

(B) any second or successive application for a writ of habeas corpus; and

(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

(5) The Administrative Office of the United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.

(Added Pub. L. 104-132, title I, §107(a), Apr. 24, 1996, 110 Stat. 1224; amended Pub. L. 109-177, title V, §507(e), Mar. 9, 2006, 120 Stat. 251.)

#### Editorial Notes

##### AMENDMENTS

2006—Subsec. (b)(1)(A). Pub. L. 109-177 substituted “450 days after the date on which the application is filed, or 60 days after the date on which the case is submitted for decision, whichever is earlier” for “180 days after the date on which the application is filed”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-177 applicable to cases pending on or after Mar. 9, 2006, with special rule for certain cases pending on that date, see section 507(d) of Pub. L. 109-177, set out as a note under section 2251 of this title.

##### EFFECTIVE DATE

Section applicable to cases pending on or after Apr. 24, 1996, see section 107(c) of Pub. L. 104-132, set out as a note under section 2261 of this title.

### CHAPTER 155—INJUNCTIONS; THREE-JUDGE COURTS

Sec.	
[2281.]	Repealed.]
[2282.]	Repealed.]
2283.	Stay of State court proceedings.
2284.	Three-judge district court; when required; composition; procedure. <sup>1</sup>

#### Editorial Notes

##### AMENDMENTS

1976—Pub. L. 94-381, §4, Aug. 12, 1976, 90 Stat. 1119, struck out item 2281 “Injunction against enforcement of State statute; three-judge court required”, item 2282 “Injunction against enforcement of Federal statute; three-judge court required”, and inserted “when required” after “district court” in item 2284.

<sup>1</sup> So in original. Does not conform to section catchline.

### [§§ 2281, 2282. Repealed. Pub. L. 94-381, §§ 1, 2, Aug. 12, 1976, 90 Stat. 1119]

Section 2281, act June 25, 1948, ch. 646, 62 Stat. 968, provided that an interlocutory or permanent injunction restraining the enforcement, operation or execution of a State statute on grounds of unconstitutionality should not be granted unless the application has been heard and determined by a three-judge district court.

Section 2282, act June 25, 1948, ch. 646, 62 Stat. 968, provided that an interlocutory or permanent injunction restraining the enforcement, operation or execution of any Act of Congress on grounds of unconstitutionality should not be granted unless the application therefor has been heard and determined by a three-judge district court.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF REPEAL

Repeal not applicable to any action commenced on or before Aug. 12, 1976, see section 7 of Pub. L. 94-381 set out as an Effective Date of 1976 Amendment note under section 2284 of this title.

#### § 2283. Stay of State court proceedings

A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

(June 25, 1948, ch. 646, 62 Stat. 968.)

##### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §379 (Mar. 3, 1911, ch. 231, §265, 36 Stat. 1162).

An exception as to acts of Congress relating to bankruptcy was omitted and the general exception substituted to cover all exceptions.

The phrase “in aid of its jurisdiction” was added to conform to section 1651 of this title and to make clear the recognized power of the Federal courts to stay proceedings in State cases removed to the district courts.

The exceptions specifically include the words “to protect or effectuate its judgments,” for lack of which the Supreme Court held that the Federal courts are without power to enjoin relitigation of cases and controversies fully adjudicated by such courts. (See *Toucey v. New York Life Insurance Co.*, 62 S.Ct. 139, 314 U.S. 118, 86 L.Ed. 100. A vigorous dissenting opinion (62 S.Ct. 148) notes that at the time of the 1911 revision of the Judicial Code, the power of the courts, of the United States to protect their judgments was unquestioned and that the revisers of that code noted no change and Congress intended no change).

Therefore the revised section restores the basic law as generally understood and interpreted prior to the Toucey decision.

Changes were made in phraseology.

#### § 2284. Three-judge court; when required; composition; procedure

(a) A district court of three judges shall be convened when otherwise required by Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.

(b) In any action required to be heard and determined by a district court of three judges under subsection (a) of this section, the composition and procedure of the court shall be as follows:

(1) Upon the filing of a request for three judges, the judge to whom the request is pre-

sented shall, unless he determines that three judges are not required, immediately notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a circuit judge. The judges so designated, and the judge to whom the request was presented, shall serve as members of the court to hear and determine the action or proceeding.

(2) If the action is against a State, or officer or agency thereof, at least five days' notice of hearing of the action shall be given by registered or certified mail to the Governor and attorney general of the State.

(3) A single judge may conduct all proceedings except the trial, and enter all orders permitted by the rules of civil procedure except as provided in this subsection. He may grant a temporary restraining order on a specific finding, based on evidence submitted, that specified irreparable damage will result if the order is not granted, which order, unless previously revoked by the district judge, shall remain in force only until the hearing and determination by the district court of three judges of an application for a preliminary injunction. A single judge shall not appoint a master, or order a reference, or hear and determine any application for a preliminary or permanent injunction or motion to vacate such an injunction, or enter judgment on the merits. Any action of a single judge may be reviewed by the full court at any time before final judgment.

(June 25, 1948, ch. 646, 62 Stat. 968; Pub. L. 86-507, §1(19), June 11, 1960, 74 Stat. 201; Pub. L. 94-381, §3, Aug. 12, 1976, 90 Stat. 1119; Pub. L. 98-620, title IV, §402(29)(E), Nov. 8, 1984, 98 Stat. 3359.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 47, 47a, 380, 380a, and 792 (Mar. 3, 1911, ch. 231, §§210, 266, 36 Stat. 1150, 1162; Mar. 4, 1943, ch. 160, 37 Stat. 1013; Oct. 22, 1913, ch. 32, 38 Stat. 220; Feb. 13, 1925, ch. 229, §1, 43 Stat. 938; Aug. 24, 1937, ch. 754, §3, 50 Stat. 752; Apr. 6, 1942, ch. 210, §3, 56 Stat. 199).

Provisions of sections 47, 47a, 380, and 380a of title 28, U.S.C., 1940 ed., relating to the Supreme Court's jurisdiction of direct appeals appear in section 1253 of this title.

Provisions of sections 47, 380, and 380a of title 28, U.S.C., 1940 ed., requiring applications for injunctions restraining the enforcement, operation or execution of Federal or State statutes or orders of the Interstate Commerce Commission to be heard and determined by three-judge district courts appear in sections 2281, 2282, and 2325 of this title.

The provision for notice to the United States attorney for the district where the action is pending was added because of the necessity of the United States attorney's preparation for hearing as soon as possible, to expedite such a case.

Provisions of sections 47, 47a, 380, and 380a of title 28, U.S.C., 1940 ed., respecting time for direct appeal appear in section 2101 of this title.

This revised section represents an effort to provide a uniform method of convoking three-judge district courts, and for procedure therein. It follows recommendations of a committee appointed by the Judicial Conference of the United States, composed of Circuit Judges Evan A. Evans, Kimbrough Stone, Orrie L. Phillips, and Albert B. Maris.

The committee pointed out that section 380a of title 28, U.S.C., 1940 ed., is the latest and "most carefully drawn expression by Congress on the subject." Consequently, this section follows closely such section 380a and eliminates the discrepancies between sections 47, 47a, 380, and 380a of such title.

This section governs only the composition and procedure of three-judge district courts. The requirement that applications for injunctions be heard and determined by such courts will appear in other sections of this and other titles of the United States Code as Congress may enact from time to time. For example, see sections 2281, 2282, and 2325 of this title, sections 1213, 1215, 1255 of title 11, U.S.C., 1940 ed., Bankruptcy, section 28 of title 15, U.S.C., 1940 ed., Commerce and Trade, and section 44 of title 49, U.S.C., 1940 ed., Transportation.

United States District Judge W. Calvin Chestnut, has referred to the provisions relating to enforcement or setting aside or orders of the Interstate Commerce Commission as unfortunately lengthy and prolix. He has urged revision to insure uniform procedure in the several classes of so-called three-judge cases.

The provision that such notice shall be given by the clerk by registered mail, and shall be complete on the mailing thereof follows, substantially, rules 4(d)(4) and 5(b) of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

#### Editorial Notes

##### REFERENCES IN TEXT

The rules of civil procedure, referred to in subsec. (b)(3), are set out in the Appendix to this title.

##### AMENDMENTS

1984—Subsec. (b)(2). Pub. L. 98-620 struck out provision that the hearing had to be given precedence and held at the earliest practicable day.

1976—Pub. L. 94-381 substituted "Three-judge court; when required" for "Three-judge district court" in section catchline, and generally revised section to alter the method by which three-judge courts are composed, the procedure used by such courts, and to conform its requirements to the repeal of sections 2281 and 2282 of this title.

1960—Pub. L. 86-507 substituted "by registered mail or by certified mail by the clerk and" for "by registered mail by the clerk, and".

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of this title.

##### EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-381, §7, Aug. 12, 1976, 90 Stat. 1120, provided that: "This Act [amending this section and section 2403 of this title and repealing sections 2281 and 2282 of this title] shall not apply to any action commenced on or before the date of enactment [Aug. 12, 1976]."

#### CHAPTER 157—SURFACE TRANSPORTATION BOARD ORDERS; ENFORCEMENT AND REVIEW

Sec.	
2321.	Judicial review of Board's orders and decisions; procedure generally; process.
2322.	United States as party.
2323.	Duties of Attorney General; intervenors.
[2324, 2325.	Repealed.]

#### Editorial Notes

##### AMENDMENTS

1995—Pub. L. 104-88, title III, §305(c)(1)(A), (E), Dec. 29, 1995, 109 Stat. 944, 945, substituted "SURFACE TRANSPORTATION BOARD" for "INTERSTATE COMMERCE COMMISSION" in chapter heading and "Board's" for "Commission's" in item 2321.