

**(b) Commencement of term**

The term of the Delegate shall commence on the third day of January following the date of the election.

**(c) Establishment of primary elections**

The legislature of American Samoa may, but is not required to, provide for primary elections for the election of Delegate.

**(d) Effect of establishment of primary elections**

Notwithstanding subsection (a), if the legislature of American Samoa provides for primary elections for the election of Delegate, the Delegate shall be elected by a majority of votes cast in any subsequent general election for the office of Delegate for which such primary elections were held.

(Pub. L. 95-556, §2, Oct. 31, 1978, 92 Stat. 2078; Pub. L. 108-376, §2, Oct. 30, 2004, 118 Stat. 2200.)

**Editorial Notes**

## AMENDMENTS

2004—Subsec. (a). Pub. L. 108-376, §2(1), substituted “plurality of the votes cast” for “majority of the votes cast” and struck out “If no candidate receives such majority, on the fourteenth day following such election a runoff election shall be held between the candidates receiving the highest and the second highest number of votes cast for the office of Delegate.” before “In case of”.

Subsecs. (c), (d). Pub. L. 108-376, §2(2), added subsecs. (c) and (d).

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-376, §3, Oct. 30, 2004, 118 Stat. 2201, provided that: “The amendments made by paragraph (1) of section 2 [amending subsec. (a) of this section] shall take effect on January 1, 2006. The amendment made by paragraph (2) of section 2 [adding subsecs. (c) and (d) of this section] shall take effect on January 1, 2005.”

## FINDINGS

Pub. L. 108-376, §1, Oct. 30, 2004, 118 Stat. 2200, provided that: “Congress finds the following:

“(1) It is in the national interest that qualifying members of the Armed Forces on active duty and other overseas voters be allowed to vote in Federal elections.

“(2) Since 1980, when the first election for the Congressional Delegate from American Samoa was held, general elections have been held in the first week of November in even-numbered years and runoff elections have been held 2 weeks later.

“(3) This practice of holding a run-off election 2 weeks after a general election deprives members of the Armed Forces on active duty and other overseas voters of the opportunity to participate in the Federal election process in American Samoa.

“(4) Prior to and since September 11, 2001, and due to limited air service, mail delays, and other considerations, it has been and remains impossible for absentee ballots to be prepared and returned within a 2-week period.

“(5) American Samoa law requiring members of the Armed Forces on active duty and other overseas voters to register in person also prevents participation in the Federal election process and is contrary to the Uniformed and Overseas Citizens Absentee Voting Act [52 U.S.C. 20301 et seq.].

“(6) Given that 49 states elect their Representatives to the United States House of Representatives by plurality, it is in the national interest for American

Samoa to do the same until such time as the American Samoa Legislature establishes primary elections and declares null and void the local practice of requiring members of the Armed Forces on active duty and other overseas voters to register in person which is contrary to the federal Uniformed and Overseas Citizens Absentee Voting Act.”

**§ 1733. Qualifications for Office of Delegate**

To be eligible for the office of Delegate a candidate shall—

(a) be at least twenty-five years of age on the date of the election;

(b) owe allegiance to the United States;

(c) be an inhabitant of the Territory of American Samoa; and

(d) not be, on the date of the election, a candidate for any other office.

(Pub. L. 95-556, §3, Oct. 31, 1978, 92 Stat. 2078; Pub. L. 95-584, §3, Nov. 2, 1978, 92 Stat. 2483.)

**Editorial Notes**

## AMENDMENTS

1978—Subsec. (b). Pub. L. 95-584 substituted allegiance requirement for provision requiring United States citizenship for at least seven years prior to the date of the election.

**§ 1734. Territorial government; determination of election procedure**

Acting pursuant to legislation enacted in accordance with section 9, article II of the American Samoan Revised Constitution, the territorial government will determine the order of names on the ballot for election of Delegate, the method by which a special election to fill a vacancy in the office of Delegate shall be conducted, the method by which ties between candidates for the office of Delegate shall be resolved, and all other matters of local application pertaining to the election and the office of Delegate not otherwise expressly provided for herein.

(Pub. L. 95-556, §4, Oct. 31, 1978, 92 Stat. 2078.)

**§ 1735. Operation of Office; compensation, allowances, and benefits; privileges and immunities**

Until the Rules of the House of Representatives are amended to provide otherwise, the Delegate from American Samoa shall receive the same compensation, allowances, and benefits as a Member of the House of Representatives, and shall be entitled to whatever privileges and immunities that are, or hereinafter may be, granted to the nonvoting Delegate from the Territory of Guam.

(Pub. L. 95-556, §5, Oct. 31, 1978, 92 Stat. 2078; Pub. L. 97-357, title IV, §401, Oct. 19, 1982, 96 Stat. 1711.)

**Editorial Notes**

## AMENDMENTS

1982—Pub. L. 97-357 struck out proviso limiting clerk hire allowance for Delegate from American Samoa to 50 per centum of clerk hire allowance of a Member of House of Representatives.