



The President

Palikir, Pohnpei

Federated States of Micronesia

PRESIDENTIAL COMM. NO. 16-94
FSM CONGRESS

April 20, 2010

The Honorable Isaac V. Figir
Speaker
16th FSM Congress
Palikir, Pohnpei State, FM 96941



Dear Speaker Figir:

I am transmitting the following Congressional Act back to Congress which I have approved to become Public Law No. 16-31.

Congressional Act No. 16-33, "AN ACT TO AMEND THE REVISED NATIONAL ELECTION ACT OF 2005 BY AMENDING SECTIONS 503 AND 602 OF TITLE 9 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, TO REQUIRE THAT THE PRINTING OF BALLOTS BE COMPLETED NO LATER THAN 70 DAYS BEFORE A GENERAL ELECTION, TO INCREASE THE PERIOD FOR REQUESTING AN ABSENTEE BALLOT BY MAIL FROM 120 DAYS TO 150 DAYS PRIOR TO ELECTION DAY, TO PROVIDE FOR A DEFINITE TURN AROUND PERIOD FOR THE MAILING BACK OF ABSENTEE BALLOTS, AND FOR OTHER PURPOSES."

This Congressional Act was the result in part of the C.B. No. 16-62 which originated from the Executive. I certainly appreciate the efforts by you and your honorable colleagues on this matter. The amendments introduced in this Act consist of certain amendments to the Revised National Election Act of 2005, as amended, in particular section 503, upon the initiative of Congress, and of section 603, as proposed by the Executive in C.B. No. 16-62.

Section 503, title 9 of the FSM Code provides that the National Election Director shall print sample ballots for distribution at least 55 days before a general election. The law further provides that the printing of official ballots (final form) must be completed no later than 55 days prior to the day of election.

The Act amends the current law, by expanding the period for the printing of sample ballot, from 55 days, to 65 days prior to a general election. As for the (final) official ballot, the printing shall be completed no later than 60 days, instead of 50 days, prior to the day of national election.

Another amendment concerns section 603. The law currently provides that the filing of application for absentee ballot by mail shall be received by the national election commissioner not more than 150 days but not less than 40 days before Election Day. The Act modifies the period by extending the submission of the request application to 160 days but not less than 40 days before Election Day. The intent of the amendment is to ensure a better turnout of voters during the next national election in March 2011.



PRESIDENTIAL COMM. NO. 16-196
FSM CONGRESS

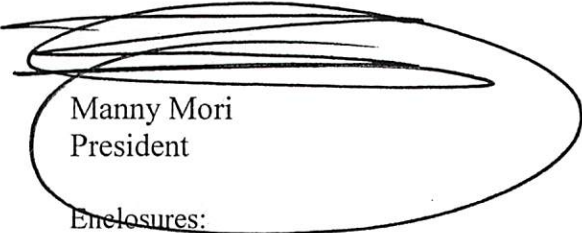
The Honorable Isaac V. Figir
April 20, 2010
Page 2

The Act constitutes a substantial improvement to the present election statute. But given the multitude of challenges faced by the election system, we can further improve the statutory guidelines in the conduct of elections, in the pursuit of our mutual objective on encouraging more citizens to actively participate in the process of selecting the leaders of our Nation. Hence, I intend to submit further amendments to the present election law for your consideration during the next sessions of Congress. Some of these amendments include further increasing the periods for acceptance of requests for absentee ballot in order to achieve a much improved turnout of votes during national elections.

On the other hand, a discrepancy exists between the title of the Congressional Act, which states that the printing of ballots shall be completed no later than 70 days before a general election, and a section thereof which states a different period. As we both know, section 21, article IX of the Constitution requires that a bill may embrace but one subject expressed in its title. In this case, a legal ambiguity arises from the conflicting texts contained in the same Congressional Act. Nevertheless, in the interest of continued collaboration and more constructive engagement between our two branches of government to achieve our mutual objective of improving the present election system, I have decided to sign the Act to become law, but with reservations as explained above. The Executive Branch will take an initiative in addressing the reservations expressed herein by submitting further legislative measures for Congressional action.

With warm personal regards, I remain

Sincerely,



Manny Mori
President

Enclosures:

xc: Acting Chief Justice, FSM Supreme Court
Secretary, Department of Justice
Director, Office of SBOC
Legislative Counsel, CFSM
Library, CFSM
PIO, FSM



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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PRESIDENTIAL COMM. NO. 10-196
FSM CONGRESS

Office of the Chief Clerk

March 30, 2010



His Excellency Manny Mori
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941

Dear President Mori:

I have the honor to transmit herewith Congressional Act No. 16-33, "AN ACT TO AMEND THE REVISED NATIONAL ELECTION ACT OF 2005 BY AMENDING SECTIONS 503 AND 602 OF TITLE 9 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, TO REQUIRE THAT THE PRINTING OF BALLOTS BE COMPLETED NO LATER THAN 70 DAYS BEFORE A GENERAL ELECTION, TO INCREASE THE PERIOD FOR REQUESTING AN ABSENTEE BALLOT BY MAIL FROM 120 DAYS TO 150 DAYS PRIOR TO ELECTION DAY, TO PROVIDE FOR A DEFINITE TURN AROUND PERIOD FOR THE MAILING BACK OF ABSENTEE BALLOTS, AND FOR OTHER PURPOSES.", which was passed by the Sixteenth Congress of the Federated States of Micronesia, Third Special Session, 2010, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Liwiana K. Ramon".

Liwiana K. Ramon
Chief Clerk, Congress of the
Federated States of Micronesia

Enclosures



PRESIDENTIAL COMM. NO. 16-196
FSM CONGRESS

SIXTEENTH CONGRESS OF THE
FEDERATED STATES OF MICRONESIA
THIRD SPECIAL SESSION
MARCH 20 - 26, 2010

PUBLIC LAW No. 16-31

An Act

TO AMEND THE REVISED NATIONAL ELECTION ACT OF 2005 BY AMENDING SECTIONS 503 AND 602 OF TITLE 9 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, TO REQUIRE THAT THE PRINTING OF BALLOTS BE COMPLETED NO LATER THAN 70 DAYS BEFORE A GENERAL ELECTION, TO INCREASE THE PERIOD FOR REQUESTING AN ABSENTEE BALLOT BY MAIL FROM 120 DAYS TO 150 DAYS PRIOR TO ELECTION DAY, TO PROVIDE FOR A DEFINITE TURN AROUND PERIOD FOR THE MAILING BACK OF ABSENTEE BALLOTS, AND FOR OTHER PURPOSES.

INTRODUCED BY SENATOR: JOE N. SUKA (BY REQUEST)

DATE: DECEMBER 4, 2009

REFERRED TO: JUDICIARY AND GOVERNMENTAL OPERATIONS COMMITTEE
S.C.R. NO. 16-74 – MARCH 24, 2010

FIRST READING: MARCH 24, 2010

SECOND READING: MARCH 25, 2010

Liwiana K. Ramon
Chief Clerk, FSM Congress



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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Office of the Speaker

PRESIDENTIAL COMM. NO. 16-196
FSM CONGRESS

ACT NO. 16-33

(CONGRESSIONAL BILL NO. 16-62, C.D.1, C.D.2)

We hereby certify that on March 25 the foregoing act passed
Second and Final Reading of the Sixteenth Congress of the
Federated States of Micronesia, Third Special Session,
2010, by a two-thirds vote of all the State delegations as
required under article IX, section 20, of the Constitution
of the Federated States of Micronesia.

A handwritten signature in black ink, appearing to read "Isaac V. Figir".

Isaac V. Figir
Speaker
Congress of the
Federated States of Micronesia

A handwritten signature in black ink, appearing to read "Liwiana K. Ramon".

Liwiana K. Ramon
Chief Clerk
Congress of the
Federated States of Micronesia

SIXTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

SECOND SPECIAL SESSION, 2009

CONGRESSIONAL BILL NO. 16-62, C.D.1,
C.D.2

PUBLIC LAW No. 16-31

AN ACT

To amend the Revised National Election Act of 2005 by amending sections 503 and 602 of title 9 of the Code of the Federated States of Micronesia, as amended, to require that the printing of ballots be completed no later than 70 days before a general election, to increase the period for requesting an absentee ballot by mail from 120 days to 150 days prior to election day, to provide for a definite turn around period for the mailing back of absentee ballots, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 503 of title 9 of the Code of the
2 Federated States of Micronesia, as amended by Public Law
3 No. 14-76, is hereby further amended to read as follows:

4 "Section 503. Printing and distribution of ballots.

5 (1) The ballots shall be printed by order of the
6 National Election Director at the expense of the
7 Federated States of Micronesia. The National
8 Election Director shall complete the printing of
9 the official ballots no later than 60 days before a
10 general election, or no later than 35 days before a
11 special election. Ballots shall be consecutively
12 numbered. Under the direction of the National
13 Election Director, the national election
14 commissioners shall deliver adequate numbers of
15 ballots to each polling place.

16 (2) At least 65 days before a general election,

1 and at least 40 days before a special election, the
2 National Election Director shall print a sample
3 ballot and shall forthwith submit copies of the
4 same to the national election commissioners for
5 distribution to the members of the several election
6 boards and to the several candidates at their
7 addresses as given on their nomination papers, and
8 the national election commissioners and election
9 board member shall post a copy of the same in a
10 conspicuous place in their office or a public
11 place."

12 Section 2. Section 602 of title 9 of the Code of the
13 Federated States of Micronesia, as amended by Public Law
14 No. 14-76, is hereby further amended, to read as follows:

15 "Section 602. Voting absentee ballot by mail.

16 (1) Any Registered Voter who will be outside his or
17 her State of registration on Election Day may vote
18 absentee ballot by mail.

19 (2) Deadlines for submitting requests to vote
20 absentee ballot by mail.

21 (a) In the case of a general election, the
22 request to vote absentee ballot by mail, using the forms
23 required by the rules and regulations promulgated
24 pursuant to this title, must be received by the national
25 election commissioner of the State in which the voter is

1 registered not more than 150 days but not less than 40
2 days before Election Day.

3 (b) In the case of a special election, the
4 request to vote absentee ballot by mail must be received
5 by the national election commissioner of the State in
6 which the voter is registered not more than 50 days but
7 not less than 35 days before the day of the special
8 election.

9 (c) If the absentee voter currently resides in a
10 foreign country where the Federated States of Micronesia
11 maintains an embassy or consulate, then a request to
12 vote absentee ballot by mail may alternatively be sent
13 to the embassy or consulate, which shall then forward a
14 copy of the request to the National Election Director,
15 or his or her designee, for verification and processing.
16 The absentee voter shall indicate on the request form
17 whether he or she intends to pick up his or her absentee
18 ballot at the embassy or consulate.

19 (d) The voter is solely responsible for ensuring
20 that the request to vote absentee ballot by mail is
21 received by the deadline. Delayed and lost mail for
22 absentee ballot requests shall not create any obligation
23 of the National Election Director or the national
24 election commissioner to provide absentee ballots at any
25 time after the time periods set forth herein have

1 expired.

2 (e) Upon receipt of a request to vote absentee
3 ballot by mail, the name of the requester and the time
4 and the date of receipt of the request must be recorded.
5 The national election commissioner, shall, no later than
6 2 days from receipt of the request, act on the request
7 and mail back to the requester an absentee ballot
8 provided that printed ballots are already available. If
9 printed ballots are not available at the time a request
10 is received, the name of the requestor and the time and
11 date of receipt of the request must still be recorded,
12 and an absentee ballot shall be mailed to the requester
13 no later than 5 days after the printing of ballots has
14 been completed. Absentee voters who have indicated on
15 their request forms that they intend to pick up their
16 absentee ballot at an embassy or consulate shall
17 retrieve their ballot from the embassy or consulate.
18 The National Election Director shall provide sufficient
19 absentee ballots to the embassy or consulate 10 days
20 before a National election.

21 (f) The National Election Director, or his or
22 her designee, shall strike out or delete the entry of
23 the absentee voter on the Signature List for that
24 voter's regular Polling Place. The absentee voter shall
25 not be allowed to cast a ballot at his or her regular

PUBLIC LAW No. 16-314

1 Polling Place on Election Day.

2 (3) Marking and returning of absentee ballots by
3 mail.

4 (a) An absentee ballot by mail shall include the
5 following parts: an official ballot, a ballot envelope,
6 an affidavit prescribed by the National Election
7 Director, and a covering reply envelope.

8 (b) The absentee voter shall mark the ballot in
9 the usual manner provided by law and in such manner that
10 no person can see or know how the ballot is marked. The
11 absentee voter shall then deposit the ballot in the
12 envelope and securely seal the same. The absentee voter
13 shall then complete and execute the affidavit. The
14 ballot envelope and the affidavit shall then be enclosed
15 and sealed in the covering reply envelope.

16 (c) Absentee ballots and affidavits must be
17 received by the national election commissioner of the
18 State issuing the absentee ballot no later than the
19 established closing hour of the Polls on Election Day.
20 If an absentee voter resides in a foreign country where
21 the Federated States of Micronesia maintains an embassy
22 or consulate, and the absentee voter had submitted his
23 or her request to vote absentee ballot to that embassy
24 or consulate, then the absentee voter may alternatively
25 deliver his or her absentee ballot and affidavit to that

1 embassy or consulate. The absentee ballot and affidavit
2 must be received by the embassy or consulate no later
3 than the established closing hour of the Polls on
4 Election Day.

5 (d) Absentee ballots received at a post office
6 in the Federated States of Micronesia on Election Day
7 shall be stamped with the time and date of their
8 receipt.

9 (4) Disposition of absentee ballots by mail.

10 (a) Upon the receipt of an absentee ballot, the
11 national election commissioner, or his or her appointee,
12 shall open it, remove the ballot envelope, and examine
13 the affidavit. If the national election commissioner or
14 his or her appointee determines that the absentee ballot
15 is valid, the ballot envelope shall be deposited
16 unopened in a container retained for that purpose. The
17 container shall be securely sealed except for an opening
18 sufficient to permit deposit of ballot envelopes and
19 shall be marked with the name and official title of the
20 national election commissioner, or his or her appointee,
21 and the words, 'This container holds absentee ballots
22 and must be opened only pursuant to law.' The national
23 election commissioner, or his or her designee, shall
24 safely keep each container secured in the commissioner's
25 office until Election Day.

~~PUBLIC LAW No. 16-314~~

1 (b) On Election Day, the national election
2 commissioner, or his or her designee, shall open the
3 container, extract and segregate the ballot envelopes,
4 and deliver such envelopes to the counting and
5 tabulation committee. Each candidate, or his or her
6 representative, shall have the opportunity to be present
7 during this process.

8 (c) An absentee ballot may be determined to be
9 invalid if:

10 (i) the affidavit is found to be
11 insufficient;

12 (ii) the signatures on the request for the
13 ballot and the affidavit do not correspond;

14 (iii) the request for the ballot was not
15 properly made or was untimely, as set forth in this
16 section;

17 (iv) the ballot was not returned in a timely
18 fashion, as set forth in this section;

19 (v) the ballot was returned in a bundle
20 with other ballots;

21 (vi) the voter is not qualified to vote;

22 (vii) the voter is not registered to vote;

23 (viii) the ballot envelope is open or has been
24 opened and resealed; or

25 (ix) the voter has already voted.

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(d) The ballot envelope of an invalid absentee ballot shall not be opened and the national election commissioner or his appointee shall mark across its face 'Rejected,' and write the reason for the rejection, and shall preserve the same in the manner and for the period of time required under this title for regular ballots cast in an election. At the end of this time period, the invalid absentee ballots shall be destroyed without being opened in the manner provided under this title."

Section 3. Effective Date. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

04-20, 2010

Manny Mori
President
Federated States of Micronesia