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Architect of the Capitol: Evolution and Implementation of the Appointment Procedure

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SUMMARY

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Architect of the Capitol: Evolution and Implementation of the Appointment Procedure

According to its website, the Architect of the Capitol (AOC) is responsible "for the operations and care of more than 18.4 million square feet of facilities, 570 acres of grounds and thousands of works of art."

Pursuant to the Legislative Branch Appropriations Act, 1990, the Architect is appointed by the President with the advice and consent of the Senate. Prior to the enactment of this law, the President appointed the Architect for an unlimited term with no formal role for Congress.

The act also established a 10-year term for the Architect as well as a bicameral, bipartisan congressional commission to recommend candidates to the President. As subsequently amended in 1995, this law provides for a commission consisting of 14 Members of Congress, including the Speaker of the House, the President pro tempore of the Senate, the House and Senate majority and minority leaders, and the chair and ranking minority members of the Committee on House Administration, the Senate Committee on Rules and Administration, and the House and Senate Committees on Appropriations. An Architect may be reappointed.

Alan M. Hantman was the first Architect appointed under the revised appointment procedure. He declined to seek reappointment and served from January 30, 1997, to February 4, 2007.

Stephen T. Ayers, who served as Acting Architect of the Capitol following Mr. Hantman's retirement, was nominated by President Obama on February 24, 2010, for a 10-year term. The nomination was referred to the Senate Committee on Rules and Administration. The committee held a hearing on April 15, 2010, during which the chair and ranking member praised Mr. Ayers for his work as acting Architect and congratulated him on the nomination. Mr. Ayers was confirmed by voice vote in the Senate on May 12, 2010.

Upon the retirement of Mr. Ayers on November 23, 2018, Christine Merdon, the Deputy Architect of the Capitol/Chief Operating Officer, became the Acting Architect of the Capitol.

Since at least the 1950s, multiple bills have been introduced that would alter the AOC appointment process and require the appointment to be made by the leadership of Congress rather than the President. Some of the Architect's current duties, however, may potentially raise a question as to whether the Architect is an "Officer of the United States" such that his appointment must comply with the requirements of the Appointments Clause of the Constitution.

For additional information and a comparison of appointments in the legislative branch, see CRS Report R42072, *Legislative Branch Agency Appointments: History, Processes, and Recent Actions*, by Ida A. Brudnick.

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The Office of the Architect of the Capitol (AOC) is responsible "for the operations and care of more than 18.4 million square feet of facilities, 570 acres of grounds and thousands of works of art."[1] This includes the House and Senate office buildings, the Capitol, Capitol Visitor Center, the Library of Congress buildings, the Supreme Court building, the U.S. Botanic Garden, the Capitol Power Plant, and other facilities. The AOC carries out its bicameral, nonpartisan responsibilities using both its own staff and contracting authority for architectural, engineering, and other professional services.

Since 1989, the Architect has been filled through appointment by the President, with the advice and consent of the Senate, following the forwarding of recommendations to the President from a bicameral commission consisting of Members of Congress. The Architect is appointed for a 10-year term and may be reappointed.

The position was vacant for more than three years following the retirement of Alan Hantman on February 4, 2007.[2] On February 24, 2010, President Barack Obama nominated Stephen T. Ayers, who had been serving in an acting capacity during the vacancy, to a 10-year term. The nomination was referred to the Senate Committee on Rules and Administration, which held a hearing on April 15, 2010. The Senators in attendance at the hearing praised Mr. Ayers and congratulated him on the nomination. Mr. Ayers was confirmed by voice vote in the Senate on May 12, 2010. Mr. Ayers announced his intention to retire on November 23, 2018.[3]

Upon his retirement, Christine Merdon, the Deputy Architect of the Capitol/Chief Operating Officer, became the Acting Architect of the Capitol.

The appointment of the Architect has been a subject of periodic consideration for at least 60 years. It is a topic that has received increased attention during periods in which there has been a vacancy in the position and periods of congressional dissatisfaction with either the work of the incumbent or the involvement of the President in what some Members view as an internal legislative branch matter.

This report discusses the history of the selection of the Architect and recent legislation.

For additional information and a comparison of appointments in the legislative branch, see CRS Report R42072, *Legislative Branch Agency Appointments: History, Processes, and Recent Actions*, by Ida A. Brudnick.

Current Appointment Process

The Architect is "appointed by the President by and with the advice and consent of the Senate for a term of 10 years."[4] This procedure was established by the Legislative Branch Appropriations Act, 1990, which also created a congressional commission responsible for recommending at least three individuals to the President for the position of Architect of the Capitol.[5] The commission originally consisted of 10 Members (including the Speaker of the House of Representatives, the President pro

[1] Architect of the Capitol, "About Us," available at https://www.aoc.gov/defining-aoc. The legal responsibilities of the Architect of the Capitol are dispersed through several titles of the *United States Code*. References to AOC duties are included in Title 2 (Congress), Title 5 (Government Organization and Employees), Title 36 (Patriotic Societies and Observances), Title 40 (Public Buildings, Property, and Works), Title 41 (Public Contracts), and Title 42 (Public Health and Welfare).

[2] Obtained from https://www.aoc.gov/architect-of-the-capitol/alan-m-hantman-faia.

[3] See https://harper.house.gov/cha-statement-on-architect-of-the-capitol-stephen-t-ayers/.

[4] 2 U.S.C. 1801(a)(1).

[5] P.L. 101-163, November 21, 1989, 103 Stat. 1068, 2 U.S.C. 1801.

tempore of the Senate, the majority and minority leaders of the House of Representatives and the Senate, and the chairs and the ranking minority members of the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate).

In considering the FY1990 Legislative Branch Appropriations Act, the Senate Appropriations Committee proposed revising the process by having the President nominate the Architect for a 10-year term, subject to the advice and consent of the Senate. Previously, the position did not require Senate confirmation. In the report accompanying H.R. 3014, the Senate Appropriations Committee stated the following:

> These changes will conform the process of the appointment of the Architect more closely to the appointment procedure followed for other officers of similar stature. The Committee believes this will accord proper recognition to the importance of the functions of this office and help to promote greater accountability in their performance.[6]

During the brief Senate debate on the provision, Senator Harry Reid, then-chairman of the Legislative Branch Appropriations Subcommittee, declared that the committee's amendment "better reflects the institutional status of the Architect as an officer of the legislative branch and should make the lines of accountability in the performance of his duties much less ambiguous."[7] Senator Don Nickles, then-ranking member of the subcommittee, noted the fixed term of the Architect would be similar to that of the Comptroller General, who is appointed for a single 15-year term.[8] The legislative history does not appear to indicate why the shorter term was chosen for the Architect.

In conference, House and Senate negotiators agreed to a compromise that reflected the absence in the Senate proposal of any formal role for the House in the selection of a future Architect. The compromise expanded the Senate's language by providing for a bicameral congressional advisory commission. The conference report does not provide additional information on this decision or any other options considered.[9] The compromise was accepted in both houses without debate and the measure was signed into law on November 21, 1989.[10]

The commission was expanded in 1995 to include the chairs and ranking minority members of the House and Senate Appropriations Committees.[11]

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[6] U.S. Congress, Senate Committee on Appropriations, *Legislative Branch Appropriations, 1990*, report to accompany H.R. 3014, 101st Cong., 1st sess., S.Rept. 101-106 (Washington: GPO, 1989), pp. 37-38.

[7] Sen. Harry Reid, "Legislative Branch Appropriations, 1990," remarks in the Senate, *Congressional Record*, vol. 135, September 6, 1989, p. 19591.

[8] Sen. Don Nickles, "Legislative Branch Appropriations, 1990," remarks in the Senate, *Congressional Record*, vol. 135, September 6, 1989, p. 19593.

[9] U.S. Congress, *Making Appropriations for the Legislative Branch for the Fiscal Year Ending September 30, 1990, and for other purposes*, report to accompany H.R. 3014, H.Rept. 101-254 (Washington, GPO: 1989), p. 19.

[10] "Conference Report on H.R. 3014, Legislative Branch Appropriations Act, 1990," Vote in the House, *Congressional Record*, vol. 135, September 28, 1989, pp. 22270-22271; "Legislative Branch Appropriations, 1990 – Conference Report," Vote in the Senate, *Congressional Record*, vol. 135, November 9, 1989, p. 28052; and P.L. 101-163, 103 Stat. 1068, 2 U.S.C. 1801.

[11] P.L. 104-19, July 27, 1995, 109 Stat. 220. The official record provides little additional information on the changes considered in 1995. Additional membership on the commission was first agreed to in the conference report on H.R. 1158, the Second Supplemental Appropriations and Rescissions Act, 1995, which was vetoed by President Clinton on June 7, 1995. The joint explanatory statement accompanying the conference committee report did not indicate why the provision was added. Subsequently in the same Congress, the provision was included in the original version of H.R. 1944, the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995, which was introduced on

A commission process is also used for filling vacancies in the position of Comptroller General, who leads the Government Accountability Office (GAO).[12] The commission procedure for GAO, which also calls for a recommendation to the President of at least three individuals, was established in 1980.

Increasing Congressional Involvement in the Architect Appointment: Discussion Prior to the 1989 Act

Prior to 1989, the Architect was selected by the President for an unlimited term without any formal involvement of Congress. Paul Rundquist, congressional scholar and former specialist at the Congressional Research Service, noted in testimony before the Senate Rules and Administration Committee in 1996 that "the fact that the Architect of the Capitol was a congressional agent nominated by the President without confirmation by the Senate does not seem to have troubled Congress until recent years."[13]

Bills related to the qualifications and appointment of the Architect have been periodically introduced since at least the 1950s; however, little action was taken on these proposals until the 1980s.

Appendix A provides information on these bills.

Bills proposing a new appointment process have taken various approaches. Two changes ultimately enacted include requiring the advice and consent of the Senate and establishing a commission to recommend names to the President.

Other bills proposed making the Architect a congressional appointee. These included proposals to make the Architect subject to a joint appointment by the Speaker and President pro tempore; alternating appointment between the Speaker and President pro tempore; and a commission of Members recommending candidates to the Speaker and President pro tempore, with ratification by the chambers.

The introduced bills also varyingly addressed the term of office, eligibility for reappointment, procedure for removal, and procedures following early vacancies.

Whereas some of these bills focused only on the Architect, many of the bills introduced from the early 1970s forward also addressed the appointment of the other presidential appointees in the legislative branch, including the Librarian of Congress, the Comptroller General and the Deputy Comptroller,[14] and the Public Printer.

Questions have previously been raised about the authority of Congress to vest itself, or more specifically congressional leadership, with the power to appoint the Architect. These questions

June 28. It passed the House the next day following the adoption of one amendment agreed to by voice vote and passed the Senate without amendment on July 21. It became P.L. 104-19 on July 27, 1995.

[12] 31 U.S.C. 703.

[13] U.S. Congress, Senate Rules and Administration Committee, 104th Cong., 2nd sess., February 29, 1996 (unpublished), but available from FDCHeMedia, Inc. Dr. Rundquist gave testimony before the Senate Rules and Administration Committee during a review of the operations of various Senate officers and a study of criteria for the selection of a new AOC.

[14] The Deputy Comptroller General position has been vacant since 1980.

generally relate to whether the AOC's non-legislative functions—including facility responsibilities for the Supreme Court and the Thurgood Marshall Federal Judiciary Building and membership on several non-legislative governing or advisory bodies[15]—make the Architect an "Officer of the United States" such that his appointment cannot be made by Congress consistent with the requirements of the Appointments Clause (Clause) of the Constitution.[16] Under the Clause, "officers of the United States," defined primarily as officials that exercise "significant authority" in a "continuing" office, must either be appointed by the President with the advice and consent of the Senate, or, in the case of "inferior officers," by the "President alone, [] the Courts of Law, or [] the Heads of Departments."[17]

Whether the functions and responsibilities exercised by a government official rise to the level of "significant authority" is not easily determined.[18] Consistent with this ambiguity, it does not appear that Congress has adopted a uniform interpretation of the Clause's applicability to the Architect.[19] Nonetheless, the executive branch has previously concluded that "functions simply involving the management of governmental property" are generally not considered significant for purposes of the Clause.[20] Thus, to the extent that concerns over congressional appointment of the Architect relate to his management of non-legislative property, it would appear that such functions may not, on their own, prevent Congress from choosing to retain the power of appointment for itself.

Legislation Introduced Since the 1989 Act to Change the Appointment Process

Since the enactment of the new procedure in 1989, a few bills have been introduced to change the process of appointing the Architect. These proposals would shift the Architect appointment responsibility from the President to specified Members of Congress. As with earlier bills, statements in the *Congressional Record* by bill sponsors have cited an interest in using the appointment process to protect the prerogatives of, and ensure accountability to, the legislative

[15] These bodies include the Advisory Council on Historic Preservation, the District of Columbia Zoning Commission, the National Capital Memorial Commission, and the Art Advisory Committee to the Washington Metropolitan Area Transit Authority.

[16] U.S. Constitution. Art. II, § 2, cl. 2 (stating that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments").

[17] *Id*. Buckley v. Valeo, 424 U.S. 1, 126 (1976). In *Buckley*, the Supreme Court held that functions undertaken "merely in aid of congressional authority" may be performed by non-officers appointed by Congress. Id. at 139-41.

[18] Lucia v. SEC, 585 U.S. __, 6 (2018) (noting that the "significant authority standard" is "no doubt framed in general terms").

[19] See Sen. Paul Douglas, "The Architect of the Capitol Should be a Qualified Architect and Should be Appointed by the Congress," remarks in the House, *Congressional Record*, vol. 111, April 1, 1965, p. 6523 (stating that "there "may be constitutional problems with respect to congressional appointment of an officer of the Congress"); Rep. Jack Brooks, "Toward Restoring Power and Prestige of Congress," remarks in the House, *Congressional Record*, vol. 121, July 14, 1975, pp. 22668-22669 ("It is hard for me to understand how earlier Congresses could decide to leave … appointment [of officers of Congress] to the President…. The doctrine of separation of powers is basic to our government and Congress contributes to the weakening that system when it permits the President to exercise authority in the legislative domain.").

[20] See *Officers of the United States Within the Meaning of the Appointments Clause*, April 16, 2007, Opinions of the Office of Legal Counsel, pp. 89-90.

branch. Some discussions also have addressed the appropriate role of the House of Representatives, which does not play a formal role in the confirmation of Presidential nominees.

The only change enacted since 1989, as stated above, occurred in 1995, when the commission charged with recommending names to the President expanded to include the chairs and ranking minority members of the House and Senate Appropriations Committees.[21]

Table 1 compares the Members involved in appointment under current law and bills introduced since the 1989 act.

109th Congress (2005-2006)

During the 109th Congress, one bill (H.R. 4446) was introduced to establish a uniform appointment process and 10-year term of service for the Architect, the Comptroller General, and the Librarian of Congress. This proposal provided for joint appointment by four Members, including the Speaker, the majority leader of the Senate, and the minority leaders of the House of Representatives and Senate. No further action was taken.

110th Congress (2007-2008)

A bill (H.R. 6656), which would provide for a 12-member congressional appointing panel, was introduced in the 110th Congress and referred to two committees, although no further action was taken.

111th Congress (2009-2010)

In the 111th Congress, two measures (H.R. 2185 and H.R. 2843) were introduced to remove the President from the Architect appointment process and shift it to the congressional leaders and chairs and ranking members of specific congressional committees. Under both measures, the Architect would still be appointed for a 10-year term.

Under H.R. 2185, which was introduced on April 30, 2009, and referred to the Committee on House Administration and Committee on Transportation and Infrastructure, the Architect would be appointed by a 12-member congressional appointing panel. No further action was taken during the 111th Congress.

Under H.R. 2843, as reported, the Architect would be appointed jointly by the same 14-member panel that currently is responsible for recommending candidates to the President. This bill was reported by the Committee on House Administration (H.Rept. 111-372) and the Committee on Transportation and Infrastructure was discharged from further consideration of the bill. The House agreed to the bill, as amended to include 18 rather than 14 Members of Congress (see **Table 1**), by voice vote. It was received in the Senate and referred to the Committee on Rules and Administration, and no further action was taken during the 111th Congress.

[21] P.L. 104-19, July 27, 1995, 109 Stat. 220.

Table 1. Members Included in the Commission Recommending Individuals as Architect Under Current Law and in Legislation Subsequently Introduced

	Current Law: 2 U.S.C. 1801	H.R. 4446, 109th Cong.	H.R. 6656, 110th Cong.	H.R. 2185, 111th Cong.	H.R. 2843, 111th Cong., as reported	H.R. 2843, 111th Cong., as Passed by the House
Speaker	1	1	1	1	1	1
President pro Tempore	1				1	1
House majority Leader	1				1	1
Senate Majority Leader	1	1	1	1	1	1
House Minority Leader	1	1	1	1	1	1
Senate Minority Leader	1	1	1	1	1	1
Chair and Ranking Member Committee on House Administration	2		2	2	2	2
Chair and Ranking Member Committee on Senate Rules and Administration	2		2	2	2	2
Chair and Ranking Member Committee on House Appropriations	2		2	2	2	2
Chair and Ranking Member Committee on Senate Appropriations	2		2	2	2	2
Chair and Ranking Member Committee on House Committee on Transportation and Infrastructure						2
A Member of the Senate to be designated by the majority leader of the Senate, and a Member of the Senate to be designated by the minority leader of the Senate						2
Total Number of Members of Congress	**14**	**4**	**12**	**12**	**14**	**18**

Source: CRS survey of legislation.

Options for Removal Under Proposed Congressional Appointment

The Legislative Branch Appropriations Act, 1990, which established the current appointment procedure, did not address the possibility of the removal of an Architect. The Architect, then, presumably serves at the pleasure of the President.[22]

A few of the bills introduced over the last 50 years providing for appointment by Members of Congress have contained provisions specifically addressing removal. H.R. 8616 (94th Congress) proposed that the Architect could be removed by concurrent resolution. S. 2205 (94th Congress) provided for removal by resolution in either the House or Senate.

Statutes related to the selection of two legislative branch agency heads also address removal. Like the Architect of the Capitol, the Comptroller General (CG) is appointed by the President for a fixed term of office (for the CG, this term is 15 years) with the advice and consent of the Senate. The CG may be removed only by "(A) impeachment; or (B) joint resolution of Congress, after notice and an opportunity for a hearing" and only by reason of permanent disability; inefficiency; neglect of duty; malfeasance; or a felony or conduct involving moral turpitude.[23] The Director of the Congressional Budget Office, who is appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after considering recommendations received from the Committees on the Budget of the House and the Senate, "may be removed by either House by resolution."[24]

Filling the First Vacancy After the 1989 Act: 1995-1997

Following the decision of George White, who served as Architect from January 27, 1971, until November 21, 1995, not to seek reappointment under the new process, Alan Hantman was nominated under the new procedure to a 10-year term by President Clinton on January 6, 1997.[25] Following a hearing on January 28, 1997, the Senate Committee on Rules and Administration favorably reported his nomination. Mr. Hantman was confirmed by the Senate by voice vote on January 30, 1997.[26] Declining to seek reappointment, Mr. Hantman retired on February 4, 2007, and Stephen T. Ayers, then-Deputy Architect, began service as the Acting Architect of the Capitol.[27]

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[22] It has long been recognized that "the power of removal [is] incident to the power of appointment." *Ex Parte Hennen*, 38 U.S. (13 Pet.) 230, 259 (1839).

[23] 31 U.S.C. 703.

[24] 2 U.S.C. 601. For additional information, see CRS Report RL31880, *Congressional Budget Office: Appointment and Tenure of the Director and Deputy Director*, by Megan S. Lynch.

[25] The 1989 act required Mr. White to be reappointed under the new procedure no later than the sixth anniversary of the enactment of the law if he chose to remain in office. (P.L. 101-163, sec. 319(b), November 21, 1989, 103 Stat. 1068).

[26] "Executive Calendar," remarks in the Senate, *Congressional Record*, vol. 143, January 30, 1997, pp. 1304-1307, 1312. From the retirement of Mr. White until the confirmation of Mr. Hantman, William L. Ensign served as Acting Architect of the Capitol.

[27] According to the biography provided by the AOC, Mr. Ayers "joined the Architect of the Capitol as an Assistant Superintendent for the Senate Office Buildings. He served in several capacities over the next decade, including Deputy Superintendent for the Senate Office Buildings, Superintendent of the Library Buildings and Grounds, Acting Deputy Architect/Chief Operating Officer and Deputy Architect/Chief Operating Officer" (https://www.aoc.gov/architect-of-the-capitol/stephen-t-ayers-faia-ccm-leed-ap). Pursuant to 2 U.S.C. 1804, the Deputy Architect "shall act as Architect of the Capitol during the absence or disability of that official or whenever there is no Architect."

Filling the Second Vacancy: 2007-2010

As discussed above, Mr. Ayers was confirmed and appointed as Architect three years later, in 2010. Between the announcement that Mr. Hantman would retire and the nomination and confirmation of Mr. Ayers, few congressional announcements were made regarding the status of the Architect vacancy and the submission of the recommendations to the President.

During a hearing on the FY2008 appropriations request on April 24, 2007, before the House Legislative Branch Appropriations Subcommittee, Acting Architect Stephen Ayers responded to a question about the status from ranking member Representative Zach Wamp:

> I did speak to the [Senate] Rules Committee about the selection process…. They have told me that their executive recruiter is currently interviewing potential candidates, and I surmise that they would give them that list of potential candidates in a month or two. So that is about the extent of my knowledge of that.[28]

Although the list of names was reportedly transmitted to President George W. Bush in summer 2007, the identity of the candidates was not publicly released by the commission.[29]

In its activities report on the 110th Congress (2007-2008), the Committee on House Administration summarized congressional actions and indicated concern about the current process:

> Although the commission forwarded three candidates [to the President], complex circumstances prevented final selection and confirmation of the Architect. The Committee anticipates completion of the appointment process in the 111th Congress, but in the meantime is reviewing whether the process is simply broken and requires new legislation.[30]

The three-year period following the retirement of the former Architect was also noted in the February 3, 2010, debate in the House on passage of the H.R. 2843 (111th Congress), the Architect of the Capitol Appointment Act.[31] Mr. Ayers was confirmed by the Senate on May 12, 2010.[32]

Evaluation of the Current Bicameral Congressional Commission Process in Choosing the Architect

The initial selection process, as well as the recent search for a successor, have raised a number of potential issues for consideration. These issues, which are discussed below, include the length of the commission's work and the potential for extended vacancies in the position; the operation of the commission; and what would happen in the event an incumbent seeks reappointment as Architect.

Time Frame for Filling a Vacancy

Although the commission may transmit names whenever there is a vacancy, it is not clear from either the statute or the legislative history exactly when the commission proceeds. The act does not

[28] U.S. Congress, House Appropriations Committee, *Legislative Branch Appropriations for 2008*, hearings, pt. 3, 110th Cong., 1st sess., April 24, 2007 (Washington: GPO, 2007), p. 300.

[29] "Finalists for AOC's Top Job Delivered to President Bush," by John McArdle, *Roll Call*, August 13, 2007.

[30] U.S. Congress, House Committee on House Administration, *Report on the Activities of the Committee on House Administration During the One Hundred Tenth Congress*, 110th Cong., 2nd sess., H.Rept. 110-924 (Washington: GPO, 2008), p. 18.

[31] *Congressional Record*, February 3, 2010, pp. H480-H482. No further action was taken on H.R. 2843 in the 111th Congress.

[32] *Congressional Record*, May 12, 2010, p. S3662.

address the possibility of the bicameral congressional commission beginning its work before an incumbent's departure. In addition, the statute is silent on any time frame for the commission's forwarding of recommendations following a retirement, presidential action on the commission's recommendation, or congressional action once a nomination has been received.

From the retirement of George White until the Senate confirmation of Alan Hantman, 436 days elapsed.

Some 1,193 days elapsed from the retirement of Alan Hantman until the Senate confirmation of his successor, Stephen T. Ayers. This period included a change in presidential administration.

Internal Operations of the Commission

The statute provides no guidance on how the commission should operate. If the commission has rules of procedure or criteria for choosing potential nominees, they have not been made public nor would they be binding for a future selection. In comparison, the statute establishing a commission to recommend individuals to serve as Comptroller General similarly does not address commission procedure.

Questions about the commission remain regarding

- who presides over its meetings;
- where and how meetings are called;
- how many members of the commission constitute a quorum;
- what constitutes agreement by Members of the commission regarding nominees, including whether nominees need approval of a majority or all of the Members; and
- how the commission receives administrative or financial support (i.e., any staffing expenses, travel expenses, or other expenses related to the search and evaluation of candidates).

When former Architect Alan Hantman was chosen, press reports were the only source of information that he was among the candidates whose names were forwarded to President Clinton for consideration.[33] One press account indicated that "Hantman is the 'primary choice' of the 14-Members of Congress appointed to find the Capitol's tenth Architect."[34] This same press account reported: "According to a letter from the chairman of the Senate Rules and Administration Committee Chairman John Warner (R-VA), Hantman was the first choice of the Members 'by a substantial margin.'"[35] The account quotes an aide as reporting that "all 14 commission members voted either by ballot or proxy for the nominees," although the votes were not published.[36]

As stated above, following Mr. Hantman's term of office, the commission reportedly forwarded a list of names to President George W. Bush in August 2007.[37] President Bush did not forward a nomination to the Senate prior to the end of his term. This period also encompassed the end of the 110th Congress, with resultant changes in membership of the commission at the start of the 111th

[33] Juliet Eilperin, "Rockefeller Center Architect Top Pick For Capitol Position," *Roll Call*, September 23, 1996, pp. A-1, A-28.

[34] Ibid.

[35] Ibid.

[36] Ibid.

[37] "Finalists for AOC's Top Job Delivered to President Bush," by John McArdle, *Roll Call*, August 13, 2007.

Congress. The 1989 act does not address a change in the membership of the commission while there is a vacancy in the position.

Process for the Reappointment of an Incumbent Architect

There are also unresolved questions should an incumbent Architect decide to seek reappointment under the current process established in 1989. It is not clear if or when the commission would form under this circumstance or if the incumbent Architect would need to be chosen again among at least two other potential candidates. Should the President choose not to reappoint the incumbent, it is unclear if formal notification would be required before the commission could begin its work or how this would be accomplished.

Discussion Regarding the Qualifications of the Architect

Many of the introduced bills and congressional hearings related to appointment have addressed the fact that not all of those who have held the position of Architect of the Capitol have been trained architects.[38] Some proposed legislation in the 1950s and 1960s would have required all future nominees to be trained architects.[39] Alternatively, at least one bill—introduced in 1968 during a period of congressional concern over plans for the expansion of the west front of the Capitol—sought to change the title of the office to "Superintendent of the Capitol Buildings and Grounds" to reflect the fact the then-Architect did not have this training.[40]

When Architect White announced his retirement in 1995, concerns were voiced within Congress, the media, and professional groups about the necessary qualifications for any successor. There was considerable discussion about the necessity of the new Architect being a licensed architect and the type of professional management training and experience needed for the position.

The American Institute of Architects (AIA) expressed its preference for a licensed architect with experience in management, procurement, and historic restoration. In 1995, the AIA sent congressional leaders a list of nine potential Architect nominees for consideration.[41] The following year, Raj Barr-Kumar, the president-elect and a fellow of the American Institute of Architects, described the process by which the AIA arrived at these names and qualifications and responsibilities it identified in a February 29, 1996, hearing of the Senate Rules and Administration Committee.[42]

To fill the most recent Architect vacancy, the AIA again urged the selection of a licensed architect.[43] Others, including some Members of Congress, emphasized a background in management because

[38] For a comparison to statutory qualifications in other positions, see the Appendix in CRS Report RL33886, *Statutory Qualifications for Executive Branch Positions*, by Henry B. Hogue.

[39] S. 1847 (86th Cong.), S. 1806 (88th Cong.), S. 1658 (89th Cong.).

[40] H.R. 19127 (90th Cong.). Rep. Kupperman, "Introduction of Bill to Change the Title of the Office of the 'Architect of the Capitol' to 'Superintendent of the Capitol Building and Grounds,'" remarks in the House, *Congressional Record*, vol. 114, July 31, 1968, p. 24430.

[41] American Institute of Architects, "Suggested Candidates for Appointment as Architect of the Capitol," April 2, 1995.

[42] U.S. Congress, Senate Rules and Administration Committee, *FY97 Senate Budget*, 104th Cong., 2nd sess., February 29, 1996 (unpublished), but available from FDCHeMedia, Inc.

[43] American Institute of Architects, "Tell the President to Choose an Architect," *The Angle*, vol. 5, no. 22, October 11, 2007. American Institute of Architects, "The Architect of the Capitol Should Be An Architect," December 4, 2008;

the job responsibilities, particularly with the opening of the Capitol Visitor Center, are broader than building design and construction and include some duties not necessarily associated with typical architectural practice.

American Institute of Architects, "Make the Next Architect of the Capitol A Licensed Professional Architect," *Issue Brief*, February 2008.

Appendix A. Legislation to Alter the Architect of the Capitol Appointment Process

Table A-1. Proposals to Alter the Appointment of the Architect: 1959-Present

Bill	Date of Introduction	Congressional Action (if any)	Process	Term of Office (if specified)
S. 1847, 86th Cong.	April 30, 1959		joint appointment by Speaker of the House and President pro tempore of the Senate	term expires first day of odd-numbered Congresses
S. 1800, 88th Cong.	June 26, 1963		joint appointment by Speaker and President pro tempore[a]	term expires first day of odd-numbered Congresses
S. 1658, 89th Cong.	April 1, 1965		joint appointment by Speaker and President pro tempore	term expires first day of odd-numbered Congresses
H.R. 17102, 92nd Cong.	October 12, 1972		appointment alternating between Speaker and President pro tempore	
H.R. 63, 93rd Cong.	January 3, 1973		appointment alternating between Speaker and President pro tempore	
S. 1278, 93rd Cong.	March 19, 1973		appointment alternating between Speaker and President pro tempore	
H.R. 8616, 94th Cong.	July 14, 1975		commission of 10 Members (including the Speaker, President pro tempore, majority and minority leaders of the House and Senate, and the chair and ranking minority members of the Committee on House Administration and the Senate Committee on Rules and Administration) nominate candidates, and the Speaker and President pro tempore, following confirmation by a majority vote in each house, shall appoint	5 years
S. 2205, 94th Cong.	July 29, 1975		appointed by the Speaker and majority leader of the Senate after considering recommendations from the majority and minority leaders[b]	7 years
S. 2760, 96th Cong.	May 22, 1980	Passed Senate 11/24/1980 S.Rept. 96-818	President nominates subject to advice and consent of the Senate	
H.R. 3014, 101st Cong.	November 21, 1989	P.L. 101-163	commission of 10 Members (including the Speaker, President pro tempore, majority and minority leaders of the House and Senate, and the chair and ranking minority members of the Committee on House Administration and the Senate Committee on Rules and Administration) recommends candidates to the President for nomination with consent of the Senate	10 years

Bill	Date of Introduction	Congressional Action (if any)	Process	Term of Office (if specified)
H.R. 1944, 104th Cong.	June 28, 1995	P.L. 104-19	added chair and ranking minority members of the House and Senate Appropriations Committees to commission established by P.L. 101-163, increasing the number of Members of the commission to 14	
H.R. 4446, 109th Cong.	December 6, 2005		appointed jointly by 4 Members, including the Speaker, the Senate majority leader, and the House and Senate minority leaders	10 years
H.R. 6656, 110th Cong.	July 30, 2008		appointed jointly by 12 Members, including the Speaker, the Senate majority leader, the House and Senate minority leaders, and the chair and ranking minority members of the Committee on House Administration, the Senate Committee on Rules and Administration, and the House and Senate Committees on Appropriations	10 years
H.R. 2185, 111th Cong.	April 30, 2009		appointed jointly by 12 Members, including the Speaker, the Senate majority leader, the House and Senate minority leaders, and the chair and ranking minority members of the Committee on House Administration, the Senate Committee on Rules and Administration, and the House and Senate Committees on Appropriations	10 years
H.R. 2843, 111th Cong.	June 12, 2009	Reported by Committee on House Administration (12/10/2009) H.Rept. 111-372 Passed House (2/3/2010)	appointed jointly by 18 Members, including the Speaker, the President pro tempore, the House and Senate majority and minority leaders, a member of the Senate to be designated by the majority leader of the Senate, a member of the Senate to be designated by the minority leader of the Senate, and the chair and ranking minority members of the Committee on House Administration, the House Committee on Transportation and Infrastructure, the Senate Committee on Rules and Administration, and the House and Senate Committees on Appropriations	10 years

Source: CRS survey of legislation.

Notes: This table includes all legislation identified by CRS as of the date of this report. Additional bills will be added if identified.

a. Under S. 1806 (88th Congress), which was introduced the day after S. 1800, the Architect would be unable to "evaluate, review, give preliminary approval to, or otherwise pass judgment" on construction or renovation of the Capitol buildings and grounds

b. S. 2206, 94th Congress, was introduced the same day and addressed the appointment of the Comptroller General and Deputy Comptroller General.

Appendix B. Architects of the Capitol Since 1793

Since 1793, 11 persons have held the position currently known as the Architect of the Capitol.[44] Of these, two served for more than three decades and two others served for more than two decades.

As stated above, pursuant to the 1989 act, any subsequent appointments would be for a term of 10 years, with the possibility of reappointment.

Table B-1 lists the individuals who have served as Architect, including names, dates of service, and links to biographical information.

Table B-1. Architects of the Capitol

Name	Dates of Service	Biographical Information
William Thornton	1793	https://www.aoc.gov/architect-of-the-capitol/dr-william-thornton
Benjamin Latrobe	1803-1811 1815-1817	https://www.aoc.gov/architect-of-the-capitol/benjamin-henry-latrobe
Charles Bulfinch	1818-1829	https://www.aoc.gov/architect-of-the-capitol/charles-bulfinch
Thomas Walter	1851-1865	https://www.aoc.gov/architect-of-the-capitol/thomas-ustick-walter
Edward Clark	1865-1902	https://www.aoc.gov/architect-of-the-capitol/edward-clark
Elliott Woods	1902-1923	https://www.aoc.gov/architect-of-the-capitol/elliott-woods
David Lynn	1923-1954	https://www.aoc.gov/architect-of-the-capitol/david-lynn
J. George Stewart	1954-1970	https://www.aoc.gov/architect-of-the-capitol/j-george-stewart
George White	1971-1995	https://www.aoc.gov/architect-of-the-capitol/george-m-white-faia
Alan Hantman	1997-2007	https://www.aoc.gov/architect-of-the-capitol/alan-m-hantman-faia
Stephen T. Ayers	2010-2018	https://www.aoc.gov/architect-of-the-capitol/stephen-ayers

Source: U.S. Architect of the Capitol, *Architects of the Capitol since 1793,* http://www.aoc.gov/aoc/architects/index.cfm; and William Allen, *History of the United States Capitol* (Washington: GPO, 2001).

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[44] The term Architect of the Capitol also refers to some of the early occupants of the office who were known as Commissioner, Surveyor of Public Buildings, or Superintendent of the Capitol. For more information, see William Allen, *History of the United States Capitol* (Washington: GPO, 2001), pp. 27, 50-51, 398, and 400-401.

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