAL.—Section 308 of such Act (52
 5 U.S.C. 30108) is amended by adding at the end the
 6 following new subsection:

7 “(e) To the extent that the Commission provides an
 8 opportunity for a person requesting an advisory opinion
 9 under this section (or counsel for such person) to appear
 10 before the Commission to present testimony in support of
 11 the request, and the person (or counsel) accepts such op-
 12 portunity, the Commission shall provide a reasonable op-
 13 portunity for an interested party who submitted written
 14 comments under subsection (d) in response to the request
 15 (or counsel for such interested party) to appear before the
 16 Commission to present testimony in response to the re-
 17 quest.”.

18 (2) EFFECTIVE DATE.—The amendment made
 19 by paragraph (1) shall apply with respect to requests
 20 for advisory opinions under section 308 of the Fed-
 21 eral Election Campaign Act of 1971 which are made
 22 on or after the date of the enactment of this Act.

23 (c) CLARIFICATION OF DEADLINE FOR FILING AC-
 24 TION TO CHALLENGE DISMISSAL OF COMPLAINT.—

1 (1) DEADLINE.—Section 309(a)(8)(B) of such
 2 Act (52 U.S.C. 30109(a)(8)(B)) is amended by
 3 striking “within 60 days after the date of the dis-
 4 missal” and inserting “within 60 days after the date
 5 on which the party received notice of the dismissal
 6 of the complaint”.

7 (2) EFFECTIVE DATE.—The amendment made
 8 by paragraph (1) shall apply with respect to com-
 9 plaints which are dismissed by the Federal Election
 10 Commission on or after the date of the enactment
 11 of this Act.

12 **SEC. 5. EFFECTIVE DATE; TRANSITION.**

13 (a) IN GENERAL.—Except as provided in section 4,
 14 the amendments made by this Act shall apply beginning
 15 January 1, 2020.

16 (b) TRANSITION.—

17 (1) TERMINATION OF SERVICE OF CURRENT
 18 MEMBERS.—Notwithstanding any provision of the
 19 Federal Election Campaign Act of 1971, the term of
 20 any individual serving as a member of the Federal
 21 Election Commission as of December 31, 2019, shall
 22 expire on that date.

23 (2) NO EFFECT ON EXISTING CASES OR PRO-
 24 CEEDINGS.—Nothing in this Act or in any amend-
 25 ment made by this Act shall affect any of the powers

1 exercised by the Federal Election Commission prior
2 to December 31, 2019, including any investigation
3 initiated by the Commission prior to such date or
4 any proceeding (including any enforcement action)
5 pending as of such date.

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