TWELFTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FOURTH REGULAR SESSION, 2002


PUBLIC LAW NO. 12-52

AN ACT


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

Section 1. Section 105 of title 9 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 105. Vacancies – Special election.

(1) After election of President and Vice President.

(a) After the election of the President and Vice President, vacancies shall be declared by the Speaker of Congress for the seats to which the President and Vice President were originally elected as Members-at-large of the Congress of the Federated States of Micronesia.

(b) Upon notification by the Speaker, the National Election Director shall schedule a special election to occur 50 days after receipt of notification.

(c) Each candidate for the special election must submit a petition for candidacy within 20 days after the Election Director schedules the special election. After all petitions for candidates are received, the National Election Director shall cause the ballots to be
produced.

(d) Absentee ballots shall be available from the National Election Director up to five days before the election date.

(2) Other vacancies - seated Congress. Any other vacancy in the Congress shall be filled for the unexpired term by special election, except that an unexpired term of one year or less shall be filled by appointment by the chief executive of the State affected. The appointee shall possess the qualifications required by section 201 of this title and shall serve only for the unexpired term.

(3) Other vacancies - death of declared winner.

(a) In case of death of a declared winner before being sworn into office, the Governor of the State affected shall notify the Speaker of the Congress of the Federated States of Micronesia, who shall immediately declare a vacancy and notify the National Election Director.

(b) Upon notification by the Speaker, the National Election Director shall schedule a special election to occur 50 days after receipt of notification.

(c) Each candidate for the special election shall submit a petition for candidacy within 20 days after the National Election Director schedules the special
election. After all petitions for candidates are received, the National Election Director shall cause the ballots to be produced.

(d) Absentee ballots shall be available from the National Election Director up to five days before the election date.

(4) Date of special election. If the date required by this section for an election to be held falls on a Saturday or Sunday, the election shall be held on the first Tuesday following that Saturday or Sunday."

Section 2. Section 108 of title 9 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 108. Affidavit to be sworn. The affidavits required pursuant to this title shall be sworn to before any officer or person authorized by law, this title, or regulations issued pursuant thereto, to administer oaths, except that an affidavit accompanying an absentee ballot need not be witnessed."

Section 3. Section 301 of title 9 of the Code of the Federated States of Micronesia, as amended by Public Law No. 11-62, is hereby further amended to read as follows:

"Section 301. Appointment of National Election Officials.

(1) National Election Director."
(a) The President shall appoint one National Election Director with the advice and consent of the Congress. The National Election Director shall be a citizen of the Federated States of Micronesia and a resident of a state of the Federated States of Micronesia.

(b) The National Election Director shall serve until resignation, or until removed from office upon a determination by the President that such removal is deemed necessary. An appointment of a successor shall then be made by the President with the advice and consent of the Congress.

(2) National election commissioners.

(a) The National Election Director shall, after consultation with the Governor of the State concerned, appoint a national election commissioner for each of the four States.

(b) National election commissioners serve for a term of 4 years, which term shall commence upon appointment, subject to removal by the National Election Director for good cause; provided, that they shall be employed full-time and compensated pursuant to employment contracts during their four-year terms only for such period(s) of time as deemed necessary by the President of the FSM for the purpose of preparing for
and administering an upcoming election.

(c) National election commissioners shall not concurrently serve as state election commissioners; provided, however, that if any current national election commissioner is nominated to serve as a state election commissioner, he or she may continue to serve as national election commissioner until such time as a new appointment by the National Election Director becomes effective.

(d) Each national election commissioner shall be a legal resident of the State for which he is appointed to serve as national election commissioner.

Section 4. Section 302 of title 9 of the Code of the Federated States of Micronesia, as amended by Public Law No. 11-62, is hereby further amended to read as follows:

"Section 302. Powers and duties of the National Election Director. The National Election Director shall have the responsibility for the overall supervision and administration of all National elections, and shall perform such duties as are prescribed by law, which include, but are not limited to the following:

(1) to supervise and direct the four national election commissioners in their administration of all national elections and in the performance of their duties
pursuant to section 303 of chapter 3 of this title;

(2) to approve the appointment by the four national
election commissioners of all election board members and
other election personnel or short term staff pursuant to
section 303 of chapter 3 of this title;

(3) to request such reports from election board or
national election commissioners as may be required by
law or regulation or as the National Election Director
may deem necessary;

(4) to review all nomination petitions received by the
four national election commissioners pursuant to section
303 of chapter 3 of this title;

(5) to maintain a National Election Register;

(6) to review and investigate all voting and
registration irregularities, and any other alleged
violations of this title;

(7) to implement rules and regulations for the conduct
of regular and absentee balloting in all national
elections;

(8) to issue regulations not inconsistent with law to
implement this title, in accordance with chapter 1 of
title 17;

(9) to certify and declare the results of all national
elections;

(10) to rule on petitions for recount and petitions
alleging other election irregularities pursuant to chapter 9 of this title;

(11) to determine and prescribe forms for all ballots, blanks, cards of instruction, pollbooks, tally sheets, and other materials required by the provisions of this title for use by candidates, boards, committees, and voters, and to supply the same to the national election commissioners and boards of election;

(12) to list all candidates for election on the ballot for each election district in alphabetical order by last name;

(13) to be the allottee of election funds unless otherwise provided for in the act appropriating such funds; and

(14) to establish voting precincts within each election district and designate appropriate polling places within each voting precinct, upon recommendations of the national election commissioners."

Section 5. Section 303 of title 9 of the Code of the Federated States of Micronesia, as amended by Public Law No. 11-62, is hereby further amended to read as follows:

"Section 303. Powers and duties of national election commissioners.

Each national election commissioner shall have responsibility for the overall supervision and
administration of the election within his state and
shall perform such duties as are prescribed by law,
which include, but are not limited to, the following:

(1) to appoint all members of the several boards of
election in his or her State as provided for in this
title;

(2) to require such reports from the several boards as
may be required by law or regulation or as the National
Election Director or national election commissioner may
deem necessary;

(3) to recommend to the National Election Director
voting precincts within each election district and
recommend appropriate polling places within each voting
precinct;

(4) to receive nomination petitions;

(5) to register or cause to be registered all the
voters in his State and, jointly with the state election
commissioner, to maintain the General State Register in
his State as provided in this title;

(6) not less than 60 days prior to each election, to
prepare from the General State Register a 'registered
voters list' for each voting precinct in his State;

(7) to promulgate, in accordance with chapter 1 of
title 17 of the Code of the Federated States of
Micronesia, local rules and regulations that are
consistent with rules and regulations promulgated by the National Election Director pursuant to section 302 of chapter 3 of this title;

(8) to assist the National Election Director in maintaining the National Election Register required by section 306 of this title;

(9) to report directly to the National Election Director; and

(10) to execute his responsibilities and perform his duties as lawfully directed and authorized by the National Election Director in accordance with the provisions of this title."

Section 6. Section 304 of title 9 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 304. Striking names of disqualified voters.

(1) Not less than 60 days before each regular election, the national election commissioner of each State, in conjunction with the state election commissioner, shall ascertain from the Department of Public Health or any informing department, or from any reliable source, information of the death, adjudication of insanity or feeble-mindedness, loss of citizenship, or any other disqualification to vote of any person registered to vote in his State or who he has reason to
believe may be registered to vote therein. The national election commissioner shall thereupon make such investigation as he may deem necessary to prove or disprove such information, giving the person concerned, if available, notice and an opportunity to be heard. If, after such investigation, the national election commissioner finds that such person is dead, incompetent, has lost his citizenship, or is disqualified for any reason to vote, he shall strike or direct that the name of such person be stricken from the official registry and shall so notify the National Election Director who shall cause the name of such person to be stricken from the National Election Register.

(2) The national election commissioner of each State shall make and keep an index of all information furnished to him under any requirements of law concerning any of the matters mentioned in this section and shall provide any person authorized by this title or by regulation to receive affidavits on application for registration with any information the latter may need to ascertain whether or not any applicant is in any manner disqualified to vote.

(3) Any person whose name is stricken from the National Election Register may appeal in the manner
Section 7. Title 9 of the Code of the Federated States of Micronesia is hereby further amended by enacting a new section 305 to read as follows:

"Section 305. General State Register."

1. 'General State Register' means the official election register for a State commonly referred to as the Master List, as jointly maintained by that State's national election commissioner and state election commissioner.

2. The national election commissioner of each State shall register or cause to be registered in the General State Register all persons registered to vote in his State.

3. Each State's General State Register shall consist of one or more volumes, with a general alphabetical index of registered voters. The General State Register shall be divided into as many parts as there are election precincts in the election districts in the State and shall have an index of precincts.

4. Each State's General State Register shall be maintained jointly and continuously by the national election commissioner and the state election commissioner of the relevant State.

5. The General State Register shall be printed provided by chapter 9 of this title."
uniformly in all states of the Federated States of Micronesia and shall be open to public inspection at all times during normal business hours.

(6) Each State's General State Register shall be published and made available for public inspection at least 60 days prior to any election."

Section 8. Section 306 of title 9 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 306. National Election Register.

(1) There shall be one unified National Election Register, which shall consist of each State General Register as jointly maintained by the national election commissioner and the state election commissioner for the relevant State.

(2) The National Election Director shall be responsible for maintaining the National Election Register.

(3) All changes and additions to the General State Register of a State must also be made in the National Election Register.

(4) The National Election Register shall be open to public inspection at all times during normal business hours.

(5) The National Election Register shall be published
and made available for public inspection at least 45
days prior to any election."

Section 9. Section 402 of title 9 of the Code of the
Federated States of Micronesia, as amended by Public Law No. 11-
62, is hereby further amended to read as follows:

"Section 402. Powers and duties of election board.
Each board of election member shall have the following
powers and duties:

(1) to perform all duties prescribed by law;

(2) to supervise and manage each polling place in the
capacity of a pollworker;

(3) to receive, preserve, and maintain ballot boxes,
locks, maps, cards of instructions, and other supplies
and equipment necessary to conduct elections;

(4) to give such instruction deemed necessary for the
orderly conduct of the election;

(5) to provide for the issuance of all notices and
publications concerning elections;

(6) to review and examine the sufficiency and validity
of nominating petitions and other documents where the
national election commissioner or the National Election
Director designates the board to act in his stead;

(7) to receive and transmit all ballot boxes, locked
and sealed, to the national election commissioner;

(8) to receive, investigate, and decide on complaints
concerning election irregularities and determine the residence qualifications of voters, subject to review according to chapter 9 of this title;

(9) to perform such other duties as are prescribed by law or rules issued by the national election commissioner or National Election Director; and

(10) to register electors."

Section 10. Section 503 of title 9 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 503. Registration required.

(1) Except as otherwise provided by law, no person shall be entitled to vote in any election for Members of the Congress of the Federated States of Micronesia, or to be listed upon any official election register, or upon any precinct list, who fails to register with the state or national election offices.

(2) A voter having once been registered with either the state or national election office shall not be required to register again for any succeeding election, except in case of change of name or residence, as specified in section 507 of this chapter, or intervening disqualification, as specified in section 304 of this title.

(3) Notwithstanding the provisions of subsection (2)
of this section, in the event voting records are lost or
destroyed, the national election commissioner may
require the re-registration of those voters whose
records are lost or destroyed."

Section 11. Section 504 of title 9 of the Code of the
Federated States of Micronesia is hereby amended to read as
follows:

"Section 504. Application for registration – Affidavit.

(1) Any person qualified to and desiring to register
as a voter in any election district may present himself
at any time during business hours to any member of the
board of election in that district (herein empowered and
authorized to administer oaths and take
acknowledgments), or persons authorized by law to
administer oaths, or to any person authorized by the
National Election Director in regulations issued
pursuant to this title to administer oaths and accept
affidavits of registration, then and there to be
examined under oath as to his qualifications as an
elector.

(2) Each applicant desiring to register shall make and
subscribe to an application in substantially the
following form:

'AFFIDAVIT ON APPLICATION FOR REGISTRATION

Federated States of Micronesia
1. My full name is _______________________________.
2. I was born at _________________________________.
3. My date of birth is _____________________________.
4. I currently live at _____________________________.
5. My Election District No. is ____, Box No. _____.
6. I am a citizen of the Federated States of Micronesia.
7. I was naturalized as a citizen of the Federated States of Micronesia at ___ State on the ___ day of ___ in the year ___.
8. I have resided in the Federated States of Micronesia not less than nine months, and in Congressional Election District No. ___ in the State of ____ not less than three months immediately preceding this date on which I now offer to register to vote in that district, to wit, on the ___ day of ____ in the year ___.
9. I am not currently under parole, probation, or sentence for any felony for which I have been convicted by any court of the Federated States of Micronesia or any court within the jurisdiction of the United States.
10. I am not currently under a judgment of mental incompetence or insanity.
11. I solemnly swear that the foregoing statements are true, so help me God.

Subscribed and sworn to before me this ___ day of ___ in the year ___.

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The applicant shall strike out allegations that are inapplicable and shall sign or make his mark on, and swear to the truth of the allegations in, his application.

(3) In any case where the person who administers the oath shall so desire or believe the same to be expedient, he may demand that the applicant produce a witness or witnesses to further substantiate the allegations of his application."

Section 12. Section 505 of title 9 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 505. Submission of affidavit of qualifications to examiner.

(1) Every affidavit on application for registration shall be submitted to the persons authorized to examine the qualifications of electors, as set forth in section 504 of this title.

(2) Affidavits filed as part of a State's registration and election procedure may be submitted in lieu of the affidavit required by section 504 of this title."

Section 13. Section 506 of title 9 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 506. Entry of a voter's name in the General
State Register – Filing of affidavits.

(1) If the person authorized to receive an Affidavit on Application for Registration is satisfied that the applicant is entitled to be registered as a voter, he shall number the affidavit consecutively as approved by him and shall transmit the affidavit to the national election commissioner.

(2) Upon receipt of an affidavit of registration, the national election commissioner shall enter or cause to be entered in the General State Register the following facts:

(a) the number of the affidavit;
(b) the date of registration;
(c) the name of the applicant in full;
(d) the applicant's date of birth;
(e) if naturalized, the date of such naturalization;
(f) the current residence of the applicant;
(g) election district and box number; and
(h) any other pertinent information which the national election commissioner may deem necessary.

(3) The national election commissioner shall forthwith enter or cause to be entered the name so registered in its proper place in the general alphabetical index, together with a reference to the page on which the
registration appears.

(4) The national election commissioner shall file the accepted affidavits in consecutive numbers, and keep the same in some convenient place so as to be open to public inspection and examination."

Section 14. Section 507 of title 9 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 507. Change of name or residence.

(1) Any voter who lawfully changes his residence from one voting precinct to another, or who changes his name after registration in any General State Register, may file a Change of Registration form with the national election commissioner of his or her State, as required by regulation.

(2) Any voter who lawfully changes his residence from one state of the Federated States of Micronesia to another state of the Federated States of Micronesia may file a Change of Residence form with the national election commissioner of the new state of residence, thereby signifying the voter's desire to become a registered voter of the new state of residence, PROVIDED the voter meets the voting requirements in the new state of residence.

(3)(a) Upon receipt of a change of registration form
under subsection (1) of this section, the national election commissioner or his authorized representative shall cancel the former registration by drawing one or more lines through the name of such voter as previously registered and enter or cause to be entered his own signature and the date of such cancellation with ink on the same line.

(b) Upon receipt of a change of registration form under subsection (2) of this section, the national election commissioner of the new state of residence shall verify the voter's registration in the former state of residence with either the National Election Director or the national election commissioner of the former state of residence. Upon verification of registration, the national election commissioner of the new state of residence shall enter or cause to be entered the name of such voter, the date of such change of registration and other relevant information, and his own signature, with ink, in the General State Register of the new state of residence. If the voter's registration in the former state of residence cannot be verified, the voter shall be required to register.

(4) No such change of registration shall be allowed on account of any change of residence or name made within 90 days before an election.

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(5) The National Election Director shall notify or cause to be notified all relevant state and municipal election officials of the information contained in every Change of Registration form filed pursuant to this section."

Section 15. Section 509 of title 9 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 509. Registered voter who is unlisted.

(1) Any eligible voter who has registered to vote pursuant to the provisions of this title, whose name does not appear in the General State Register or precinct voting list, shall be permitted to vote if an election official duly authorized by the National Election Director determines that such registered voter has voted in either of the two immediately preceding national general elections.

(2) The National Election Director shall, by regulation, provide a method by which a voter may vote in the event that an election official duly authorized by the National Election Director cannot determine that such registered voter has voted in either of the two immediately preceding national general elections."

Section 16. Section 604 of title 9 of the Code of the Federated States of Micronesia, as amended by Public Law No. 11-
62, is hereby further amended to read as follows:

"Section 604. Withdrawal of candidates.

(1) Any candidate may withdraw before an election by giving notice in writing to the national election commissioner or to the National Election Director, whichever is more practical, in the election district or State in which such candidate was seeking nomination or election. If a candidate withdraws or dies after the printing of the ballots, the national election commissioner shall cause the name of the candidate so withdrawing, or the name of any candidate who has died, to be stricken from the ballots and in that regard, may require the services of the board of election of the district or precinct in which any person was a candidate and shall notify in writing such board of election of the withdrawal or death, whereupon notice thereof shall, before the opening of the polls on election day, be posted at the polling place.

(2) If a candidate withdraws his name later than 65 days before an election and the ballots are in the process of or have been printed, and it becomes necessary in the opinion of the National Election Director for a reprinting of ballots or a striking out of the candidate's name by a reprint blockout, all expenses thereof, except in case of a withdrawal
necessitated for medical cause and so certified by a physician, shall be a charge against the withdrawing candidate and shall be paid by him within 60 days after such withdrawal to the national election commissioner. Monies so received shall be deposited in the General Fund of the Federated States of Micronesia, as a local revenue general realization, available for appropriation by the Congress of the Federated States of Micronesia.

(3) Any person who, directly or indirectly, physically threatens or intimidates any candidate so as to cause or attempt to cause the candidate to withdraw from an election is guilty of a national offense and upon conviction shall be fined not more than $2,000, or imprisoned for not more than five years, or both."

Section 17. Section 707 of title 9 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-49, is hereby further amended to read as follows:

"Section 707. Special polling places.

(1) Not less than 60 days prior to an election, the National Election Director shall designate special polling places where registered voters not residing in their state of registration may cast their votes on election day. For purposes of this section, 'election day' means the actual date in the Federated States of Micronesia on which elections are conducted in the FSM,
without regard to the actual date at any polling place outside the FSM.

(2) A citizen registered to vote in a State of the Federated States of Micronesia, but not residing in that State, may cast his or her vote at a special polling place, provided such citizen has met the requirements of subsection (3) of this section.

(3) Any citizen intending to vote at a special polling place shall register his or her intent to do so by notifying the national election commissioner in his or her state of registration. Such notification shall be made in writing and must be received by the relevant national election commissioner not less than 30 days prior to the election. The form and substance of such notification shall be as specified by the National Election Director in election regulations issued pursuant to title 17 of the Code of the Federated States of Micronesia."

Section 18. Section 803 of title 9 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 803. Opening and closing of polls.

(1) Except as otherwise provided in this section, at exactly seven a.m. of the day of the election, a member of the board of election shall proclaim aloud at each
place of election that the polls are open and shall be kept open until five p.m. of the same day, or eight p.m. for any polling place outside the FSM, after which time the polls shall be closed.

(2) If, at the hour of closing, there are any other voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote.

(3) If an election for State office is held on the same day as the national election and the time for closing the state election polls is later than five p.m., the closing time for the State election shall prevail."

Section 19. Section 805 of title 9 of the Code of the Federated States of Micronesia, as amended by Public Law No. 11-62, is hereby further amended to read as follows:

"Section 805. Campaigning and alcoholic beverages at polling places.
No campaigning shall be conducted within 100 feet of a ballot box on election day and no alcoholic beverages shall be sold, consumed in public or otherwise provided to any person during election day while the polls are open. No candidate or voter shall be allowed within 100 feet of any ballot box except for the purpose of casting
his ballot. There shall be no campaigning over any
State broadcast station on election day."

Section 20. Section 809 of title 9 of the Code of the
Federated States of Micronesia is hereby amended to read as
follows:

"Section 809. Counting of ballots, announcement of
unofficial results.

(1) The National Election Director, upon the
recommendation of the national election commissioner of
the relevant State, shall establish counting and
tabulation committees in each State, PROVIDED, however,
that the counting and tabulation of ballots for Election
District No. 4 in Chuuk shall take place in Weno, Chuuk,
and FURTHER PROVIDED that the counting and tabulation of
ballots function for the Southern Namoneas shall be
performed in a de-centralized manner. Each counting and
tabulation committee shall be composed of not less than
three members.

(2) Each counting and tabulation committee shall
publicly count and tally all votes cast and determine
the acceptability thereof, PROVIDED, however, that no
persons other than members of the counting and
tabulation committee, the candidate or his authorized
representative, and security personnel, if any, shall be
permitted within 100 feet of the counting and tabulation
(3) The counting and tabulation of ballots cast shall begin upon receipt of the ballot box, if such activity is centralized, or upon the close of the poll, if such activity is de-centralized, whichever is applicable.

(4) Public announcement of the unofficial results of the counting and tabulation of ballots by each counting and tabulation committee shall be made by the national election commissioner in the manner set forth in regulations issued pursuant to this title."

Section 21. Section 812 of title 9 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 812. [RESERVED]"

Section 22. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.
December 10, 2002

/s/ Leo A. Falcam
Leo A. Falcam
President
Federated States of Micronesia