H. R. 2931

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 HOUSE OF REPRESENTATIVES

JUNE 25, 2015

Mr. Kilmer (for himself, Mr. Renacci, Mr. Carney, and Mr. Barletta) introduced the following bill; which was referred to the Committee on House 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.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

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

SEC. 2. MEMBERSHIP OF FEDERAL ELECTION COMMISSION.

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

(1) IN GENERAL; QUORUM.—Section 306(a)(1) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30106(a)(1)) is amended by striking the second and third sentences and inserting the following: “The Commission is composed of 5 members appointed by the President by and with the advice and consent of the Senate, of whom no more than 2 may be affiliated with the same political party. A majority of the number of members of the Commission who are serving at the time shall constitute a quorum, except that 3 members shall constitute a quorum if there are 4 members serving at the time.”.

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

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

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


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

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

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

(3) Conforming Amendment relating to
removal of ex officio members.—Section
306(a) of such Act (52 U.S.C. 30106(a)) is amend-
ed by striking “(other than the Secretary of the Sen-
ate and the Clerk of the House of Representatives)”
each place it appears in paragraphs (4) and (5).
(b) TERMS OF SERVICE.—Section 306(a)(2) of such Act (52 U.S.C. 30106(a)(2)) is amended to read as follows:

“(2) TERMS OF SERVICE.—

“(A) CHAIR.—The Chair of the Commission shall serve for a single term of 10 years.

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

“(C) SPECIAL RULE FOR INITIAL APPOINTMENTS.—Of the members (other than the Chair) first appointed to serve terms that begin in January 2018, the President shall designate 2 to serve for a 3-year term.

“(D) NO REAPPOINTMENT PERMITTED.—

An individual who served a term as a Member of the Commission (including the Chair) may not serve for an additional term, except that—

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

“(ii) for purposes of this subparagraph, an individual who is appointed to
fill a vacancy under subparagraph (E) shall not be considered to have served a term if the portion of the unexpired term the individual fills is less than 50 percent of the period of the term.

“(E) VACANCIES.—Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment. Except as provided in subparagraph (D), an individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he or she succeeds.

“(F) LIMITATION ON SERVICE AFTER EXPIRATION OF TERM.—A member of the Commission may continue to serve on the Commission after the expiration of the member’s term for an additional period, but only until the earlier of—

“(i) the date on which the member’s successor has taken office as a member of the Commission; or
“(ii) the expiration of the 1-year period that begins on the last day of the member’s term.”.

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

“(3) QUALIFICATIONS.—

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

“(B) ASSISTANCE OF BLUE RIBBON ADVISORY PANEL.—

“(i) IN GENERAL.—Prior to the regularly scheduled expiration of the term of a member of the Commission and upon the occurrence of a vacancy in the membership of the Commission prior to the expiration of a term, the President shall convene a Blue Ribbon Advisory Panel, consisting of an odd number of individuals selected by the President from retired Federal judges, former law enforcement officials, or individuals with experience in election law, except that the President may not select any
individual to serve on the panel who holds any public office at the time of selection.

“(ii) RECOMMENDATIONS.—With respect to each member of the Commission whose term is expiring or each vacancy in the membership of the Commission (as the case may be), the Blue Ribbon Advisory Panel shall recommend to the President at least one but not more than 3 individuals for nomination for appointment as a member of the Commission.

“(iii) PUBLICATION.—At the time the President submits to the Senate the nominations for individuals to be appointed as members of the Commission, the President shall publish the Blue Ribbon Advisory Panel’s recommendations for such nominations.

“(iv) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to a Blue Ribbon Advisory Panel convened under this subparagraph.

“(C) PROHIBITING ENGAGEMENT WITH OTHER BUSINESS OR EMPLOYMENT DURING
SERVICE.—A member of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time of his or her appointment to the Commission shall terminate or liquidate such activity no later than 90 days after such appointment.”.

SEC. 3. ASSIGNMENT OF POWERS TO CHAIR OF FEDERAL ELECTION COMMISSION.

(a) Appointment of Chair by President.—

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

“(5) Chair.—

“(A) Initial appointment.—Of the members first appointed to serve terms that begin in January 2018, one such member (as designated by the President at the time the President submits nominations to the Senate) shall serve as Chair of the Commission.

“(B) Subsequent appointments.—Any individual who is appointed to succeed the Member who serves as Chair of the Commission for the term beginning in January 2018 (as
well as any individual who is appointed to fill
a vacancy if such Member does not serve a full
term as Chair) shall serve as Chair of the Com-
mission.

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

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

(b) POWERS.—

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

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

“(1) POWERS ASSIGNED TO CHAIR.—

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

“(i) to appoint and remove the staff director and general counsel of the Commission;

“(ii) to request the assistance (including personnel and facilities) of other agencies and departments of the United States, whose heads may make such assistance available to the Commission with or without reimbursement; and

“(iii) to prepare and establish the budget of the Commission and to make budget requests to the President, the Director of the Office of Management and Budget, and Congress.

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

“(i) to require by special or general orders, any person to submit, under oath, such written reports and answers to questions as the Chair may prescribe;

“(ii) to administer oaths or affirmations;
“(iii) to require by subpoena, signed
by the Chair, the attendance and testimony
of witnesses and the production of all doc-
umentary evidence relating to the execu-
tion of its duties;

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

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

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

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

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

“(C) to develop such prescribed forms and to make, amend, and repeal such rules, pursuant to the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1986;

“(D) to conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations to the appropriate law enforcement authorities; and

“(E) to transmit to the President and Congress not later than June 1 of each year a report which states in detail the activities of the Commission in carrying out its duties under this Act, and which includes any recommendations for any legislative or other action the Commission considers appropriate.

“(3) PERMITTING COMMISSION TO EXERCISE OTHER POWERS OF CHAIR.—With respect to any in-
vestigation, action, or proceeding, the Commission, by an affirmative vote of a majority of the members who are serving at the time, may exercise any of the powers of the Chair described in paragraph (1)(B).”.

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

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

(B) in paragraph (2), by striking “With the approval of the Commission” and inserting “With the approval of the Chair of the Commission”; and

(C) by striking paragraph (3).

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

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(4) Other conforming amendments.—Section 306(c) of such Act (52 U.S.C. 30106(c)) is amended by striking “All decisions” and inserting “Subject to section 307(a), all decisions”.

(5) Technical amendment.—The heading of section 307 of such Act (52 U.S.C. 30107) is amended by striking “THE COMMISSION” and inserting “THE CHAIR AND THE COMMISSION”.

SEC. 4. REVISION TO CERTAIN ENFORCEMENT AUTHORITIES.

(a) Clarifying authority of FEC attorneys to represent FEC in Supreme Court.—

(1) Clarifying authority.—Section 306(f)(4) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30106(f)(4)) is amended by striking “any action instituted under this Act, either (A) by attorneys” and inserting “any action instituted under this Act, including an action before the Supreme Court of the United States, either (A) by the General Counsel of the Commission and other attorneys”.

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to actions instituted before, on, or after the date of the enactment of this Act.
(b) Permitting Appearance at Hearings on Requests for Advisory Opinions by Persons Opposing the Requests.—

(1) In general.—Section 308 of such Act (52 U.S.C. 30108) is amended by adding at the end the following new subsection:

“(e) To the extent that the Commission provides an opportunity for a person requesting an advisory opinion under this section (or counsel for such person) to appear before the Commission to present testimony in support of the request, and the person (or counsel) accepts such opportunity, the Commission shall provide a reasonable opportunity for an interested party who submitted written comments under subsection (d) in response to the request (or counsel for such interested party) to appear before the Commission to present testimony in response to the request.”.

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to requests for advisory opinions under section 308 of the Federal Election Campaign Act of 1971 which are made on or after the date of the enactment of this Act.

(e) Clarification of Deadline for Filing Action to Challenge Dismissal of Complaint.—
(1) DEADLINE.—Section 309(a)(8)(B) of such Act (52 U.S.C. 30109(a)(8)(B)) is amended by striking “within 60 days after the date of the dismissal” and inserting “within 60 days after the date on which the party received notice of the dismissal of the complaint”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to complaints which are dismissed by the Federal Election Commission on or after the date of the enactment of this Act.

SEC. 5. EFFECTIVE DATE; TRANSITION.

(a) IN GENERAL.—Except as provided in section 4, the amendments made by this Act shall apply beginning January 1, 2018.

(b) TRANSITION.—

(1) TERMINATION OF SERVICE OF CURRENT MEMBERS.—Notwithstanding any provision of the Federal Election Campaign Act of 1971, the term of any individual serving as a member of the Federal Election Commission as of December 31, 2017, shall expire on that date.

(2) NO EFFECT ON EXISTING CASES OR PROCEEDINGS.—Nothing in this Act or in any amendment made by this Act shall affect any of the powers
exercised by the Federal Election Commission prior to December 31, 2017, including any investigation initiated by the Commission prior to such date or any proceeding (including any enforcement action) pending as of such date.