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A BILL FOR AN ACT

To further amend Public Law No. 2-73, as amended by Public Law No. 3-36, by amending sections 108, 203, 302, 501, 504, 603 through 606, 703, 704, 807, 901 through 904, and 1101 relating to National elections, and for other purposes.

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

1       Section 1. Section 108 of Public Law No. 2-73 is hereby amended  
2 to read as follows:

3               "Section 108. Affidavit to be sworn. The affidavits  
4 required pursuant to this act shall be sworn to before any  
5 officer or person authorized by law to administer oaths  
6 except for the affidavit accompanying absentee ballots  
7 which does not need to be witnessed."

8       Section 2. Section 203 of Public Law No. 2-73 is hereby amended  
9 to read as follows:

10               "Section 203. Nomination by petition. Nomination of  
11 candidates shall be made by petition initiated by a  
12 candidate; PROVIDED that said nomination petition shall  
13 specify whether the candidate is seeking a four-year or a  
14 two-year term of membership of the Congress. The name of  
15 any candidate for election shall be printed on an official  
16 ballot to be used for choosing candidates only if, at least  
17 ~~30~~ 45 days prior to such election, a nomination paper shall  
18 have been filed in the office of the National election  
19 commissioner of the State concerned and signed by at least  
20 25 qualified voters of the State or single-member  
21 congressional district wherein he seeks election, as the  
22 case may be. There shall be deposited with the nomination  
23 paper a filing fee of \$25, which shall be paid over to the  
24 General Fund of the Federated States of Micronesia as a  
25 local revenue available for appropriation by the Congress.



1 Any person who is elected as a write-in candidate, shall  
2 after certification of the election results, pay a \$25  
3 fee. The National election commissioner of the State  
4 concerned shall, upon receipt of the nomination paper,  
5 endorse thereon the day, hour, and minute that such  
6 nomination paper is received."

7 Section 3. Section 302 of Public Law No. 2-73 is hereby amended  
8 to read as follows:

9 "Section 302. Powers and duties of National election  
10 commissioner. A National election commissioner shall have  
11 responsibility for the overall supervision and administra-  
12 tion of the election within his State and shall perform  
13 such duties as are prescribed by law, which include, but  
14 are not limited to the following:

15 (1) To appoint all members of the several boards of  
16 election in his State as provided for in this act;

17 (2) To require such reports from the several boards  
18 as may be required by law or regulation or as he may deem  
19 necessary;

20 (3) To review and examine voting irregularities or  
21 violations of any election laws in accordance with the  
22 provisions of chapter 6 of this act;

23 (4) To establish voting precincts within each  
24 election district and designate appropriate polling places  
25 within each voting precinct, upon recommendations of the



1 members of the board of election of the particular election  
2 district;

3 (5) To receive nomination petitions ~~and list all~~  
4 ~~candidates for election in alphabetical order on the~~  
5 ~~ballots for each election district;~~

6 (6) To list all candidates for election on the ballot  
7 for each election district in the order determined by lots  
8 drawn by the candidate or the candidate's representative;

9 (87) To register or cause to be registered all the  
10 voters in his State and to maintain the General State  
11 Register as provided in this act;

12 (78) To prepare from the General State Register a  
13 registered voters list for each voting precinct prior to  
14 any election;

15 (89) To implement rules, regulations, and instructions  
16 for absentee ballots for the conduct of the election; and

17 (910) To determine and prescribe forms of ballots and  
18 the forms of all blanks, cards of instructions, pollbooks,  
19 tally sheets, and all forms and blanks required by the  
20 provisions of this act for use by candidates, boards,  
21 committees, and voters, and supply the same to the boards  
22 of election."

23 Section 4. Section 501 of Public Law No. 2-73 is hereby amended  
24 to read as follows:

25 "Section 501. New registration of voters for election of



1 Members of the Congress of the Federated States of  
2 Micronesia shall not be required; PROVIDED that the  
3 following are complied with:

4 (1) That the General State Registers maintained  
5 heretofore by the election commissioners of Kosrae, ~~Pohnpei~~  
6 Pohnpei, Truk, and Yap shall be used to determine  
7 registered voters for the purpose of election of  
8 Members-at-large therefrom; PROVIDED that those voters from  
9 Kosrae and Yap, whose names appear on their respective  
10 registers, shall be entitled to also elect a member of the  
11 Congress for a two-year term;

12 (2) That for the purpose of election of Members for  
13 two-year terms from ~~Pohnpei~~ Pohnpei and Truk, only those  
14 registered voters of a municipality which has been  
15 apportioned as part of a single-member congressional  
16 district shall be entitled to elect one Member therefrom;

17 (3) That new voter registration will be required  
18 every 10 years commencing ~~in~~ with registration for the  
19 1989 election;

20 (4) That unregistered persons eligible to vote,  
21 including those attaining legal voting age between  
22 decennial registrations shall be able to register between  
23 decennial registrations but shall not have to register  
24 again until the following decennial registration; and

25 (5) Registration conducted under subsections (3) and



1 (4) of this section shall conform to sections 502 through  
2 508 of this act."

3 Section 5. Section 504 of Public Law No. 2-73 is hereby amended  
4 to read as follows:

5 "Section 504. Application for registration, affidavit.

6 Any person qualified to and desiring to register as a voter  
7 in any election district may present himself at any time  
8 during business hours to any of the members of the board of  
9 election (herein empowered and authorized to administer  
10 oaths and take acknowledgements) or persons authorized by  
11 law to administer oaths, then and there to be examined  
12 under oath as to his qualifications as an elector. Each  
13 applicant shall make and subscribe to an application in  
14 substantially the following form:

15 AFFIDAVIT ON APPLICATION FOR REGISTRATION

16 Federated States of Micronesia

17 1. My full name is \_\_\_\_\_.

18 2. I was born at \_\_\_\_\_.

19 3. My age is \_\_\_\_\_.

20 4. I live at \_\_\_\_\_.

21 ~~5. My occupation is~~ ////////////////////////////////////

22 ~~6.~~ 5. I am a citizen of the Federated States of  
23 Micronesia.

24 ~~7.~~ 6. I was naturalized as a citizen of the Federated  
25 States of Micronesia at \_\_\_\_\_ State on the

J460

C. B. No. 5-87

1 \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_.

2 87. I have resided in the Federated States of  
3 Micronesia not less than nine months, and in Congressional  
4 Election District No. \_\_\_\_\_ not less than three months  
5 immediately preceding this date on which I now offer to  
6 register, to wit, the \_\_\_\_\_ date of \_\_\_\_\_, 19\_\_\_\_.

7 98. I am not currently under parole, probation, or  
8 sentence for any felony for which I have been convicted by  
9 any court of the Federated States of Micronesia or any  
10 court within the jurisdiction of the United States.

11 109. I am not currently under a judgment of mental  
12 incompetence or insanity.

13 110. I solemnly swear that the foregoing statements  
14 are true, so help me God.....

15 Subscribed and sworn to before me this \_\_\_\_\_ day  
16 of \_\_\_\_\_ 19\_\_\_\_.

17 This applicant shall strike out allegations that are  
18 inapplicable and shall sign or make a mark on and swear to  
19 the truth of the allegations in his application. In any  
20 case where the person who administers the oath shall so  
21 desire or believe the same to be expedient, he may demand  
22 that the applicant produce a witness or witnesses to  
23 further substantiate the allegations of his application."

24 Section 6. Section 603 of Public Law No. 2-73 is hereby amended  
25 to read as follows:

J+60

C. B. No. 5-87

1 "Section 603. Printing and distributing.

2 (1) The ballots should be printed by order of the  
3 National election commissioner at Government expense. The  
4 National election commissioner shall deliver an adequate  
5 amount of ballots to each election precinct.

6 (2) At least ~~10~~ 35 days before the election the  
7 National election commissioner shall print a ~~specimen~~  
8 sample ballot and shall forthwith submit copies of the same  
9 to the members of the several boards of election and to the  
10 several candidates at their addresses as given on their  
11 nomination papers, and the members of the boards shall post  
12 a copy of the same in a conspicuous place in their office  
13 or a public place."

14 Section 7. Section 604 of Public Law No. 2-73 is hereby amended  
15 to read as follows:

16 "Section 604. Withdrawal of candidates.

17 (1) Any candidate may withdraw before an election by  
18 giving notice in writing to the member or members of the  
19 board of election or to the National election commissioner,  
20 whichever is more practical, in the election district or  
21 State in which such candidate was seeking nomination or  
22 election. If a candidate withdraws or dies after the  
23 printing of the ballots, the National election commissioner  
24 shall cause the name of the candidate so withdrawing, or  
25 the name of any candidate who has died, to be stricken from

1 the ballots and in that regard, may require the services of  
2 the board of election of the district or precinct in which  
3 any person was a candidate and shall notify in writing such  
4 board of election of the withdrawal or death, whereupon  
5 notice thereof shall, before the opening of the polls on  
6 election day, be posted at the polling place.

7 (2) If a candidate withdraws his name later than 12  
8 30 days before an election and the ballots are in the  
9 process of or have been printed, and it becomes necessary  
10 in the opinion of the National election commissioner or the  
11 board of election for a reprinting of ballots or a striking  
12 out of the candidate's name by a reprint blackout, all  
13 expenses thereof, except in case of a withdrawal  
14 necessitated for medical cause and so certified by a  
15 physician, shall be a charge against the withdrawing  
16 candidate and shall be paid by him within 60 days after  
17 such withdrawal to the National election commissioner.  
18 Monies so received shall be deposited in the General Fund  
19 of the Federated States of Micronesia, as a local revenue  
20 general realization, available for appropriation by the  
21 Congress of the Federated States of Micronesia.

22 (3) Any person who shall, directly or indirectly,  
23 physically threaten or intimidate any candidate so as to  
24 cause or attempt to cause the candidate to withdraw from an  
25 election shall be guilty of a National offense and upon



1 conviction be fined not more than \$2,000, or imprisoned for  
2 not more than five years, or both."

3 Section 8. Section 605 of Public Law No. 2-73 is hereby amended  
4 to read as follows:

5 "Section 605. Substitute candidates. In the case of the  
6 death, withdrawal, or disqualification of candidates after  
7 the deadline for filing nominations, substitute candidates  
8 may be nominated prior to ~~23~~ 31 days before the date of an  
9 election. A person nominated as a substitute for a  
10 candidate nominated by petition must be nominated by  
11 petition in the same manner as the candidate who has died,  
12 withdrawn, or been disqualified. The National election  
13 commissioner of the State concerned in the case of a  
14 substitute candidate filling a vacancy caused by death,  
15 withdrawal, or disqualification of a candidate shall cause  
16 the name of any substitute candidate to be placed upon the  
17 proper ballots by reprinting, over-printing, or through the  
18 use of stamps or such other means as the National election  
19 commissioner may deem satisfactory for the purpose and may  
20 require the services of members of the board of election  
21 who may be in the election district or precinct in which  
22 such a person is a candidate. The board of election shall  
23 post a notice at the polling place of the name and office  
24 sought by any such substitute candidate."

25 Section 9. Section 606 of Public Law No. 2-73 is hereby amended

1 to read as follows:

2 "Section 606. Packaging, sealing, record of distribution.

3 When printed, the ballots shall be fastened together in  
4 blocks of ~~100~~ 25 each in such manner that each ballot may  
5 be detached and removed separately. They shall be  
6 forwarded by the National election commissioner of each  
7 State to the member or members of the board of election in  
8 sealed packages, which shall not be opened until the  
9 opening of the polls. A record of the number of ballots  
10 sent to each board of election member shall be kept by the  
11 National election commissioner."

12 Section 10. Section 703 of Public Law No. 2-73 is hereby  
13 amended to read as follows:

14 "Section 703. Request for ballot.

15 (1) Any registered voter qualified to vote in any  
16 election may request and cast an absentee ballot with the  
17 National election commissioner; PROVIDED that he meets the  
18 requirements as set forth in section 701 of this act.

19 (2) Any registered voter qualified to vote by  
20 absentee ballot may, not more than ~~90~~ 120 days, but before  
21 the close of the polling place on the day of ~~not less than~~  
22 ~~20 days before~~ the election, request the National  
23 election commissioner in writing for an absentee ballot to  
24 be voted at the election. The request shall include  
25 information stating the voter's voting precinct, election



460

1 district, reasons for being absent, address to which he  
2 wishes his ballot forwarded and the establishment of his  
3 right to a ballot."

4 Section 11. Section 704 of Public Law No. 2-73 is hereby  
5 amended to read as follows:

6 "Section 704. Marking and return of ballot, voting at  
7 polls.

8 (1) The National election commissioner of each State  
9 or the board of election, as the case may be, shall, at  
10 least ~~20~~ 30 days prior to an election, provide to any  
11 person who may be entitled to vote by absentee ballot, and  
12 who requests the same, an official ballot, a ballot  
13 envelope, an affidavit prescribed by the National election  
14 commissioner, and a covering reply envelope. The absentee  
15 voter shall mark the ballot in the usual manner provided by  
16 law and in such manner that no person can see or know how  
17 the ballot is marked except as provided in section 702 of  
18 this act. The absentee voter shall then deposit the ballot  
19 in the envelope and securely seal the same. The absentee  
20 voter shall then complete and execute the affidavit. The  
21 ballot envelope and the affidavit shall then be enclosed  
22 and sealed in the covering reply envelope and shall be  
23 mailed or delivered to reach the National election  
24 commissioner of his State issuing the absentee ballot not  
25 later than the established closing hour of business on the

1 fourth day before of the election except as provided in  
2 section 702 of this act and subsection (2) of this section.

3 (2) It shall be unlawful for persons having voted an  
4 absentee ballot to cast a ballot at the polls on election  
5 day.

6 (2) If the National election commissioner or his  
7 designee determines that a personal emergency exists making  
8 it highly impractical for a voter to deliver the absentee  
9 ballot within the time prescribed in subsection (1) of this  
10 section, then the National election commissioner or his  
11 designee may permit delivery of the absentee ballot by the  
12 closing hour of business on the day before the election."

13 Section 12. Section 807 of Public Law No. 2-73 is hereby  
14 amended to read as follows:

15 "Section 807. Election irregularities. Any person may  
16 file an oral or written complaint of any election  
17 irregularity with a member of the board of election present  
18 at the polling place. The board member shall give any  
19 individual against whom the complaint is made time to  
20 present witnesses and an explanation, if any, but in no  
21 event shall time be granted so as to prevent the board of  
22 election from making a decision prior to the time for the  
23 closing of the polls. The complainant, or the individual  
24 against whom the complaint is made, may appeal the decision  
25 to the National election commissioner of the State.



J 400

1 concerned or his designated representative. The National  
2 election commissioner, or his said representative, shall,  
3 as soon as possible, examine the findings of the board of  
4 election and may hear witnesses, if he deems necessary.  
5 The National election commissioner, or his representative,  
6 shall make his decision prior to the time of the closing of  
7 the polls, and the aggrieved party may appeal the decision  
8 in accordance with section 903 of this act. In the event  
9 the decision of the National election commissioner, or his  
10 designated representative, cannot be obtained as heretofore  
11 provided, the aggrieved party may file a petition with the  
12 National election commissioner prior to certification of  
13 the results of the election or within 1 week of the  
14 election, whichever occurs first. A candidate may appeal a  
15 decision of the National election commissioner or appeal  
16 the decision of the election board in accordance with  
17 section 903 of this act."

18 Section 13. Section 901 of Public Law No. 2-73 is hereby  
19 amended to read as follows:

20 "Section 901. Petition for recount.

21 (1) A petition for recount may be filed by any  
22 candidate in an election who believes that there was fraud  
23 or error committed in the casting, canvassing, or return of  
24 the votes cast at said election. The petition shall be  
25 filed with the National election commissioner of the State

J+60

concerned of the board of election of the election district in which the recount is requested. Such petition shall contain a statement sworn to before a notary public or other person authorized to administer oaths that the petitioner has reason to believe and does believe that the records or copies of records made by the board of election of such district are erroneous, specifying wherein he deems such records or copies thereof to be in error, or that votes were cast by persons not entitled to vote therein, and that he believes that a recount of the ballots cast in the district will affect the election of one or more candidates voted for at such election. The petition may not be filed later than two weeks after the election at which the votes were cast unless such filing is prevented by circumstances beyond the control of the petitioner.

(2) A petition for a recount must be granted if the difference between the number of votes cast for the winning candidate and the next highest candidate is one-half of one percent or less of the total votes cast for all of the candidates."

Section 14. Section 902 of Public Law No. 2-73 is hereby repealed in its entirety and a new section 902 is hereby enacted to read as follows:

"Section 902. Filing timeframes. A petition for a recount must be filed within 1 week of certification of the results



JD 60

C. B. No.

5-87

1 of the election. Any other petition challenging the  
2 acceptability of a vote or votes must be filed prior to  
3 certification of the results of the election or within 1  
4 week of the election, whichever occurs first. The winning  
5 candidate shall have 1 week to respond to the petition.  
6 The National election commissioner shall then have 10 days  
7 to decide whether to approve the petition. If the National  
8 election commissioner decides not to approve the petition,  
9 he shall record the reasons for such decision."

10 Section 15. Section 903 of Public Law No. 2-73 is hereby  
11 amended to read as follows:

12 "Section 903. Denial of petition, appeal of denial to  
13 National Government.

14 (1) If the National election commissioner decides not  
15 to approve the petition and grant the reasons, he shall  
16 record the reasons for such decision. The aggrieved  
17 candidate may, within five days after receipt of the  
18 decision of the National election commissioner, appeal his  
19 case to the Appellate Division of the Supreme Court. The  
20 Supreme Court shall review the appeal promptly and render a  
21 decision. The Appellate Division of the Supreme Court  
22 shall review the appeal to determine if the decision by the  
23 election commissioner was:

24 (a) Arbitrary, capricious, an abuse of  
25 discretion, or otherwise not in accordance with law;

Jt 60

C. B. No.

5-87

1 (b) In excess of statutory jurisdiction,  
2 authority, or limitations, or a denial of legal rights;

3 (c) Without substantial compliance with the  
4 procedures required by law; or

5 (d) Unwarranted by the facts.

6 If the decision is in favor of a recount, the National  
7 election commissioner of the State concerned shall be so  
8 notified and shall proceed as provided in sections 904 and  
9 905 of this act.

10 (2) Appeals may be had in the manner prescribed in  
11 section 902 and subsection (1) of this section from any  
12 decision of the National election commissioner ~~concerning a~~  
13 ~~ruling of an election board~~ with respect to a challenge  
14 affecting the acceptability of a vote or votes. A petition  
15 hereunder for appeal shall contain the information  
16 specified in section 901 of this act for a petition for a  
17 recount. A decision of the Appellate Division of the  
18 Supreme Court in favor of the petitioner may have the  
19 effect of disallowing the challenged votes but shall not  
20 halt or delay balloting or counting and tabulating."

21 Section 16. Section 904 of Public Law No. 2-73 is hereby  
22 amended to read as follows:

23 "Section 904. Approval of petition, notice of recount.  
24 Regardless of whether a petition is first filed with a  
25 board of election or with the National election

J+60

C. B. No.

5-87

1 ~~commissioner~~ If the National election commissioner  
2 determines that there is a substantial question of fraud or  
3 error and that there is a substantial possibility that the  
4 outcome of the election would be affected by a recount, he  
5 shall cause notice of the recount to be given in a manner  
6 decided by him."

7 Section 17. Section 1101 of Public Law No. 2-73 is hereby  
8 amended to read as follows:

9 "Section 1101. Regulations. ~~Congress~~ The National  
10 election commissioners may, from time to time, issue  
11 regulations not inconsistent with law to implement this  
12 act."

13 Section 18. This act shall become law upon approval by the  
14 President of the Federated States of Micronesia or upon its becoming  
15 law without such approval.

16  
17 Date: 7/17/87

Introduced by:

Claude H. Phillip  
(by request)