

STANDING COMMITTEE REPORT NO. 16-74

SUBJECT: C.B. NO. 16-62/ABSENTEE BALLOTS

MARCH 24, 2010

The Honorable Isaac V. Figir
Speaker, Sixteenth Congress
Federated States of Micronesia
Third Special Session, 2010

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to which was referred C.B. No. 16-62, entitled:

"A BILL FOR AN ACT TO AMEND THE REVISED NATIONAL ELECTION ACT OF 2005 BY AMENDING SECTION 602 OF TITLE 9 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA TO INCREASE THE PERIOD FOR REQUESTING AN ABSENTEE BALLOT BY MAIL FROM 120 DAYS TO 150 DAYS PRIOR TO ELECTION DAY AND TO PROVIDE FOR A DEFINITE TURN AROUND PERIOD FOR THE MAILING BACK OF AN ABSENTEE BALLOT, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

Your Committee held public hearings on December 14 and 15, 2009 in Chuuk State; December 16, 2009 in Yap State; January 14 and 15, 2010 in Kosrae State; and January 18 and 19, 2010 in Kolonia, Pohnpei State, and January 30, 2010 in Palikir, Pohnpei State.

Intent and Purpose

The intent and purpose of C.B. No. 16-62 is to amend 9 F.S.M.C. §602 regarding voting absentee ballot by mail. The bill makes two substantive changes to the absentee ballot provisions with the intent to increase voter participation in national elections.

Under the current law, a registered voter may submit a request to vote absentee ballot by mail not more than 120 days before Election Day in a general election. C.B. No. 16-62 increases that time to 150 days before Election Day, thereby giving registered voters an extra 30 days in which to request an absentee ballot.

Also under the current law, the absentee ballot must be mailed out to the requestor at least 30 days before Election Day. C.B. No. 16-62 removes that requirement, and instead requires that, upon receipt of the request to vote absentee ballot by mail, the time and date of the request and name of requestor be recorded, and an absentee ballot be mailed to the requestor no later than two days from receipt of the request, provided that ballots are printed and available.

Testimony Summary

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1. *Chuuk*

Public hearings in Chuuk State were held at the Chuuk State Legislature Building and the Governor's Offices. Present at the hearings were Members of the Chuuk Legislature, the Governor, representatives from the executive departments, representatives of the private sector and members of the public. All testimony was in support of increasing ability and opportunity for registered voters to participate in the election process.

Mr. Jack Fritz, the Legal Counsel for Chuuk Legislature, suggested increasing the timeframe absentee ballots are mailed to embassies and consulates. When a registered voter mails in a request to vote absentee ballot by mail, the requestor may choose to have the absentee ballot mailed to them, or the requestor may choose to pick up the ballot at an embassy or consulate. Under the current law, the National Election Director must provide the requested absentee ballots to embassies and consulates 10 days before a national general election; Mr. Fritz suggested that increasing that time to more than 10 days may also help voter participation.

Governor Wesley Simina also offered testimony in support of opening up the absentee ballot process to make it as easy and efficient as possible, but pointed out that ballots most likely would not be printed at the time most requests are made; the two day turn-around provision loses some of its effectiveness if the ballots are not printed.

2. *Yap*

Public hearings in Yap State were held at the Yap State Legislature Building and the Yap Delegation Office. Present at the hearings were Members of the Yap State Legislature, the Governor, representatives from the executive departments, representatives of the private sector and members of the public. All testimony in Yap State was in support of increasing the opportunity for registered voters to participate in the election process and amending the absentee ballot provisions if that will be the result.

Governor Sebastian Anefal proposed increasing the time limit on ballot printing, and questioned whether it would be possible for the ballot requests to be made on-line to increase efficiency, while still providing that the actual absentee ballot would be sent in the mail.

3. *Kosrae State*

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Public hearings in Kosrae State were held with Members of the Kosrae State Legislature, the Governor, representatives from the executive departments, and members of the public. Participants present at the hearings had no objections to the bill as proposed.

4. Pohnpei State

Public hearings in Pohnpei State were held in Kolonia and in Palikir; present at the hearings in Kolonia were Members of the Pohnpei State Legislature, the Governor and cabinet members, representatives from the executive branch and members of the public. Present at the hearing in Palikir were representatives from the National Departments of Justice and Finance, Pelsesar Petrus from the Office of the President, and Director of the National Election Commission Office (NECO) Kimeuo Kimiuo.

Director Kimiuo testified to the purpose of the proposed legislation. The intent is to allow voters outside the FSM ample time to request, receive, and return their absentee voter ballots. The cut-off date for candidates to file to run in a general national election is 120 days; ballots will not be printed and available 150 day before the election, but the voters would at least be able to submit their requests early. When asked if the filing deadline for candidates should be changed to 150 days as well, Director Kimiuo indicated he would support such a change.

Director Kimiuo presented the statistics from the last general election:

	Absentee Ballots Requested	Ballots Returned By Election Day Deadline
Chuuk State	1178	295
Kosrae State	157	57
Pohnpei State	60	13
Yap State	20	6

Director Kimiuo then explained the process for requesting an absentee ballot by mail. When the request is received, the requestor's name is matched and verified within the voter registration system and then the ballot is mailed to the requestor at least 30 days before Election Day; verification can be a long process. However, Director Kimiuo indicated that thousands could be processed and mailed out in one day if need be.

In response to questions from Committee members, Director Kimiuo

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described the current process for printing ballots. There are approximately 89,000 registered voters, including those living both within and outside the FSM; approximately 100,000 ballots are routinely printed for all national elections. The law currently mandates that the ballots be printed no later than 50 days before a general election.

When asked if the two-day turnaround timeframe is feasible, Director Kimiuo stated it could be difficult if many requests arrived in a short time period, and that five working days would perhaps be more practicable for NECO.

Director Kimiuo also indicated that he believes two other bills have been submitted to Congress regarding amending the Election Law, and that NECO may be proposing additional amendments in the near future. When asked if the Committee should hold off on C.B. No. 16-62 in order to hear all proposed legislation that regards national election at one time, Director Kimiuo indicated that he would prefer this bill to go forward alone rather than waiting, in order to ensure that absentee voters can request their ballots as early as possible in the next general national election scheduled in 2011.

Finally, Committee members inquired as to the progress on the National Voter ID Cards and when they will be mandatory for voters. Director Kimiuo said the ID Cards are not yet mandatory and will not be in the 2011 elections. Director Kimiuo is not sure why more voters in Pohnpei and Weno are not going into their election offices to obtain the ID Cards, and reported that there is not currently the funding necessary to go out to more remote locations and take the necessary photos for the ID Cards.

Committee Discussion

Committee discussion was in favor and support of encouraging voter participation in National Elections; if this bill will increase return and receipt of absentee ballots, the Committee is in support of the legislation. The Committee has concerns with the effectiveness of the legislation due to other timing issues.

The current law requires ballots to be printed in a national election no later than 50 days before a general election, with a sample ballot printed at least 55 days before a general election. In order to increase effectiveness of C.B. No. 16-62, your Committee proposes to increase the timeframe for ballot printing to 60 days before a general election, with a sample ballot printed at least 65 days before a general election.

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Your Committee also urges NECO to improve progress on the National Voter ID Cards, especially in Special Polling Places and locations where there is an office that registered voters can easily get to for the necessary pictures to be taken.

Finally, your Committee has concerns with the amount of proposed legislation to amend the Revised National Election Act of 2005, which became law on August 14, 2006. This Act is highly regarded internationally, and your Committee is disappointed that so many revisions are being proposed and apparently needed in such a short amount of time. However, your Committee supports revisions if shown necessary to strengthen the Act.

Committee Amendment

Your Committee recommends amendments to the bill to read as follows:

1. Title, line 1, delete "section" and insert "sections 503 and" in lieu thereof.
2. Title, line 2, after "Micronesia" insert ", as amended, to require that the printing of ballots be completed no later than 70 days before a general election,".
3. Title, line 4, delete "and" and insert "," in lieu thereof.
4. Title, line 5, delete "ballot" and insert "ballots" in lieu thereof.
5. Page 1, line 1, after "Section 1." insert
"Section 503 of title 9 of the Code of the Federated States of Micronesia, as amended by Public Law No. 14-76, is hereby further amended to read as follows:
Section 503. Printing and distribution of ballots.
(1) The ballots shall be printed by order of the National Election Director at the expense of the Federated States of Micronesia. The National Election Director shall complete the printing of the official ballots no later than [~~50~~] 60 days before a general election, or no later than 35 days before a special election. Ballots shall be consecutively numbered. Under the direction of the National Election Director, the national election commissioners shall deliver adequate numbers of ballots to each polling place.
(2) At least [~~55~~] 65 days before a general election, and at least 40 days before a special election, the National Election Director shall print a sample ballot and shall forthwith submit copies of the same to the national election commissioners for distribution to the members of the several election boards and to the several candidates at their

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addresses as given on their nomination papers, and the national election commissioners and the election board member shall post a copy of the same in a conspicuous place in their office or a public place.

Section 2."

6. Page 1, line 2 after "Micronesia" insert ", as amended by Public Law No. 14-76,".
7. Page 1, line 2, after "hereby" insert "further".
8. Page 7, line 3, delete "12" and insert "3" in lieu thereof.

Committee Recommendation

Your Committee on Judiciary & Governmental Operations is in accord with the intent and purpose of C.B. No. 16-68, as amended hereby, 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. 16-62, C.D.1.

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Respectfully submitted,

/s/ Peter Sitan
Peter Sitan, chairman

/s/ Fredrico O. Primo
Fredrico O. Primo, member

/s/ Dohsis Halbert
Dohsis Halbert, member

/s/ Roger S. Mori
Roger S. Mori, member

Setiro Paul, member

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

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