

STANDING COMMITTEE REPORT NO. 15-112

RE: C.B. NO. 15-16/JGO

SUBJECT: TO PERMIT A REGISTERED VOTER TO CAST A BALLOT WHEN NAME DOES NOT APPEAR ON SIGNATURE LIST

MAY 22, 2008

The Honorable Isaac V. Figir  
Speaker, Fifteenth Congress  
Federated States of Micronesia  
Fourth Regular Session, 2008

Dear Mr. Speaker:

Your committee on Judiciary and Governmental Operations, to which was referred C.B. No. 15-16, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 9 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY AMENDING SECTION 704 OF CHAPTER 7 TO PERMIT A REGISTERED VOTER TO CAST A BALLOT WHERE THERE IS A MISTAKE IN PLACING THE NAME OF THE VOTER ON THE SIGNATURE LIST OF A POLLING PLACE IN A STATE, CONGRESSIONAL ELECTION DISTRICT OR MUNICIPALITY IN WHICH HE OR SHE DOES NOT RESIDE.",

begs leave to report as follows:

The intent and purpose of the bill are expressed in its title.

C.B. No. 15-16 proposes to amend section 704 of title 9 of the FSM Code to allow a voter to cast a ballot in an election when her or his name does not appear on the signature list of the polling place representing the area where she or he resides and does not appear on the signature list of any other polling place.

The subject bill originated as an attempt to harmonize subsection 704(3) with subsection 403(5) of title 9. Subsection 403(5) sets out that no person shall vote at a polling place that does not represent her or his place of residence, except that a voter whose name mistakenly appears on the signature list of another polling place shall be permitted to vote, if otherwise qualified.

Subsection 704(3) currently sets out that a voter shall not be permitted to vote at any polling place unless her or his name appears on the signature list for that polling place or unless the voter presents a valid voter identification card for that polling place. Accordingly, the two subsections are contradictory. The subject bill is an attempt to remedy this conflict.

C.B. No. 15-16 proposes to amend subsection 704(3) to permit a voter

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to vote where there has been a mistake in placing the individual's name on the signature list of a polling place that does not represent that person's place of residence. The subject bill further proposes to permit voting by registered voters whose names, by mistake, do not appear on any signature list. For example, if a voter's name is listed on the national voter registry, but does not appear on any signature list, a mistake exists.

### **Public Hearings**

Your committee held hearings in each of our four states in March 2008 to gather views and suggestions regarding the subject bill. Comments on the bill were brief and focused on the effectiveness of the proposed amendments and the potential for abuse of discretion the bill may allow for. For example, the Kosrae State AG asked who would be empowered to determine that a "mistake" has been made in omitting a voter's name from signature lists. She suggested that the bill gives excessive discretion to election workers who will make decisions regarding voter eligibility at the polls.

Your committee also presented the subject bill for comment to the National Election Director and his staff at a public hearing in Palikir on May 15, 2008. Comments also pointed out the bill's lack of specificity in setting out circumstances in which unlisted, or wrongly listed, voters may be permitted to vote.

### **Recommendations of your Committee**

Your committee has given careful consideration to the proposed amendments in C.B. No. 15-16 and agrees that the subject bill, as drafted, may pose problems. Title 9 requires that a voter be registered and on the National Voter Registry. Accordingly, the omission of a registered voter's name from the appropriate signature list or the appearance of a registered name on another signature list would logically constitute a "mistake". However, how are poll workers to make on-the-spot decisions regarding the registration of an individual or determine that the individual has not already voted at another polling place?

The current title 9 is new and was put in place during the Fourteenth Congress of the FSM. One reason for the revision of our election law was to attempt to eliminate opportunities for excessive, and abuses of, discretion and to lay a solid foundation for free and fair national elections in the FSM. Your committee is concerned that C.B. No. 15-16, in its current form, has the potential to revert national

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elections in the FSM back to the very problems the new law was intended to correct.

As a result, your committee recommends amending the subject bill so that specific criteria are set out under which registered voters whose names do not appear on the appropriate signature list will be permitted to vote. These criteria will guide poll workers in determining the eligibility of voters whose names do not appear on the correct signature list or whose names do not appear on any signature list.

The proposed criteria are:

1. As the law currently states, when the voter presents a valid voter identification card that indicates the voter has not yet voted in that election. Your committee notes that voter identification cards have not yet been completed and distributed; however, this should be accomplished in time for the upcoming March 2009 election.
2. When the voter's name appears on the National Voter Registry but not on the signature list of the polling place serving the voter's place of residence and the individual has voted at that polling place in at least one prior national election and the voter's name does not appear on the signature list of any other polling place.
3. When the voter's name appears on the National Voter Registry but appears on the signature list of a polling place serving a place where the voter does not reside and the voter has not applied to vote by absentee ballot.

These recommended amendments are reflected in the attached C.D.1 version of the bill.

**Conclusion**

With the foregoing changes, your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.B. No. 15-16 and recommends its passage on First Reading, and that it be placed on the calendar for Second and Final reading in the form attached hereto as C.B. No. 15-16 C.D.1.

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Respectfully submitted,

/s/ Peter Sitan  
Peter Sitan, chairman

Fredrico O. Primo, vice chairman

/s/ Tiwiter Aritos  
Tiwiter Aritos, member

/s/ Isaac V. Figir  
Isaac V. Figir, member

/s/ Dohsis Halbert  
Dohsis Halbert, member

/s/ Moses A. Nelson  
Moses A. Nelson, member

/s/ Paliknoa K. Welly  
Paliknoa K. Welly, member