

July 19, 2023

H.R. 4563, the American Confidence in Elections (ACE) Act

H.R. 4563, the American Confidence in Elections (ACE) Act, proposes substantial changes to federal election administration and campaign finance law. The Committee on House Administration (CHA) ordered the bill to be reported, as amended, on July 13, 2023.

CHA and its Subcommittee on Elections held a series of hearings in the 118th Congress leading up to introduction of the bill, including a joint hearing with the House Committee on Oversight and Accountability:

- CHA Subcommittee on Elections, *2022 Midterms Look Back Series: Successes in the 2022 Midterm Elections*, March 10, 2023;
- CHA Subcommittee on Elections, *2022 Midterms Look Back Series: Election Observer Access*, March 23, 2023;
- CHA, *2022 Midterms Look Back Series: Government Voter Suppression in Luzerne County, Pennsylvania*, March 28, 2023;
- CHA, *American Confidence in Elections: State Tools to Promote Voter Confidence*, April 27, 2023;
- CHA, *American Confidence in Elections: Protecting Political Speech*, May 11, 2023;
- CHA Subcommittee on Elections, *American Confidence in Elections: Ensuring Every Eligible American has the Opportunity to Vote—and for their Vote to Count According to Law*, May 24, 2023;
- CHA and House Committee on Oversight and Accountability, *American Confidence in Elections: The Path to Election Integrity in the District of Columbia*, June 7, 2023;
- CHA, *American Confidence in Elections: The Role of the Election Assistance Commission in Free, Fair, and Secure Elections*, June 14, 2023; and
- CHA, *American Confidence in Elections: The Path to Election Integrity Across America*, July 10, 2023.

A version of this legislation introduced in the 117th Congress (H.R. 8528) did not advance beyond introduction. In the 116th and 117th Congresses, under the previous majority, another broad-based elections bill—the For the People Act of 2019 (H.R. 1) and 2021 (H.R. 1)—was introduced and passed by the House.

This In Focus provides an overview of the version of the ACE Act in the 118th Congress. For a similar overview of the 117th Congress version of the For the People Act, see CRS In Focus IF11097, *H.R. 1 and S. 1: Overview and Related CRS Products*, coordinated by R. Sam Garrett.

Major Provisions

The following subsections summarize some of the major provisions of the ACE Act. Congressional clients may contact the authors of this In Focus for more information.

Election Administration

There are two sections of the ACE Act that each address a range of elections issues. First, one section of the bill would direct the U.S. Election Assistance Commission's (EAC's) Standards Board and Local Leadership Council (LLC) to issue voluntary considerations for states about various aspects of election administration, from voter registration list maintenance to mail voting to post-election audits. The EAC was created by the Help America Vote Act (HAVA) to help state and local officials improve election administration and voters participate in the electoral process. Its Standards Board and LLC are advisory bodies made up of state and local election officials and of local election officials, respectively.

Second, another section would set various requirements for the administration of elections in the District of Columbia (DC). That section would codify or establish requirements for voter identification in DC elections; voter registration deadlines and list maintenance; election results reporting; provisional voting; post-election audits; election observer access; early voting; and mail ballot deadlines, drop boxes, transmission, collection, and signature verification. It would also prohibit DC from permitting noncitizens to vote in its elections or using ranked choice voting.

Some aspects of election administration covered by those two sections of the bill are also a focus of other sections. Issues that appear in multiple other provisions include the following:

- **Election systems and security.** The EAC, with support from the National Institute of Standards and Technology (NIST), issues voluntary federal guidelines for voting systems and oversees testing and certification of systems to the guidelines. The ACE Act would direct the EAC to issue similar guidelines for nonvoting election systems, such as electronic poll books, and NIST to report on its work supporting the EAC. The bill would also explicitly authorize use of certain HAVA funding for specified post-election audits and provide for information-sharing about election security threats, voluntary testing of election systems for cybersecurity vulnerabilities, and a study of domestic production of voting equipment.
- **Noncitizen voting.** Noncitizens are prohibited by federal law from voting in federal elections; that prohibition does not extend to state and local elections, and some localities allow noncitizens to vote in local contests. The ACE Act would require those localities or

their states to maintain separate voter registration lists for noncitizens and separate ballots for elections in which noncitizens are allowed to vote, prohibit them from using federal funding to implement those requirements, and reduce their share of any HAVA funding Congress provides by 30%. The bill would also reiterate the prohibition on noncitizen voting in federal elections and implement various measures to help prevent it, such as directing U.S. district courts to notify state and federal officials about individuals recused from jury duty for noncitizenship.

- **Election funding.** The ACE Act would authorize use of certain federal funding for some of the activities addressed by the bill, such as acquiring nonvoting election technology that complied with the EAC's new voluntary guidelines or upgrading existing technology to meet the guidelines. It would also prohibit certain uses or sources of funding. In addition to the prohibitions listed in the previous bullet point, the ACE Act would prohibit use of federal funding for get-out-the-vote activities and administering federal elections in states that do not ban ballot collection by certain third parties. The bill would also prohibit organizations that are tax-exempt under Section 501(c)(3) of the Internal Revenue Code (IRC) and federal entities other than the EAC from providing funding for election administration to states and localities or to states, respectively.
- **Voter identification.** The ACE Act would require state-issued driver's licenses and identification cards to include an indication of U.S. citizenship, if applicable, in order to be REAL ID-compliant. Additionally, the bill would require voters who request a mail ballot for a federal election other than in person to submit certain ID with their request in order to receive the ballot; individuals voting by mail in jurisdictions that do not require them to submit a separate mail ballot request for each federal election would be required to submit certain ID with their voted mail ballot in order to have it counted as a regular ballot.
- **Voter registration.** As noted in the "Noncitizen voting" bullet point, the ACE Act would require states that permit noncitizen voting in state or local elections to maintain separate voter registration lists for noncitizens. The bill would also revise the National Voter Registration Act (NVRA) to require that states make a reasonable effort to remove noncitizens who are ineligible to vote from the voter rolls and to include language permitting states to require proof of U.S. citizenship with their mail-based voter registration forms for federal elections. Language in the ACE Act would also specify that Executive Order 14019 regarding the role of federal agencies in promoting access to voting shall have no force or effect. Voter registration and mobilization activities would be prohibited in federal work-study programs, and federal agency funds could not be used for partnerships with nongovernmental agencies for voter registration or mobilization activities.

activities, including exclusive authority to develop voluntary guidelines for election systems, and assign it primary federal jurisdiction over issues related to election administration. The bill would also address the agency's operations, including by reauthorizing its operational funding and limiting the size of its staff.

Campaign Finance

Title III of the ACE Act includes several provisions related to campaign finance and to certain tax-exempt organizations. The bill generally proposes deregulation, modernization, or clarification of current provisions in the Federal Election Campaign Act (FECA) or parts of the IRC. The bill proposes several miscellaneous amendments that would index certain contribution limits for inflation, permit candidates to name successor treasurers, or make other clerical changes.

- **Political parties.** The bill proposes to repeal current limits on coordinated party expenditures and to increase limits for some contributions to state parties in federal elections. Coordinated party expenditures permit national party committees to make certain purchases in consultation with their congressional and presidential nominees to support their campaigns. Current limits vary based on office sought and state. The bill also would ease certain spending restrictions on federal election activity by state and local parties.
- **Foreign money.** FECA generally prohibits foreign money in federal, state, and local election campaigns. The ACE Act would extend this prohibition to state and local ballot initiatives, increase criminal provisions and penalties, and prohibit assisting someone with violating the foreign-money ban.
- **Federal agencies and disclosure.** Various provisions could affect agency enforcement or regulatory requirements. The bill proposes requiring the Federal Election Commission to defend itself in certain court cases except by unanimous vote of the commissioners. It would make permanent the agency's temporary administrative enforcement authority for late disclosure reports. The ACE Act also would prohibit the Internal Revenue Service from altering its current standard for determining tax-exempt status for IRC Section 501(c)(4) social welfare organizations and restrict federal entities from releasing information about donors to tax-exempt organizations, with some exceptions. The bill also would make permanent a prohibition typically included in appropriations language that bars the Securities and Exchange Commission from rulemaking concerning disclosure of certain corporate political activity.

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The ACE Act would give the assistance-oriented EAC a central role in many of the above election administration

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