

1 designated by it for the tabulation of ballots, in the presence of as many
2 voters as may there assemble to observe this act, proceed to make and
3 file its affidavit, in writing, as to the number of unused ballots which
4 remains in its control for disposal. Thirty (30) days after the
5 Commission has certified the election results, the Commission is
6 authorized to dispose of the unused ballots in a manner that is
7 convenient."

8 **Section 69.** Section 11133 of Title 3 Guam Code Annotated is
9 hereby *amended* to read as follows:

10 "Section 11133. **Certificate of Election.** Immediately after
11 declaring the results of any election, the Commission shall make, or
12 cause to be made, 'certificates of election' for every person elected to
13 office. The form of such certificates shall be prescribed in the Election
14 Manual. The Commission shall cause to be placed in the hands of the
15 elected person the *original* certificate which shall constitute evidence of
16 the person's right to office. The Election Commission shall preserve a
17 copy of such certificate for a period of ten (10) years."

18 **Section 70.** Section 12105(e) is hereby *added* to Title 3 of the Guam
19 Code Annotated to read as follows:

20 "(e) whether a demand for jury trial is requested."

21 **Section 71.** Section 12112 of Title 3 of the Guam Code Annotated
22 is hereby *amended* to read as follows:

23 "Section 12112. **Trial.** The Superior Court of Guam shall
24 meet at the time and place designated, to determine the contested

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) Regular Session

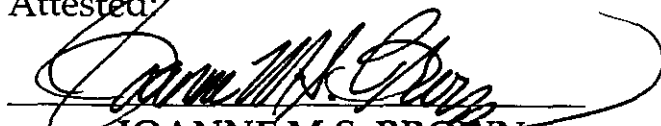
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 227 (COR) "AN ACT TO AMEND, REPEAL, REPEAL AND REENACT AND ADD SECTIONS TO TITLE 3, AND TO REPEAL AND REENACT §21110 OF CHAPTER 21 OF TITLE 1, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO REFORMING THE ELECTION LAWS OF GUAM AND RESCHEDULING THE POLITICAL STATUS PLEBISCITE," was on the 11th day of May 2000, duly and regularly passed.




ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guahan* this 15th day of May, 2000,
at 10:00 o'clock 9.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: _____

Public Law No. _____

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 227 (COR)

As substituted by the Author,
amended in the Committee of the
Whole and further amended on the Floor.

Introduced by:

S. A. Sanchez, II
Mark Forbes
E. B. Calvo
A. C. Lamorena, V
L. F. Kasperbauer
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
M. G. Camacho
C. A. Leon Guerrero
K. S. Moylan
V. C. Pangelinan
J. C. Salas
A. R. Unpingco

**AN ACT TO AMEND, REPEAL, REPEAL AND REENACT
AND ADD SECTIONS TO TITLE 3, AND TO REPEAL
AND REENACT §21110 OF CHAPTER 21 OF TITLE 1,
ALL OF THE GUAM CODE ANNOTATED, RELATIVE
TO REFORMING THE ELECTION LAWS OF GUAM
AND RESCHEDULING THE POLITICAL STATUS
PLEBISCITE.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Statement of Legislative Findings.

I Liheslaturan

Guåhan finds that in order to assure free, fair and open elections it is necessary that the Guam Election Code be revised to absolutely limit participation in the public elections of the Island to persons who are citizens of the United States, residents of Guam, of age, competent and *not* otherwise legally disenfranchised.

Section 2. Sections 1111 through 1118 of Title 3 of The Guam Code Annotated are *renumbered* 1112 through 1119; and §1111 is hereby *added* to Title 3 of the Guam Code Annotated to read as follows:

“**Section 1111. Runoff Election.** A ‘*runoff election*’ is an election held *subsequent* to a general election pursuant to the provisions of §§1422 and 1712 of Title 48 of the United States Code.”

Section 3. Section 2101 of Title 3 of the Guam Code Annotated is hereby *repealed* and *reenacted* to read as follows:

“Section 2101. Election Commission: Composition; Removal of Members; Chairman; Quorum. (a) There is within, as an

autonomous instrumentality and an independent commission of the government of Guam, the Election Commission. The Commission shall consist of seven (7) members, all of whom shall be eligible voters on the date of their appointment. *I Maga'lahañ Guåhan* shall appoint six (6) members from recommendations made by the recognized political parties of Guam. Each of the recognized political parties, *via* a duly passed resolution, shall

1 recommend an equal number of names to *I Maga'laken Guåhan* and
2 the six (6) members appointed by *I Maga'laken Guåhan* shall be
3 appointed so that the recognized political parties are equally
4 represented. *If* at any time there are more than three (3)
5 recognized political parties, the six (6) members appointed by *I*
6 *Maga'laken Guåhan* shall be appointed so that *no more than* two (2)
7 of such members shall be members of the same recognized
8 political party. One (1) member shall be selected and appointed
9 by the six (6) members appointed by *I Maga'laken Guåhan*. The
10 appointment of the seventh member of the Commission shall be
11 concurred in by at least four (4) members. The members shall
12 serve for a term of two (2) years. *If* a vacancy should occur on the
13 Commission, said vacancy shall be filled for the remainder of the
14 term only, and by the method originally prescribed for its
15 appointment. No member may be an elected official of the
16 government nor a candidate or nominee for an elected office
17 within the government.

18 (b) Every member of the Commission who is *not* in the
19 service of the government, for which that person receives an
20 annual compensation, shall be paid Fifty Dollars (\$50.00) for each
21 attendance of a meeting upon that person's duties. *Subject* to the
22 availability of funds and in compliance with any applicable
23 provision of law, any member may be reimbursed reasonable

1 expenses authorized by the Commission to be incurred in the
2 performance of that person's office.

3 (c) Any appointed member may be removed for
4 misconduct in office by a resolution duly adopted by a vote of
5 two-thirds (2/3s) of the members elected and serving in *I*
6 *Liheslaturan Guåhan*. At the written request *via* a duly passed
7 resolution of the state central committee of any political party that
8 has recommended the appointment of a member, *I Maga'lahren*
9 *Guåhan immediately* shall remove such member from the
10 Commission. The seventh member chosen by the six (6) politically
11 recommended members may be removed upon a vote by five (5)
12 of the politically appointed members. Any vacancy resulting from
13 the provisions of this Paragraph shall be filled as provided in
14 Paragraph (a).

15 (d) A majority of the members of the Commission shall
16 constitute a quorum and no action of the Commission shall be
17 authorized, *except* upon a vote of four (4) of the members.

18 (e) By majority vote the Commission shall elect annually a
19 Chairman from among its members. The term of the Chairman
20 shall expire on the last day of June."

21 **Section 4.** Section 2102 of Title 3 of the Guam Code Annotated is
22 hereby *amended* to read as follows:

23 "Section 2102. Executive Director, Appointment Of; *Ex Officio*
24 Secretary of the Commission; Salary Of.

1 and deliver an annual report to *I Maga'lāhen Guåhan*, the Speaker
2 of *I Liheslaturan Guåhan*, the Chair of the legislative committee
3 with jurisdiction over matters of elections, showing, with respect
4 to the preceding fiscal year:

5 (1) recommendations of the Commission as to
6 amendments or supplementation of laws affecting elections
7 or the office of the Commission; *and*

8 (2) statistical information regarding the elections
9 conducted during the fiscal year.

10 (d) The Commission shall promulgate rules pursuant to
11 Chapter 9 of Title 5 of the Guam Code Annotated necessary and
12 convenient to carry out the provisions of this Title."

13 **Section 6.** Section 2104 of Title 3 of the Guam Code Annotated is
14 hereby *amended* to read as follows:

15 "Section 2104. Election Manual. It shall be the duty and
16 responsibility of the Commission to prepare a public manual of
17 administrative procedures, rules, regulations and forms to be used in
18 the conduct of elections. *After* January 1, 2001, all manuals and
19 publications shall be prepared pursuant to the Administrative
20 Adjudication Law. The manual shall set forth the regulations to be
21 followed by all election officials, as well as the descriptions of the
22 necessary equipment and forms to be used in election procedures."

23 **Section 7.** Section 2106 of Title 3 of the Guam Code Annotated is
24 hereby *amended* to read as follows:

1 **"Section 2106. Powers of the Commission.**

2 (a) The Commission shall have the power to summon the
3 parties to a controversy pending before it, issue subpoenas duces
4 tecum, and otherwise to take testimony in any investigation or
5 hearing pending before it and delegate such power to any officer.
6 Any controversy submitted to the Commission shall be tried,
7 heard and decided within ten (10) days counted from the time the
8 corresponding petition giving rise to said controversy is filed. The
9 Commission shall have the power to certify to the Superior Court
10 of Guam for contempt. No witness fee shall be paid to a person
11 subpoenaed in that person's capacity as a government employee
12 or agent of the Commission.

13 (b) The Commission may sue and be sued in its name.

14 (c) The Commission may take such action as is necessary
15 or appropriate to the carrying out of its powers and duties as
16 specified in this Title, or as may be otherwise imposed upon the
17 Commission by law."

18 **Section 8.** Section 2107 of Title 3 of the Guam Code Annotated is
19 hereby *amended* to read as follows:

20 **"Section 2107. Placement on Ballot.** No person shall be placed
21 on the ballot for election to any public office *unless* the Commission has
22 determined that said person possesses the qualifications for the office
23 for which that person is a candidate."

1 A copy of the evidence of citizenship and residency
2 submitted by the applicant shall be attached to the
3 registration form or absentee ballot application. No person
4 shall be registered *except* upon that person's declaration
5 under penalty of perjury of the street name and number, and
6 municipality or lot number, and municipality where that
7 person resides on Guam, and that the person has been a
8 resident of Guam for *not less than* thirty (30) days
9 immediately preceding the date on which the next election
10 will be held.

11 The Commission's Executive Director shall determine
12 whether the evidence provided by an applicant establishes
13 the person's eligibility to be registered. The Commission's
14 Executive Director shall give written notice of any denial of
15 registration within five (5) working days upon the receipt of
16 the application. Any person whose affidavit or application
17 for an absentee ballot is rejected may appeal the decision to
18 the Commission and, *if* again rejected, to the Superior Court
19 of Guam. No person shall be required to disclose that
20 person's social security number as a condition of registration
21 or voting. The Commission shall prepare forms for the
22 collection of this data, and may require the submission of
23 such additional information as will enable it to comply with
24 this Section. The affidavit shall then be made in triplicate,

1 and shall set forth all the facts required to be shown by this
2 Title and the election manual.”

3 (b) Written evidence of U.S. citizenship for purposes
4 of this Section shall include:

5 (1) U.S. Passport;

6 (2) Certificate of U. S. Citizenship;

7 (3) Certificate of Naturalization;

8 (4) a combination of one (1) document from
9 list (i) and one (1) document from list (ii) as follows:

10 (i) (A) certification of birth abroad
11 issued by the Department of State;

12 (B) original or certified copy of a
13 birth certificate issued by a state, county,
14 municipal authority, commonwealth,
15 district or outlying possession of the
16 United States bearing an official seal;

17 (C) Native American Tribal
18 document;

19 (D) U.S. Citizen ID Card; *and*

20 (E) government of Guam Cedula;

21 (ii) (A) driver’s license or ID card
22 issued by a state or outlying possession of
23 the United States; *provided*, it contains a
24 photograph or information such as name,

1 date of birth, sex, height, eye color and
2 address;

3 (B) ID card issued by Federal, state
4 or local government agencies or entities;
5 *provided*, it contains a photograph or
6 information, such as name, date of birth,
7 sex, height, eye color and address;

8 (C) school ID card with a
9 photograph;

10 (D) voter's registration card;

11 (E) U.S. Military card or draft
12 record;

13 (F) military dependent's ID card;
14 *and*

15 (G) U.S. Coast Guard Merchant
16 Mariner Card.

17 **Section 10.** Section 3104 of Title 3 of the Guam Code Annotated is
18 hereby *amended* to read as follows:

19 **"Section 3104. Times for Registration.** Ten (10) days *prior*
20 *to* any general, primary or special election, the registration rolls shall be
21 closed for that election and no further affidavits of registration shall be
22 accepted by the Commission."

23 **Section 11.** Section 3105 of Title 3 of the Guam Code Annotated is
24 hereby *amended* to read as follows:

1 **"Section 3105. Place of Registration.** The registration of
2 electors shall be in progress at the main office of the Commission during
3 such hours as the office is open for business at all times *prior to* the
4 closing of the registration rolls. Electors may also be registered at such
5 times and places within Guam as the Commission shall deem advisable
6 and convenient from the time registration is open until twenty-one (21)
7 days *prior to* an election."

8 **Section 12.** Section 3107 of Title 3 of the Guam Code Annotated is
9 hereby *amended* to read as follows:

10 **"Section 3107. Application Constitutes Registration.** The
11 application for an absentee ballot shall constitute a sufficient
12 registration of the voter in the municipality, municipal division or
13 district in which the voter resides; *provided*, that the application is
14 received by the Commission *prior to* the closing of the registration rolls,
15 and provided that the provisions of §3102 of this Title pertaining to
16 citizenship, age and residency on Guam are complied with to the same
17 degree as by a person registering under §3102. Such application
18 constituting registration shall be preserved and used by the
19 Commission in the same manner as it preserves and uses affidavits of
20 registration."

21 **Section 13.** Section 3109 of Title 3 of the Guam Code Annotated is
22 hereby *amended* to read as follows:

1 **"Section 3109. Appointment of Registration Clerks.** The
2 Commission shall appoint at least one (1) registration clerk for each
3 district."

4 **Section 14.** Section 3110 of Title 3 of the Guam Code Annotated is
5 hereby *amended* to read as follows:

6 **"Section 3110. Qualifications of Registration Clerks.** The
7 Commission may appoint any qualified elector as a district or volunteer
8 registration clerk. The Commission shall establish by regulation the
9 *minimum* qualifications for appointment as a registration clerk. The
10 Commission, pursuant to the Administrative Adjudication Law, shall
11 set forth a training program for registration clerks which shall include
12 passage of a standardized examination of the applicant's knowledge of
13 the election laws necessary to perform the registration clerk's duties.
14 No person holding an elective office or who is a candidate, or nominee
15 for elective office, shall be appointed or serve as a registration clerk."

16 **Section 15.** Section 3111 of Title 3 of the Guam Code Annotated is
17 hereby *amended* to read as follows:

18 **"Section 3111. Compensation of Registration Clerks.** Any
19 person who is appointed a district registration clerk shall receive
20 compensation at a rate set by the Commission *not more than* one and
21 one-half (1 ½) times the prevailing minimum wage rate. Any employee
22 of the government of Guam who is appointed to be a district
23 registration clerk, and who performs such duties as a part of that
24 person's government employment shall *not* be entitled to receive the

1 compensation authorized by this Section. Volunteer registration clerks
2 shall *not* be paid by the Commission."

3 **Section 16.** Section 3115 of Title 3 of the Guam Code Annotated is
4 hereby *repealed and reenacted* to read as follows:

5 **"Section 3115. Penalty for Acts or Omissions.**

6 (1) Any person authorized by the Commission, having
7 charge of affidavits of registration, or absentee ballot applications
8 submitted in lieu of affidavits of registration, who:

9 (a) neglects or refuses to perform any duty required
10 by law in connection with the registration of voters;

11 (b) neglects or refuses to perform such duty in the
12 manner required by voter registration law;

13 (c) enters, or causes or permits to be entered, on the
14 voter registration records the name of any person in any
15 other manner or at any other time than as prescribed by
16 voter registration law, or enters, or causes or permits to be
17 entered, on such records the name of any person *not* entitled
18 to be thereon; *or*

19 (d) destroys, mutilates, conceals, changes or alters
20 any registration record in connection therewith, *except* as
21 authorized by voter registration law, is guilty of a felony of
22 the third degree. Each and every omission constitutes a
23 *separate* offense.

24 (2) Any person who:

1 (a) knowingly provides false information on an
2 application for voter registration under any provision of this
3 Title;

4 (b) knowingly makes or attests to a false declaration
5 as to that person's qualifications as a voter;

6 (c) knowingly causes or permits oneself to be
7 registered using the name of another person;

8 (d) knowingly causes oneself to be registered under
9 two (2) or more different names;

10 (e) knowingly causes oneself to be registered in two
11 (2) or more precincts;

12 (f) offers to pay another person to assist in
13 registering voters, where payment is based on a fixed
14 amount of money per voter registration;

15 (g) accepts payment for assisting in registering
16 voters, where payment is based on fixed a amount of money
17 per voter registration; *or*

18 (h) knowingly causes any person to be registered or
19 causes any registration to be transferred or canceled, *except*
20 as authorized under this Title, is guilty of a felony of the
21 third degree. Each and every violation constitutes a *separate*
22 offense."

23 **Section 17.** Section 3121 of Title 3 of the Guam Code Annotated is
24 hereby *amended* to read as follows:

1 **"Section 3121. Permanence of Records.** The registration of a
2 voter is permanent for all purposes during that person's life, *unless* and
3 until the affidavit of registration is cancelled by the Commission for any
4 of the causes specified in this Chapter."

5 **Section 18.** Section 3122 of Title 3 of the Guam Code Annotated is
6 hereby *amended* to read as follows:

7 **"Section 3122. Grounds for Cancellation of Registration.**

8 The Commission shall cancel the registration of an elector in the
9 following cases:

- 10 (a) at the request of the person registered;
- 11 (b) when the insanity or mental incompetence of a person
12 registered is legally established;
- 13 (c) Upon the production of a certification from Guam Police
14 Department, or other local or Federal government instrumentality, that
15 the person is confined pursuant to a local or Federal criminal sentence;
- 16 (d) upon the death of the person registered;
- 17 (e) upon the production of a certified copy of a judgment
18 directing the cancellation to be made;
- 19 (f) *if* the person registered has *not* voted in two (2) consecutive
20 general elections, *unless* such person mailed in an absentee ballot that
21 was postmarked on or before the last general election day, but was
22 received after the close of the polls; *provided*, however that in the case of
23 a runoff election, those registered to vote for the general election shall

1 remain eligible to vote in the runoff election, regardless of whether they
2 voted at the immediately preceding general election; *and*

3 (g) upon receipt from any other election agency, domestic or
4 foreign, that the person has registered to vote in that jurisdiction.”

5 **Section 19.** Section 3124 of Title 3 of the Guam Code Annotated is
6 hereby *repealed and reenacted* to read as follows:

7 **“Section 3124. Cancellation of Registration for Failure to Vote.**

8 Within ninety (90) days of the certification of the returns of any regular
9 general election or a runoff election subsequent thereto, the Commission
10 shall cancel the registration of any person who failed to vote in the
11 general election pursuant to §3122(f). The registration of a person who
12 mailed an absentee ballot that was postmarked on or before the general
13 election, but whose ballot was *not* received by the Commission *prior to*
14 the closing of the polls at the general election, or a person who votes in a
15 general election, but who fails to vote in any runoff election held
16 subsequent thereto or a person who failed to vote in the general
17 election, but did vote in a runoff election held subsequent to such
18 general election, shall *not* be considered a person who failed to vote.
19 The affidavit of a person whose registration is cancelled shall be purged
20 from the records of the Commission.

21 The Commission shall notify by mail each person whose
22 registration is cancelled of that fact and that the person is no longer
23 eligible to vote until that person again has registered as provided in this
24 Title. The Commission shall establish by rule a procedure for a person

1 disposing of any challenges or questions that may occur during the
2 election."

3 **Section 23.** Section 4101 of Title 3 of the Guam Code Annotated is
4 hereby *amended* to read as follows:

5 **"Section 4101. Designation of Polling Place.** The
6 Commission shall, *not less than* thirty (30) days *prior to* the date set for
7 any regular election, designate, announce and publish the Official
8 Polling Sites; the Official Precincts, along with the alphabetical range
9 assigned to each precinct, where the ballots are to be cast in such
10 election. In the case of a runoff election, the polling places and precincts
11 shall be the same as in the election precipitating the need for a runoff,
12 *unless* determined otherwise by the Commission."

13 **Section 24.** Section 4103 of Title 3 of the Guam Code Annotated is
14 hereby *amended* to read as follows:

15 **"Section 4103. Appointment of Precinct Boards.** The
16 Commission shall, *not less than* sixty (60) days *prior to* any election,
17 appoint the members of the several precinct boards. In the case of a
18 runoff election, the precinct boards shall be the same as in the election
19 precipitating the need for a runoff, *unless* determined otherwise by the
20 Commission."

21 **Section 25.** Section 4104 of Title 3 of the Guam Code Annotated is
22 hereby *amended* to read as follows:

23 **"Section 4104. Members and Compensation of Precinct**
24 **Boards.** To each and every precinct designated, the Commission

1 shall appoint a precinct board consisting of an inspector, two (2) judges
2 and two (2) clerks. The concurrence of two (2) members shall be
3 necessary for any ruling of the precinct board. The two (2) clerks shall
4 have no vote.

5 Each member of a precinct board shall be paid One Hundred
6 Seventy Dollars (\$170.00) for services rendered for each election. For
7 pay purposes, a runoff election is a separate election from the election
8 that precipitates the runoff.

9 In the case of a special election, the Commission may conduct the
10 election with only the inspector and two (2) judges."

11 **Section 26.** Section 4105 of Title 3 of the Guam Code Annotated is
12 hereby *repealed and reenacted* to read as follows:

13 **"Section 4105. Qualifications of Precinct Board Members.**

14 (a) *Except* as provided in Subdivision (b), each member of
15 a precinct board shall be a registered voter of the district in which
16 they are appointed. The member shall serve *only* in the precinct
17 for which they are appointed. The Commission, pursuant to the
18 Administrative Adjudication Act, shall set forth a training
19 program for precinct board members which shall include passage
20 of a standardized examination of the precinct board members'
21 knowledge of the election laws necessary to perform their duties.

22 (b) In order to provide for a greater awareness of the
23 elections process, the rights and responsibilities of voters and the
24 importance of participating in the electoral process, as well as to

1 provide additional members of precinct boards, the Commission
2 may appoint to the position of Clerk, *not more than two* (2)
3 students per precinct. A student may be appointed
4 notwithstanding lack of eligibility to vote, *subject to* the approval
5 of their parents, that the student possesses the following
6 qualifications:

7 (1) is at least sixteen (16) years of age at the time of
8 the election to which the person is serving as a member of a
9 precinct board;

10 (2) is a United States citizen, or will be a citizen at
11 the time of the election to which the person is serving as a
12 member of a precinct board;

13 (3) is a student in good standing attending a public
14 or private secondary educational institution; *and*

15 (4) is a senior and has a grade point average of at
16 least 2.5 on a 4.0 scale.

17 (c) No person holding an elective office, or who is a
18 candidate or nominee for elective office, or who cannot read and
19 write English, shall be appointed or serve as a member of a
20 precinct board.

21 (d) The Commission shall establish by regulation such
22 additional minimum qualifications for appointment as a member
23 of a precinct board as it determines to be necessary."

24 **Section 27.** Section 4108 of Title 3 of the Guam Code Annotated is
25 hereby *amended* to read as follows:

1 **"Section 4108. Publication of Names of Precinct Board**
2 **Members.** The Commission shall publish the names of the members of
3 the precinct board in a daily newspaper of general circulation published
4 on Guam for at least three (3) issues, the last publication to be *not less*
5 *than* one (1) day before the day of election. The Commission shall also
6 distribute the names of the members of the precinct boards to each
7 mayor and vice-mayor."

8 **Section 28.** Section 4115 of Title 3 of the Guam Code Annotated is
9 hereby *repealed*.

10 **Section 29.** Section 6101 of Title 3 of the Guam Code Annotated is
11 hereby *amended* to read as follows:

12 **"Section 6101. I Liheslaturan Guåhan, Description Of.**
13 *I Liheslaturan Guåhan* shall be a unicameral body consisting of fifteen
14 (15) members who are elected at large and as provided by law."

15 **Section 30.** Section 6104 of Title 3 of the Guam Code Annotated is
16 hereby *amended* to read as follows:

17 **"Section 6104. Ineligibility.** No person who is a member of
18 *I Liheslaturan Guåhan* may occupy a position requiring the advice and
19 consent of *I Liheslaturan Guåhan*."

20 **Section 31.** Section 7108 of Title 3 of the Guam Code Annotated is
21 hereby *amended* to read as follows:

22 **"Section 7108. Space for Marking Ballot; Space for Write-in**
23 **Candidates.** (a) Immediately adjacent to the name of each

1 nominee or adjacent to the word incumbent, as the case may be,
2 shall be placed ovals or other spaces of sufficient size for the
3 placing of a mark therein. A clear and distinct mark within the
4 oval or other space adjacent to the name of any nominee or
5 candidate shall be counted as a vote for that nominee or
6 candidate.

7 (b) For each office on a ballot, the Commission shall
8 provide a line, or lines, with an oval or other space to mark to
9 permit votes to be cast for write-in candidates. *If the name filled*
10 *in by a voter adequately identifies the write-in candidate, the vote*
11 *shall be valid for that candidate; provided, that the voter has filled*
12 *in or darkened the adjacent oval or other space that is to be*
13 *marked."*

14 **Section 32.** Section 7109 of Title 3 of the Guam Code Annotated is
15 hereby *amended* to read as follows:

16 "Section 7109. **Ballots Furnished to Precincts.** For each
17 election the Commission shall provide each election precinct with ten
18 (10) ballots for every nine (9), or fraction of nine (9) voters registered in
19 the election precinct."

20 **Section 33.** Section 7116 is hereby *added* to Title 3 of the Guam
21 Code Annotated to read as follows:

22 "Section 7116. **Security of Ballots.** The Commission may
23 promulgate and shall publish in the election manual rules and
24 regulations pursuant to the Administrative Adjudication Law to assure

the security of the ballots, and to ensure the integrity of the election process."

Section 34. Section 8131 of Title 3 of the Guam Code Annotated is hereby *repealed*.

Section 35. Section 9107 of Title 3 of the Guam Code Annotated is hereby *amended* to read as follows:

"Section 9107. Posting Registry Indices. Before opening the polls, the Precinct Board shall post in separate, convenient places, at or near the precinct, and of easy access to the voters, *not less than two* (2) copies of the index of registration furnished for that precinct. Effective July 1, 2001 the indices made available to the voters shall *not* display the social security number of any individual."

Section 36. Section 9115 of Title 3 of the Guam Code Annotated is hereby *amended* to read as follows:

"Section 9115. Persons Permitted Within Barricade; and Observers. Only voters engaged in receiving, preparing or depositing their ballots, the precinct board and any other person permitted by law, shall be permitted to be within the barricade before the closing of the polls. At all times while the precinct officials are present in the precinct and during the time that the ballots are being transported to the election return center established pursuant to §11109 of this Title, each recognized political party and each gubernatorial candidate whose name appears on the ballot may have *no more than one* (1) observer present to witness the conduct of the election and to

challenge any voter. Such observers shall *not* interfere with the precinct officials in the conduct of the election, nor be permitted within the precinct barricade."

Section 37. Section 9118 of Title 3 of the Guam Code Annotated is hereby *amended* to read as follows:

"Section 9118. Absence of Precinct Officers. *Not more than* one (1) member of any precinct board shall be absent from the polling place at any one (1) time."

Section 38. Section 9124 of Title 3 of the Guam Code Annotated is hereby *amended* to read as follows:

"Section 9124. Rules for Determining Residency. Each person's residency shall be determined individually; that is, no person's residency shall conclusively determine the residency of that person's spouse or child. The Commission shall *not* register any applicant who fails to provide sufficient information for it to determine residency. The following rules shall determine the residency of voters, candidates and nominees.

(a) The residency of a person is that place where that person lives for a period of *at least* thirty (30) days, maintains that person's home and to which, whenever that person is absent, that person has the *bona fide* intention to return. For voting purposes, a person may have *only* one (1) residence. Indicia of residence on Guam shall include, but *not* be limited to, payment of Guam personal income taxes, maintaining a home or other living

1 accommodation on Guam, having temporarily departed Guam
2 with the intention of returning, and *not* being registered to vote in
3 any other jurisdiction since departing Guam.

4 (b) A person does *not* gain residency on Guam or any
5 voting district into which that person comes without the present
6 intent of establishing that person's permanent dwelling place
7 within Guam or such voting district.

8 (c) *If* a person resides with one's family in one (1) place,
9 and does business or maintains real property in another place, the
10 former is that person's place of residence; but any person having a
11 family, who establishes one's own dwelling place other than with
12 one's family, with the intention of remaining there, shall be
13 considered a resident where that person established such dwelling
14 place.

15 (d) The mere intention to acquire a new residence without
16 physical presence at such place does *not* establish residence.

17 (e) A person does *not* obtain or lose residency solely by
18 reason of that person's presence or absence while employed in the
19 services of the United States, or of the government of Guam, or
20 while a student at an institution of learning, or while kept in an
21 institution, a hospital, or asylum or while confined in prison.

22 (f) A person loses one's residency in Guam if that person
23 registers to vote or votes in an election held in a place other than
24 Guam.

(g) No person who is registered to vote in another jurisdiction may vote on Guam until that person's name is removed from such registration. The Commission shall provide affidavit forms for the removal of names of voters from the election rolls of other jurisdictions.

For purposes of establishing residency in a village or municipality, a person must be domiciled in that village or district for at least thirty (30) days immediately prior to the election. For voting purposes, a person may have only one (1) place of domicile."

Section 39. Section 9128 of Title 3 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

"Section 9128. Reporting of Name and Signing Roster.

A person desiring to vote shall state that person's name in full and address to the precinct officials at the polling place. After verifying the person's identity and determining that the person's name appears as a registered voter on the precinct roster, the precinct officials shall clearly and loudly announce the person's name. *If* no person challenges the person's right to vote, or *if*, after a challenge, the precinct board determines that the challenged person is entitled to vote, the person shall be required to sign the roster and then be permitted to vote. In the case of a person who is unable to sign the roster, the precinct officials shall so note that fact on the roster and two (2) of them shall initial the entry and the person shall then be permitted to vote. Any person whose

1 right to vote is denied by the precinct board may *immediately* appeal the
2 decision to the Commission and, *if* unsuccessful, to the Superior Court
3 of Guam."

4 **Section 40.** Section 9129 of Title 3 of the Guam Code Annotated is
5 hereby *repealed*.

6 **Section 41.** Section 9130 of Title 3 of the Guam Code Annotated is
7 hereby *amended* to read as follows:

8 **"Section 9130. Voter's Change of Name.** In case the surname
9 of any person offering to vote has been legally changed since that
10 person registered, that person shall report the name as it was before the
11 change, and also that person's name as it is at the time of the election;
12 *provided*, that the person presents to the precinct officials satisfactory
13 written proof of the change. The precinct board shall thereupon make
14 the necessary adjustment in the register, indicating the reason for the
15 change therein and thereafter permit the person to vote."

16 **Section 42.** Section 9136 of Title 3 of the Guam Code Annotated is
17 hereby *amended* to read as follows:

18 **"Section 9136. Two (2) or More Candidates or Nominees.**
19 Where two (2) or more persons are to be nominated for or elected to the
20 same office, and the voter desires to vote for that office, the voter shall
21 mark or darken the oval or other space to mark adjacent to the names of
22 all the candidates for that office for whom the voter desires to vote, *not*
23 *exceeding, however*, the number of persons who are to be nominated or
24 elected."

1 **Section 43.** Section 9146 of Title 3 of the Guam Code Annotated is
2 hereby *amended* to read as follows:

3 **"Section 9146. Accounting for Ballots.** Every precinct
4 board shall account for the ballots delivered to it by returning a
5 sufficient number of unused ballots to make up, when added to the
6 number of official ballots cast and the number of spoiled ballots
7 returned, the number of ballots charged. The Commission, upon
8 receiving returned ballots, shall require such an accounting *prior to*
9 tabulating the returns of the precinct."

10 **Section 44.** Section 10104(a) of Title 3 of the Guam Code
11 Annotated is hereby *amended* to read as follows:

12 **"Section 10104. Absentee Voting, Federal Requirements.**

13 (a) A voter who (1) is eligible for an absentee ballot, (2)
14 wants to execute an affidavit or form for voter registration, *and* (3)
15 is absent from Guam or is a member of the Armed Forces of the
16 United States, is *not* required to sign the affidavit or form in the
17 presence of a person authorized to administer an oath, and the
18 affidavit or form need *not* be signed by such an oath
19 administrator. The Commission shall inform the voter that no
20 signature other than that of the voter is required on the affidavit
21 or form and that a voter who makes a false statement on the
22 affidavit or form is subject to the penalties of perjury."

23 **Section 45.** Section 7117 is hereby *added* to Title 3 of the Guam
24 Code Annotated to read as follows:

1 **"Section 7117. Security of Ballots.** The Commission shall
2 promulgate rules and regulations pursuant to the Administrative
3 Adjudication Law for the additional security of the ballots, and to
4 ensure the integrity of the election process during Election Day, which
5 shall be published in the Election Manual. The rules shall provide, *at the*
6 *minimum*, that the ballot boxes be locked and sealed under Commission
7 seal at all times from the time the ballot box leaves the Commission to
8 their opening at the Election Return Center after the polls close; that all
9 Precinct Board members accompany the ballot boxes at all times to the
10 Election Return Center after the polls close along with at least one (1)
11 Guam Police Department Officer; that government of Guam buses be
12 utilized to transport the ballot boxes, the precinct board members and
13 Guam Police Department Officers to the Election Return Center; and
14 that only the Executive Director, or the Deputy Executive Director may
15 open the boxes."

16 **Section 46.** Section 11114 of Title 3 of the Guam Code Annotated
17 is hereby *amended* to read as follows:

18 **"Section 11114. Ballot, Invalid Portions Rejected; Blank Ballots**
19 **and Improperly Marked Ballots are Not 'Votes Cast' for Calculating a**
20 **Majority.** *If a voter indicates either:*

- 21 (a) by placing the voter's marks in the voting ovals or
22 other spaces adjacent to the names of any candidates or nominees;
23 (b) by writing the names of persons for an office in the
24 blank spaces, *or*

(c) by a combination of both, the choice of more than there are candidates or nominees to be elected or certified for any office, or *if* for any reason it is impossible to determine the voter's choice for any office, the voter's ballot shall *not* be counted for that office, but the rest of the voter's ballot, *if* properly marked, shall be counted. A ballot that is blank, or that is marked with more candidates or nominees than are to be nominated or elected, is *not* to be included as a part of the base for determining what constitutes a majority in each election requiring a candidate or nominee to garner a majority of votes in order to be nominated or elected."

Section 47. Section 11122 of Title 3 of the Guam Code Annotated is hereby *amended* to read as follows:

"Section 11122. Sealing and Reviewing Counted Ballots. As soon as the valid votes marked on the ballots are tabulated and the Commission is satisfied as to the accuracy of the tabulation, such ballots shall *not* thereafter be examined by any person, *except* upon a recount as provided in this Chapter; and as further provided by this Section, but shall be carefully sealed in a strong envelope with the name of the precinct thereon, and a majority of the members of the Commission shall write their names across the seal.

The Commission may *not* earlier than thirty (30) days from the date that the elections results are certified and provided that no election contest is pending resolution, unseal the ballot envelope to extract

1 statistical data of which data will be made available to the general
2 public. Upon the completion of the extraction, the ballot envelope shall
3 be resealed and the Commission seal and date shall be affixed across the
4 seal portion."

5 **Section 48.** Section 11130 of Title 3 of the Guam Code Annotated
6 is hereby *amended* to read as follows:

7 **"Section 11130. Incomplete or Ambiguous Precinct Forms.** If
8 the rosters, certificates or other forms from any precinct are incomplete
9 or ambiguous, or *not* properly authenticated, or are otherwise defective,
10 the Commission, by a majority vote, may order issued and served
11 subpoenas requiring the attendance of such persons and records before
12 the Commission."

13 **Section 49.** Sections 13105 of Title 3 of the Guam Code Annotated
14 is hereby *repealed and reenacted* to read as follows:

15 **"Section 13105. Runoff Election.** A runoff election is
16 a continuation of the election that precipitated the need for the runoff
17 and *not* a separate election. Unless otherwise expressly provided in law,
18 the procedures for a general election shall apply to a runoff election."

19 **Section 50.** Sections 13106 through 13108 are hereby *added* to Title
20 3 of the Guam Code Annotated to read as follows:

21 **"Section 13106. Persons Eligible to Vote at Runoff.** The
22 persons eligible to vote at a runoff election shall be the voters who were
23 eligible to vote at the election that precipitated the need for the runoff
24 and those who may register *prior to* the runoff election. The

1 Commission may register new voters up to three (3) days *prior to* a
2 runoff election. *If* a runoff election is required, the Commission shall *not*
3 purge the names of any voters for nonparticipation after a general
4 election until after the runoff election has been held and its results
5 certified.

6 **Section 13107. Mailed Absentee Ballots Not Allowed in**
7 **Runoff.** The Commission shall *not* mail any absentee ballots for a
8 runoff election.

9 **Section 13108. Declaration of Runoff Election.** Upon the
10 Commission determining that a runoff election is required, the
11 Commission shall order a runoff election to be held on the fourteenth
12 (14th) day following the date of the election which precipitated the need
13 for the runoff. The Commission shall publish notice of the runoff
14 election in a newspaper of general circulation on Guam at least four (4)
15 times, with the last notice being issued on the runoff date."

16 **Section 51.** Section 14108 of Title 3 of the Guam Code Annotated
17 is hereby *amended* to read as follows:

18 **"Section 14108. Intimidation of Voters.** Every person,
19 association or corporation is guilty of a felony of the third degree who
20 directly or indirectly makes use of or threatens to make use of any force,
21 violence or restraint, or inflicts or threatens the infliction, directly or
22 indirectly, any injury, damage, harm or loss, or in any manner practices
23 intimidation upon or against any person in order to induce or compel
24 that person to vote or refrain from voting at any election, or to vote or

1 refrain from voting for any particular person at any election or because
2 any person voted or refrained from voting at any election.”

3 **Section 52.** Section 14109 of Title 3 of the Guam Code Annotated
4 is hereby *amended* to read as follows:

5 **“Section 14109. Wrongful Interference with Voting.** Every
6 person, association or corporation is guilty of a felony of the third
7 degree who by abduction, duress or any forcible or fraudulent device or
8 contrivance whatever impedes, prevents or otherwise interferes with the
9 free exercise of the elective franchise by any voter, or who compels,
10 induces or prevails through any forcible or fraudulent means upon any
11 voter either to give or refrain from giving that person’s vote at any
12 election, or to give or refrain from giving that person’s vote for any
13 particular person or initiative, referendum or legislative referral at any
14 election.”

15 **Section 53.** Section 14111 of Title 3 of the Guam Code Annotated
16 is hereby *amended* to read as follows:

17 **“Section 14111. Unlawful Influence by Employer.** Every
18 employer, whether a corporation, association or a natural person, is
19 guilty of a misdemeanor who within ninety (90) days of any election
20 puts up or otherwise exhibits in any workplace under his, her or its
21 control or management any handbill or placard containing any threat,
22 notice or information that in case any particular ticket of a political
23 party or organization or candidate is elected, work in the employer’s
24 place or establishment will be closed or the salaries or wages of the

1 employees will or may be reduced, or makes or communicates other
2 threats, express or implied, intended or calculated to influence the
3 political opinions or actions of the employees."

4 **Section 54.** Section 14112 of Title 3 of the Guam Code Annotated
5 is hereby *amended* to read as follows:

6 **"Section 14112. Giving, Offering or Receiving a Bribe.** Every
7 person is guilty of a felony of the third degree who:

8 (a) gives or offers a bribe to any officer or member of any
9 legislative caucus, political convention, committee or political
10 gathering of any kind held for the purpose of nominating
11 candidates for offices of honor, trust or profit on Guam with intent
12 to influence the person to whom the bribe is given or offered to be
13 more favorable to one (1) candidate than another; *or*

14 (b) being a member of any of the bodies in this Section
15 mentioned, receives or offers to receive any such bribe."

16 **Section 55.** Section 14113 of Title 3 of the Guam Code Annotated
17 is hereby *amended* to read as follows:

18 **"Section 14113. Deceiving Illiterate Voter.** Every person is
19 guilty of a felony of the third degree who furnishes any blind or
20 illiterate voter with a ballot, informing or giving that voter to
21 understand that it contains a name written or printed thereon that is
22 different from the name which is written or printed thereon or defrauds
23 any voter at any election by deceiving and causing that person to vote

1 for a different person for any office than the voter intended or desired to
2 vote."

3 **Section 56.** Section 14114 of Title 3 of the Guam Code Annotated
4 is hereby *amended* to read as follows:

5 "Section 14114. Acting Without Authority. Every person is
6 guilty of felony of the third degree who at any election:

7 (a) knowing that the person has *not* been appointed and
8 qualified, acts as a member of a precinct board; or

9 (b) knowing that the person is *not* a member of a precinct
10 board, performs or discharges any of the duties of a member of a
11 precinct board in regard to the handling, counting or canvassing
12 of any ballots."

13 **Section 57.** Section 14115 of Title 3 of the Guam Code Annotated
14 is hereby *repealed*.

15 **Section 58.** Section 14116 of Title 3 of the Guam Code Annotated
16 is hereby *amended* to read as follows:

17 "Section 14116. Aiding and Abetting Unlawful Voting.

18 Every person is guilty of a misdemeanor who procures, assists, counsels
19 or advises another to give or offer that person's vote at any election,
20 knowing that the person is *not* qualified to vote."

21 **Section 59.** Section 14117 of Title 3 of the Guam Code Annotated
22 is hereby *amended* to read as follows:

23 "Section 14117. Fraudulent Voting. Every person is guilty of
24 a felony of the third degree who:

1 (a) *not* being entitled to vote at an election, votes or
2 fraudulently attempts to vote at that election;

3 (b) being entitled to vote, attempts to vote more than once
4 at the same election;

5 (c) impersonates or attempts to impersonate a voter; *or*

6 (d) votes or attempts to vote while knowing that the
7 person is registered to vote in a jurisdiction other than Guam."

8 **Section 60.** Section 16602 of Title 3 of the Guam Code Annotated
9 is hereby *amended* to read as follows:

10 **"Section 16602. Bribery.** Any person who offers any bribe or
11 makes promise of gain, or with knowledge of the same, permits any
12 person to offer any bribe or make any promise of gain for that person's
13 benefit, to any voter to induce that person to sign an election paper, any
14 person who accepts any bribe or promise of gain of any kind as
15 consideration for signing the same, whether the bribe or promise of gain
16 be offered or accepted before or after signing, shall be guilty of a felony
17 of the third degree."

18 **Section 61.** Section 16109 of Title 3 of the Guam Code Annotated
19 is hereby *amended* to read as follows.

20 **"Section 16109. Vacancies *Not* to be Filled.** In the event that
21 fewer than fifteen (15) candidates are running for *I Liheslaturan Guåhan*
22 within any party, the central committee of such party or parties may *not*
23 fill up the party slate for the primary or general election to a full fifteen
24 (15) nominees with its own nomination by filling those positions which

are unfilled because fewer than fifteen (15) candidates ran in that party's primary election."

Section 62. Section 16205 of Title 3 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

"Section 16205. Nomination Papers; Number of Signatures.

(a) No person shall be certified as a candidate for nomination *unless* the following number of qualified electors shall have signed a petition in favor of the candidate:

<u>Office</u>	<u>Number of Signatures</u>
Mayor	100
Vice Mayor	100
Senator	250
<i>I Maga'laha</i> and	
<i>I Segundu na Maga'laha</i>	500
Delegate to Congress	500.

(b) When there are candidates for the mayoral or vice-mayor positions in jurisdictions that had *less than* one thousand (1000) total votes cast in the prior election, the mayoral and vice-mayor candidates in these jurisdictions must acquire five percent (5%) of the qualified electors based from the prior election."

Section 63. Section 16403 of Title 3 of the Guam Code Annotated is hereby *amended* to read as follows:

"Section 16403. Any person rightfully in the polling place may challenge the right of any person requesting to vote. The challenge shall

1 be on the grounds that the elector is *not* the person alleged to be, that the
2 elector is *not* entitled to vote on the grounds specified in §9119 of this
3 Title. No other or further challenge shall be allowed. The challenge
4 shall be considered and decided *immediately* by the election officials, a
5 ruling of the majority thereof being final.”

6 **Section 64.** Section 19119 of Title 3 of the Guam Code Annotated
7 is hereby *amended* to read as follows:

8 **“Section 19119. Penalties; Relief.** (a) Any person
9 willfully violating any provision of this Chapter shall, *unless* otherwise
10 expressly stated, be punishable in the manner prescribed as follows:

11 (1) *if* a natural person, that person shall be guilty of a
12 misdemeanor and shall be subject to the penalties specified
13 therefor; *or*

14 (2) *if* a corporation, organization or association, it shall be
15 punishable by a fine *not* exceeding Ten Thousand Dollars
16 (\$10,000.00) per offense; *and*

17 (3) whenever a corporation, organization, or association
18 violates this Chapter, the violation shall be deemed to be also that
19 of the individual directors, officers or agents of the corporation,
20 organization or association who have knowingly authorized,
21 ordered or done any of the acts constituting the violation.

22 (b) any person may sue for injunctive relief to compel
23 compliance with the Chapter.”

1 **Section 65. Date of the Plebiscite, Renaming the “Free**
2 **Association” Status Option.** Section 21110 of Chapter 21 of Title 1 of the
3 Guam Code Annotated, as enacted by §10 of Public Law Number 23-147 and
4 amended by §11 of Public Law Number 25-106, is hereby *repealed and reenacted*
5 to read as follows:

6 **“Section 21110. Plebiscite Date and Voting Ballot. (a)**

7 The Guam Election Commission shall conduct a ‘Political
8 Status Plebiscite’ at which the following question, which shall be
9 printed in both English and Chamorro, shall be asked of the
10 eligible voters:

11 ‘In recognition of your right to self-determination,
12 which of the following political status option do you favor?
13 (Mark ONLY ONE):

- 14 1. Independence ()
15 2. Free Association with the United States of
16 America ()
17 3. Statehood ()’

18 Persons eligible to vote shall include those persons
19 designated as Native Inhabitants of Guam, defined within
20 Chapter 21 of Title 3 of the Guam Code Annotated, as enacted in
21 this Act, who are eighteen (18) years of age or older on the date of
22 the Political Status Plebiscite, and are registered voters on Guam.

23 The ‘Political Status Plebiscite’ mandated in Subsection (a) of
24 this Section shall be held on November 7, 2000, *unless* the Guam

1 Election Commission determines that it won't be adequately
2 prepared to hold the Plebiscite on that date, in which case the
3 Guam Election Commission may determine by majority vote of
4 Commission members to hold the Plebiscite on a later date."

5 **Section 66.** Section 9142 of Title 3 of the Guam Code Annotated is
6 hereby *repealed and reenacted* to read as follows:

7 **"Section 9142. Assistance to Voter.** (a) A voter may
8 request assistance in voting to the precinct board, and assistance
9 shall be granted thereby *only if* a voter is blind, physically disabled
10 or unable to read or write.

11 (b) *If* the voter is granted the opportunity to have
12 assistance, the voter shall be accompanied into the voting booth
13 by two (2) precinct officials. *If* a voter with a physical disability
14 finds it unduly burdensome to enter the polling place, the ballot
15 may be completed within one hundred feet (100') of the polling
16 place. The ballot shall be read to the voter who shall indicate that
17 voter's choices. Such choices shall be properly marked by one (1)
18 of the accompanying precinct officials while under the
19 observation of the other. Any registered voter who enters the
20 public grounds containing the polling place, but for some reasons
21 is unable to enter the polling place itself, and who is capable of
22 reading and marking that voter's ballot without assistance, shall
23 be given the opportunity to vote. The Commission shall make the

CLERK OF THE LEGISLATURE
TRANSMISSION CHECKLIST TO IMAGA'LAHEN GUAHAN

(Included in File w/ All Bills Transmitted)

BILL NO. 227 (COA)

FINAL PROOF-READING OF BLUEBACK COPY

Initialed by:

and Date:

- ☐ EXHIBITS ATTACHED
- ☐ CONFIRM NUMBER OF PAGES
- ☐ CAPTION ON CERTIFICATION MATCHES BILL CAPTION
- ☐ ENGROSSED SIGN "*" REMOVED FROM BILL
- ☐ 15 SENATORS IN SPONSORSHIP OR CONFIRM OTHERWISE
- ☐ CERTIFICATION SIGNED BY SPEAKER & LEGIS. SECRETARY
- ☐ EMERGENCY DECLARATION, if any

Confirmed By: _____

Dated: _____

- ☐ HAND CARRY BILL IN BLUEBACK (ORIGINAL & COPY)
TO THE GOVERNOR. (DANNY, ROBERT OR OTHERS)
- ☐ ACKNOWLEDGED COPY W/ ORIGINAL BLUEBACK
PLACED ON CLERK'S DESK. (Same copy given to Susan)
- ☐ FILED by: Danny, Robert or others

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 227 (COR) "AN ACT TO AMEND, REPEAL, REPEAL AND REENACT AND ADD SECTIONS TO TITLE 3, AND TO REPEAL AND REENACT §21110 OF CHAPTER 21 OF TITLE 1, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO REFORMING THE ELECTION LAWS OF GUAM AND RESCHEDULING THE POLITICAL STATUS PLEBISCITE," was on the 11th day of May 2000, duly and regularly passed.

ANTONIO R. UNPINGCO
Speaker

Attested:

JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guahan* this _____ day of _____, 2000,
at _____ o'clock _____.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: _____

Public Law No. _____

05-12-00
1700
[Signature]

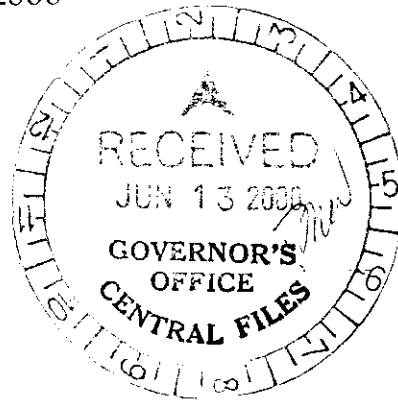


COPY

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

June 13, 2000

The Honorable Carl T.C. Gutierrez
I Maga'laken Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Gutierrez:

Transmitted herewith is Substitute Bill No. 227(COR) which was overridden by *I Mina'Bente Singko Na Liheslaturan Guåhan* on June 12, 2000, notwithstanding your veto.

Sincerely,

JOANNE M.S. BROWN
Senator and Legislative Secretary

Enclosure

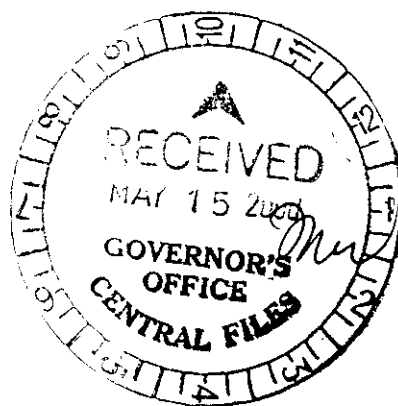


COPY

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

May 12, 2000

The Honorable Carl T.C. Gutierrez
I Maga'laken Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Gutierrez:

Transmitted herewith is Substitute Bill No. 227(COR) which was passed by *I Mina'Bente Singko Na Liheslaturan Guåhan* on May 11, 2000.

Sincerely,


JOANNE M.S. BROWN
Senator and Legislative Secretary

Enclosure

I MINA' BENTE SINGKO NA LIHESLA, URAN GUAHAN

2000 (SECOND) Regular Session

Date: 5/11/00 6

VOTING SHEET

5 Bill No. 5-1-1111

Resolution No. _____

Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
AGUON, Frank B., Jr.	1				
BERMUDES, Eulogio C.	1				
BLAZ, Anthony C.		1			
BROWN, Joanne M.S.	1				
CALVO, Eduardo B.	1				
CAMACHO, Marcel G.	1				
FORBES, Mark	1				
KASPERBAUER, Lawrence F.	1				
LAMORENA, Alberto C., V	1				
LEON GUERRERO, Carlotta A.	1				
MOYLAN, Kaleo Scott	1				
PANGELINAN, Vicente C.	1				
SALAS, John C.	1				
SANCHEZ, Simon A., II					EA
UNPINGCO, Antonio R.	1				

TOTAL

13 1 0 0 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asuntan Fidirat

Senator Mark Forbes, Chairman
Kabisiyon Mayuråt

05 MAY 2006

Speaker Antonio R. Unpingco
I Mina' Bente Singko Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

The Committee on Rules, Government Reform, Reorganization and Federal Affairs, to which Bill No. 227, was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 227, as substituted**, "An Act to Revise Portions of Title 3 of the Guam Code Annotated, the Election Code, to Provide Stricter Policies Pertaining to the Registration of Voters, the Tabulation of Election Results, to Increase the Penalties Applicable to Violations of Certain Provisions of the Election Code and to Reorganize and Clarify the Powers of the Commission, all for the Purpose of Assuring Free, Fair and Open Elections Decided by Persons who are Citizens of the United States, Residents of Guam and otherwise Eligible to Participate in Such Elections."

The voting record is as follows:

TO PASS

NOT TO PASS

ABSTAIN

TO PLACE IN INACTIVE FILE

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.

MARK FORBES

Attachments



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat

*Senator Mark Forbes, Chairman
Kabisiyon Mayuråt*

MEMORANDUM

TO: Committee Members

FROM: Chairman

SUBJECT: Committee Report-BILL NO. 227, as substituted, "An Act to Revise Portions of Title 3 of the Guam Code Annotated, the Election Code, to Provide Stricter Policies Pertaining to the Registration of Voters, the Tabulation of Election Results, to Increase the Penalties Applicable to Violations of Certain Provisions of the Election Code and to Reorganize and Clarify the Powers of the Commission, all for the Purpose of Assuring Free, Fair and Open Elections Decided by Persons who are Citizens of the United States, Residents of Guam and otherwise Eligible to Participate in Such Elections."

Transmitted herewith for your information and action is the report on Bill No. 227, as substituted, from the Committee on Rules, Government Reform, Reorganization and Federal Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 227, as substituted
4. Public Hearing Sign-in Sheet
5. Fiscal Note
6. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

MARK FORBES

Attachments

155 Hesler Street, Hagåtña, Guam 96910

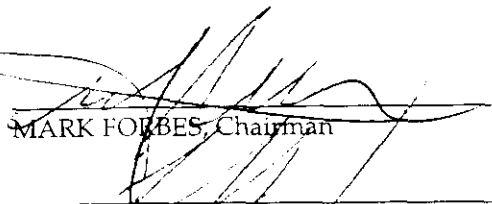
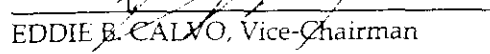

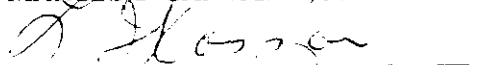
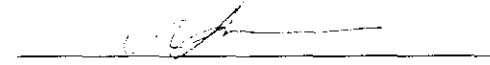

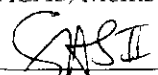

Telephone: 671-472-3407/408/512 • Facsimile: 671-477-5036 • Email : senforbes@kuentos.guam.net

Committee on Rules, Government Reform, Reorganization and Federal Affairs

I Mina' Bente Singko Na Liheslaturan Guahan

Voting Record

BILL NO. 227, as substituted, "An Act to Revise Portions of Title 3 of the Guam Code Annotated, the Election Code, to Provide Stricter Policies Pertaining to the Registration of Voters, the Tabulation of Election Results, to Increase the Penalties Applicable to Violations of Certain Provisions of the Election Code and to Reorganize and Clarify the Powers of the Commission, all for the Purpose of Assuring Free, Fair and Open Elections Decided by Persons who are Citizens of the United States, Residents of Guam and otherwise Eligible to Participate in Such Elections."

	<u>TO</u> <u>PASS</u>	<u>NOT TO</u> <u>PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE</u> <u>FILE</u>
 MARK FORBES, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 EDDIE B. CALVO, Vice-Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ANTHONY C. BLAZ, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JOANNE M. S. BROWN, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 MARCEL G. CAMACHO, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 LAWRENCE F. KASPERBAUER, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
KALEO S. MOYLAN, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 ALBERTO A.C. LAMORENA V., Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 CARLOTTA A. LEON GUERRERO, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JOHN C. SALAS, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 SIMON A. SANCHEZ, II, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 ANTONIO R. UNPINGCO, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FRANK B. AGUON, JR., Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ELOY C. BERMUDEZ, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
VICENTE C. PANGELINAN, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN

COMMITTEE ON RULES, GOVERNMENT REFORM,
REORGANIZATION & FEDERAL AFFAIRS

SENATOR MARK FORBES, CHAIRMAN

COMMITTEE REPORT
ON

BILL NO. 227, as substituted,

"An Act to Revise Portions of Title 3 of the Guam Code Annotated, the Election Code, to Provide Stricter Policies Pertaining to the Registration of Voters, the Tabulation of Election Results, to Increase the Penalties Applicable to Violations of Certain Provisions of the Election Code and to Reorganize and Clarify the Powers of the Commission, all for the Purpose of Assuring Free, Fair and Open Elections Decided by Persons who are Citizens of the United States, Residents of Guam and otherwise Eligible to Participate in Such Elections."

I. OVERVIEW

The Committee on Rules, Government Reform, Reorganization and Federal Affairs held a public hearing on June 2, 1999 at 10:00 a.m. at the Conference Room, Office of Senator Mark Forbes, 1 Liheslaturan Guahan. Public notice of the hearing was announced in the June 25, July 1, and July 2, 1999 issues of the Pacific Daily News.

Senators present were:

- Senator Mark Forbes, Chairman
- Senator Eddie Calvo, Vice Chairman
- Senator Simon A. Sanchez II, Member
- Senator Vicente Pangelinan, Member
- Senator John Salas, Member

Appearing before the Committee were:

- Atty. Frederick J. Horecky, member of the Guam Election Commission
- Mr. Fred Castro, chairman of the Republican Party of Guam
- Mr. Joseph Mesa, private citizen
- Ms. Trini Torres, private citizen

II. SUMMARY OF TESTIMONY

Mr. Frederick J. Horecky, attorney and member of the Guam Election Commission, testified before the Committee on Bill 227. He suggested considering issues such as the fact that prohibiting the use of Social Security Numbers can make it more difficult to identify proper voters, and the need to define what written evidence is accepted for proof of citizenship. He said absentee voting needs to be defined further and tightened up. Mr. Horecky added that there is no proof that the lack of a seventh member has prevented the Guam Election Commission from doing its job.

Mr. Fred Castro, chairman of the Republican Party of Guam, testified before the Committee **in favor** of Bill 227, with changes. He said the bill is a good start, but that more needs to be done to obtain the objective of reforming the election laws. He said there is a need to provide funding for investigation and auditing of elections.

Mr. Joseph Mesa, private citizen, testified before the Committee on Bill 227. He said that the Election Commission should set the salary of its executive director, not the Legislature.

Ms. Trini Torres, private citizen, testified before the Committee on Bill 227. She said that the election database should be cleaned out, and said if only 16 candidates are running from a party, there should still be a primary election.

III. FINDINGS AND RECOMMENDATION

The Committee on Rules, Government Reform, Reorganization and Federal Affairs finds that Bill No. 227, helps ensure free, fair and open elections by revising sections of the Guam Election Code to restrict participation in public elections to persons who are citizens of the United States, residents of Guam, of age, competent, and not otherwise legally disenfranchised of the law.

Accordingly, the Committee on Rules, Government Reform, Reorganization and Federal Affairs, to which Bill No. 227 was referred does hereby submit its findings and recommendations to I Mina' Bente Singko Na Liheslaturan Guahan **TO DO PASS BILL NO. 227, as substituted**, "An Act to Revise Portions of Title 3 of the Guam Code Annotated, the Election Code, to Provide Stricter Policies Pertaining to the Registration of Voters, the Tabulation of Election Results, to Increase the Penalties Applicable to Violations of Certain Provisions of the Election Code and to Reorganize and Clarify the Powers of the Commission, all for the Purpose of Assuring Free, Fair and Open Elections Decided by Persons who are Citizens of the United States, Residents of Guam and otherwise Eligible to Participate in Such Elections."

Joseph F. Mesa
Post Office Box 1232
Hagatna, Guam 96932

July 2, 1999

The Honorable Mark Forbes
Chairman
Kumitean Areklamento, Refotman Gubetnamento Shiha,
Inetnon di Nuebu, yan Asunton Fidrat
Mina' Bente Singko Na Liheslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Mr. Chairman:

For the record, my name is Joseph F. Mesa and I am submitting written testimony relative to Bill No. 227(COR). Mr. Chairman at the outset, I want to make it perfectly understood that my testimony is submitted solely on my behalf as a private citizen and no way represents the position of the Guam Election Commission Board of Directors, that presently I am a member of. The Commission's Board of Director's will review this Bill at their next meeting, scheduled for next week and should submit their comments, if any, shortly thereafter. The testimony presented is drawn from the years of experience that I have had in our election process, both as an administrator and as a policy maker.

I believe that Bill 227 (COR) is an important first step in the right direction towards reforming our outdated and somewhat ambiguous election code, more commonly referred to as Title 3.

While the sponsor and co-sponsor are to be commended for taking this first step I strongly recommend that the final product include other sections of Title 3 that must also be revised. This would include a revision of Chapter 16 that outlines our primary election procedures and Chapter 19 that governs Election Campaign Contributions and Expenditures. Likewise, the financial disclosure filing and reporting requirements must be revised.

I know that the Chairman of the Committee is working on a piece of legislation that will also reform our election process and the Guam Election Commission has also formed a subcommittee to propose reform legislation. Hopefully, the final product from each will be reviewed and incorporated into one major piece of legislation. It is important that any election reform be accomplished this year and not during an election year.

My comments regarding each Section is as follows:

- Section 1. No comment
- Section 2. Page 2, line 14: the decision is pending and might be appealed in the United States Supreme Court.
- Section 3. Page 2, line 2: I would also propose that language be included that would clarify that an elected public official not be permitted to sit on the board.
- Pages 3, line 17: I would propose that should the members not agree upon a seventh member within sixty days that both sides (assuming that there are only two political parties represented) each submit one name and that a drawing be held by the Executive Director to determine the seventh member. This would be the most expeditious method to resolve any impasse.
- Page 4, line 17: I would recommend that a provision be included that the legislature, upon receipt of a resolution adopted by the executive committee of the political party that initially recommended the individual for appointment, shall execute the requirements of this section.
- Section 4. Page 5, line 22: The issue of compensation should be left with the Commission. The Commission is in a position to review the performance of the Executive Director. This would also be consistent with the procedure of most boards and commissions. Presently we must also receive the concurrence of the Civil Service Commission.
- Section 5. Page 6, line 10: Recommend that the following be deleted **[...substitutes and, upon its recommendation, the Governor may remove any such officials who shall be found guilty of nonfeasance or misfeasance in connection with the performance of their duties relative to the conduct of elections.]**
- The section should be revised to permit the Commission to remove the individual.
- Page 6, line 19: need to clarify the requirement of a "tabulation audit", what specifically are we asking for. Also [...'all elections it has conducted.] This should be revised to "all elections conducted in the preceding year or since the submission of a audit.
- Section 6. Page 7, line 20: "A copy of the evidence of citizenship and **residency**

submitted..." Clarification as to what evidence is required to determine residency of which the individual must provide, needs to be provided. Present §§9123, 9124 and 9125 outlines the rules for determining residency.

Page 8, line 12 the word [duplicate] should be changed to [triplicate]. The current practice is one copy goes to the registrant, the *original* is kept by the Commission and the remaining copy is used as a back up copy.

Section 7. No comment

Section 8. Page 9, line 2: insert the word "days" immediately after "(21).

Section 9. Page 9, line 8: same concerns as Section 6 regarding residency.

Section 10. Page 9, line 20. On line 23 change the word [shall] to [may]. This would give the Commission some leeway in a special election, where the Commission only conducts registration at its main office.

Section 11. Page 9, line 24: The proposal deletes compensation for a registration clerk - some form of compensation must be provided. This would only apply to those registration clerks hired by the commission that are situated at the Mayor's office for a period of a couple of weeks prior to the close of registration. Recommend that this section remain.

Section 12: No Comment.

Section 13. Page 10, line 18: On line 22 the word [general] should be deleted, should be applicable to any election.

Page 11, line 2: I would suggest that the Mayor's be consulted on the *provisions being proposed*.

Page 12, line 8: Some specific provisions must be outlined as to what determines residency in a municipality. Presently the only provisions are outlined in §§9123, 9124 and 9125.

What would happen if after sending the notification, the individual does not respond - does the Commission then after April 30 still remove this individual from the registration rolls. Does the individual have the opportunity to appeal to the Court? If the proposal stays intact then an amendment also needs to be made to current Section

3122 - Grounds for Cancellation of Registration.

Section 14. Page 11, line 16: This proposal would be in conflict with current Section 9113 as that amended by P.L. 24-273. The visual panorama provision has also be deleted and I would recommend that this provision be included.

Section 15. Page 12, line 7: The proposal permits two observers from each recognized political party; and two observers for each independent candidate or nominee whose name appears on the ballot. I would assume that proponents of an initiative or referendum measure would also be permitted observers?

There are presently 72 official precincts with five precinct officials assigned therein. There are presently two recognized political parties and the number of independent candidates cannot be determined until the deadline for filing nominating petitions is reached.

Five precinct officials (+) four political party watchers [two from each party] + 2 from an independent candidate [assuming that there is only one independent candidate] this would total five officials plus six watchers for each of the 72 official precincts. Of course this number would increase depending upon how many independent candidates there are.

Current GEC policy allows for poll watchers only during a general election, one per precinct per political party. To permit any more has a great potential to create chaos at the precinct level. The proposal is not workable.

Also the proposal uses the word "nominee" technically, all candidates participating in a primary election are nominee's and one could reasonably argue that they are also entitled to have observers even though they come under a political banner.

Section 16. No Comment

Section 17. Page 13, line 1. This is presently being done prior to the ballots being tabulated.

Section 18. No Comment

Section 19. Page 13 - 14, line 21: page 14, line 1: Current section permits the

political party watchers the authority to accompany the precinct officials to the election tabulation center. My concerns are the same as raised under Section 15. In addition it should not be mandatory that 2 police officers accompany the officials, one would be sufficient.

Section 20: No Comment

Section 21. No Comment

Section 22. No Comment

Section 23. No Comment

Section 24. No Comment

Section 25. No Comment

Section 26. No Comment

Section 27. Page 17, line 20. Would suggest that a fine be imposed if an individual is found to have violated this section. The fine would equal that amount that is paid to a precinct official.

Section 28. No Comment

Section 29. No Comment

Section 30. No Comment

Section 31. No Comment

Section 32. No Comment

Section 33. No Comment

Section 34. No Comment

A severability clause should be included at the end of the legislation.

I would be pleased to respond to any questions the Committee Members might have.


Joe F. Mesa

Trini Torres

GMF P. O. Box 24295
Barrigada, GU 96921

Tel.: (671) 477-0638

July 2, 1999

Mina' Bente Sinko Na Liheslaturan Guahan
Hagatna, GU

SUBJECT: Recommendations for Election Reforms

I am submitting the following recommendations for consideration to Bill No. 227.

1. The need to verify voter registration eligibility by asking physical evidences of Guam or U.S. birth certificate, U.S. passport, or U.S. naturalization papers, that provides the U.S. Govt. or Govt. of Guam official proof of the person's U.S. citizenship. The Guam Election Commission has to be very strict and vigilant on this. They should not accept any substitute for physical evidence of official proof of U.S. citizenship.
2. More importantly, the Guam Election Commission need to start a complete new register of voters and have everybody re-register even for those persons who may have been voting for so many years. We need to start with an accurate register of eligible U.S. citizen voters. Since there have been cases where physical evidence of U.S. citizenship were not provided yet the persons were registered, this means that these same persons may be voting every election year ever since, even though they may not be U.S. citizens nor met other voter eligibility requirements.
3. No person should be allowed to sign for anybody, unless verification from a court order is demonstrated that attests to the incapacity of the voter signing his/her own name.
4. A computer count of ballots should always be followed by a hand count. There have been cases of discrepancies occurring in the voting districts. Also, a power failure or power disruption of any length of time can affect the election data in the computer.

Trini Torres

GMF P. O. Box 24295

Barrigada, GU 96921

Tel.: (671) 477-0638

5. Last, but not the least, there should always be a primary election whenever the number of senatorial or gubernatorial candidates of the political parties exceeds the number of contested political seats. During the General Election of 1998 the number of Democratic senatorial candidates was 16, yet there was no primary election for the senatorial race. The possibility of voters voting over 15 exists. That these over 16-vote ballots are automatically invalid, is relevant. The Election Commission should have held a primary election for the senatorial race. I was the #16th senatorial candidate. That Democrat straight party voters have to first eliminate at least one Democratic senatorial candidate because the voter can vote only 15 candidates, worked against the Democratic Party candidates, and the Democratic Party as a whole. The Election Commission should make sure this is never repeated.

Submitted by Trini Torres, the #16th Senatorial Candidate in the
1998 Guam Election.

Trini Torres 07/02/99



GUAM ELECTION COMMISSION
Kumision Ilekshion Guahan
P.O. Box BG • Hagåtña, Guam 96932
Tel: (671) 477-9791/3 • Fax: (671) 477-1895



July 2, 1999

The Honorable Mark Forbes
Chairman, Committee on Rules, Government Reform,
& Reorganization and Federal Affairs
Mina'Bente Singko Na Liheslaturan Guahan
Twenty-Fifth Guam Legislature
155 Hesler Street
Hagatna, Guam 96910

Dear Mr. Chairman:

We understand that the Committee has scheduled a public hearing today at 10:00 a.m. to receive public testimony on Bill No. 227.

"An Act to revise Title 3 of the Guam Code Annotated, the Election Code, to provide stricter policies pertaining to the registration of voters, the tabulation of election results, to increase the penalties applicable to violations of certain provisions of the Election Code and to reorganize and clarify the powers of the Commission, all for the purpose of assuring free, fair and open elections decided by persons who are citizens of the United States, residents of Guam and otherwise eligible to participate in such elections and, to appoint the Territorial Auditor the seventh member of the Election Commission for purposes of the Runoff Gubernatorial Election of 1999."

However, the Guam Election Commission is not taking any position on this bill due to its standing policy not to comment on the merits or demerits of any legislation.

Bill No. 227 will be presented to the Board of Directors at its regular meeting on Thursday, July 8, 1999 at 12:00 noon. Any action by the Board will be forwarded to your Committee.

I will be available if you should have any questions.

Respectfully,

ELIZABETH M. BLAS
Acting Executive Director



GUAM ELECTION COMMISSION

Kumision Ileksion Guåhan

P.O. Box BG • Hagåtña, Guam 96932
Tel: (671) 477-9791/3 • Fax: (671) 477-1895



July 1, 1999

The Honorable Mark Forbes
Chairman, Committee on Rules, Government Reform,
& Reorganization and Federal Affairs
Mina'Bente Singko Na Liheslaturan Guahan
Twenty-Fifth Guam Legislature
155 Hesler Street
Hagatna, Guam 96910

Dear Mr. Chairman:

Pursuant to Public Law 24-287 regarding the Performance Review, the "first step" is to convene a Review Committee, among other requirements, of which the Commission has yet to establish for reasons that upon the enactment of Public Law 24-287 on October 16, 1998, many of us have witnessed the tension as we approach the November 3, 1998 General Election and the great demand from both the general public and candidates (and/or its representatives).

Immediately after the 1998 General Election, the Commission was faced with numerous complaints which required many Commission Board meetings to take place, as you may have remembered that such election was contested in Superior Court (CV2765-98) and resulted with the Commission exhausting all its efforts, resources, manpower to complete the demands from both the Plaintiffs and Defendants. It was until February 1999 for the Court to issue its Decision and Order, consisting of 233 pages.

While the Superior Court suit was ongoing, the Commission was faced with another suit filed before District Court (CV98-00066) in December 1998 regarding the 'Majority of Votes Cast'. In this case, the Commission was ordered by District Court to conduct a December 19, 1998 Runoff Election, which was stayed by the 9th Circuit Court of Appeals on December 15, 1998 and that the Appellants were to file their Briefs by January 1999; while the Appellees' Brief was due February 1999 that was scheduled to be heard on March 1999 in San Francisco, California. The stay allowed the Commission staff some time to recuperate and to regain their strength from being mentally fatigued and physically exhausted in trying to pick up the pieces from where they had left off. In April 1999, after hearing the case, the 9th Circuit affirmed the decision of District Court and that this case is remanded to the District Court for further proceedings and that the stay issued is dissolved. The 9th Circuit left it to District Court to set the date for the Runoff Election. However, in May 1999 before the 9th Circuit, the Appellants made a conditional motion for stay to enable them to file a petition with the U.S. Supreme Court which was granted for a period of

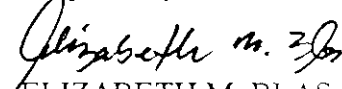
35 days, expiring July 6, 1999. As we present this letter to you, we are still unsure of the outcome of the pending decision of U.S. Supreme Court.

Even with all these proceedings going on, the Commission had to devote whatever time left on the laws affecting the Budget for this fiscal year and to prepare its Budget Packet for FY2000.

Mr. Chairman, with this in mind, and not to deviate from complying with Public Law 24-287, we seek compassion and understanding from the Guam Legislature, and we respectfully request additional time to submit our Performance Review to this committee.

I will be available for questions, comments that this Committee may have.

Respectfully,


ELIZABETH M. BLAS
Acting Executive Director

Law Offices Of Horecky & Associates

1st Floor, J. Perez Building
138 Seaton Boulevard
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E-mail: handalaw@ite.net

KRISTINA L. BAIRD, Of Counsel

July 2, 1999

VIA: HAND DELIVERY

The Honorable Mark Forbes
Chairman of the Committee on Rules, Government
Reform, Reorganization and Federal Affairs
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street
Hagåtña, Guam 96910

Re: Testimony on Bill No. 227 ("Election Reform Act of 1999")

Dear Chairman Forbes:

I am a practicing attorney and an appointed member of the Board of the Guam Election Commission. I present this testimony on my own behalf and not as a representative of the Guam Election Commission. I submit the following comments:

1. Section 3 of the Bill repeals and re-enacts Section 2101 of Title 3. Section 2101(a) includes a requirement that the Governor of Guam appoint members to the Election Commission Board, as recommended by the political parties, "within thirty (30) days of the Governor's receipt of a party's recommendation." If the Governor fails to make an appointment within thirty days, the individual whose appointment is pending can bring suit in the Superior Court of Guam to compel the appointment and could recover reasonable attorney's fees and costs.

2. I am not aware of any circumstances under which any past Governor of Guam has failed to appoint a member to the Commission who has been recommended by a political party. This provision is unnecessary and likely would violate the Organic Act of Guam by infringing upon the Governor's appointment powers. The provision is unnecessary. "If it ain't broke, don't fix it."

3. The provision does not specify who is responsible for paying plaintiff's costs and attorney's fees if the individual brings suit to compel appointment and prevails. If the Governor is expected to pay, is this a waiver of sovereign immunity? From what budget would the attorney's fees and costs come?

4. There is a provision for the automatic expiration of appointments to GEC board positions in Section 2101(a)(i). The terms of all members of the Commission "shall expire on the last day of June in each odd-numbered year." Whether the term of board appointments should be limited to two-years is questionable. Members of the existing Board, such as Chairman Joseph Mesa and Ms. Leonila Herrero, have served on the Commission with distinction as Board Members for many years. If reappointment of Board Members is possible under the provision, what purpose is there in an automatic termination provision?

5. Section 2101(a)(ii) would result in the automatic expiration of the terms of six appointed Board Members of the Commission if they fail to elect by majority vote a seventh member within sixty (60) days of a vacancy. The Guam Election Commission has now duly elected a seventh member to the Board. However, the media has created the false perception that the absence of a seventh member hindered the functioning of the Election Commission. I attach hereto as Exhibit "A" a letter dated May 18, 1999 from the Chairman of the GEC Board, Joseph F. Mesa, which indicates that the absence of a seventh member in no manner interrupted the Commission's ability to resolve issues that were raised in the recently concluded primary and general elections. The so-called issue of the lack of a seventh member is a "red herring." It had absolutely no impact on the election process.

6. The automatic removal of all Board Members, even those who may have voted for a seventh member, is unnecessarily disruptive and serves no needed purpose. The provision could cause instability on the Board and unnecessary recurrent changes of Board Members. The learning curve of board members would be disrupted. Such a provision does not promote the continuity of functions of the Election Commission.

7. It is inappropriate to appoint the Public Auditor as a member of the Election Commission. It is a conflict for the Auditor to be on the Board, as his or her own duties may require review of the operations of the Election Commission or public officials who are running for office. Appointment of the Auditor on the Election Commission Board could well conflict with the Auditor's professional duties. The Guam Legislature has also recently made the Public Auditor position an elected one itself, subject to the review of the Election Commission.

8. The present Commission practice provides for the annual election of a Chairman. However, Section 2101(e) would mandate a two-year term for the Chairman. The annual term has traditionally been a rotating chairmanship from the two recognized political parties and is a fair solution.

9. Section 4 of Bill 227 would amend Section 2102(c) to indicate that the annual salary of the Executive Director shall receive an annual salary to be prescribed by the "Legislature." In the present law, the Commission Board Members are empowered to set the annual salary. Empowering the Legislature to set the salary could be viewed as inorganic and possibly as political interference with the independent functioning of the Election Commission. The Commission Board should more appropriately set the salary. Finally, where the Legislature does set salary, the salary should simply be established by a specific amount referred to in legislation.

10. Section 5 of the Bill would amend Section 2103(c) to require that the Commission submit to the Legislature "a management and tabulation audit" of all elections it has conducted on or before June 30 in each odd-numbered year. It is not clear what is meant by "a management and tabulation audit" or why the same is necessary. What purpose is to be served by such an audit and its focus are not specified. It is unclear what use the Legislature would make of such an audit. Would the "tabulation audit" require a recount of votes? The provision is not adequately defined.

11. Section 6 of Bill 227 would amend Section 3102 with regard to registration requirements. A registration clerk could register a person and that person would have to provide "written evidence" of citizenship and residency. Such a requirement helps to ensure that only resident-citizens will be allowed to vote. In fact, the Acting Executive Director of the Guam Election Commission has already implemented this requirement administratively. Attached hereto as Exhibit "B" is the Commission policy implemented on June 4, 1999. The Commission already requires written evidence of citizenship and residence prior to registering an elector.

12. The Legislature may wish to consider defining what is meant by "evidence of citizenship and residency." Birth certificates, passports, and other documents proving United States citizenship would probably suffice. A definition should be given; otherwise the matter of what "written evidence" is sufficient will be left to the discretion of registration clerks.

13. Requiring a declaration of residency for an individual who seeks to register may be desirable, but considerable legal review should be given to the proposed requirement that the person have been a resident of Guam "for not less than ninety (90) days prior to the date of the next election to be conducted by the Commission." The United States Supreme Court has invalidated what is referred to as "durational residency requirements." The Court has upheld a short period for such requirements, but research should be conducted to determine whether this requirement is constitutional.

14. Section 3102 establish that a person is not required to disclose his or her Social Security Number as a condition of registration or voting. Such provisions are now more common, in order to protect privacy interests of individuals. However, such a provision may cause problems for the Election Commission in differentiating voters with similar names. You may recall that an issue concerning the identity of certain voters, and whether deceased voters voted, was raised in the last election. Without using Social Security Numbers, it will be more difficult for precinct officials to determine the identity of voters with same or similar names. Without use of Social Security Numbers, precinct officials may have difficulty in identifying the voter on the registration rolls.

15. Section 3104 has been amended to change the time for registration prior to an election from ten (10) to twenty-one (21) days. If the goal is to encourage voter participation, it is unclear why we would want to reduce the registration period prior to an election.

16. Section 9 of Bill 227 amends Section 3107 to require that those applying for absentee ballots must prove citizenship, age and residency just as persons who do initially register to vote under Section 3102. As Judge Manibusan has pointed out, revision of the absentee ballot application process must occur. More definition should be given to applicable requirements, appropriate information and necessary documentation to be required. This legislation further does not address how absentee ballots are to be received and cast at their respective precincts.

17. Section 11 of Bill 227 repeals Section 3111, which previously provided that a person appointed as a registration clerk shall be paid at the rate of \$6.00 per hour. I am not sure why the Legislature would delete this provision. Without this financial incentive, it may be more difficult for the Election Commission to secure a sufficient number of registration clerks. Prior to any enactment of this provision, the Election Commission staff should have a full opportunity to comment upon the effect that elimination of salary for registration clerks would have upon Commission operations.

18. The amendment to Section 3115 will stiffen the criminal penalty from a misdemeanor to a third degree felony for persons having charge of affidavits of registration who commit certain acts or omissions. However, this amendment also decriminalizes acts which were previously misdemeanors and makes such acts noncriminal. With the amendment, negligent failure of a person to make required entries, to take the oath of an elector for registration, or to comply with any provision of the election law will no longer be a criminal offense, not even a misdemeanor. Only intentional acts are punished under §3115. What may make more sense is to retain existing §3115, as is, and to add the amended version of §3115 as a new Section 3116.

19. Section 3130, regarding Index of Registrations, prohibits the Commission from collecting Social Security Numbers for persons registering to vote. Again, this raises the issue of how the Election Commission will determine the identity of voters when so many names are similar or identical. A duty is imposed upon each village mayor to canvass his or her municipality to verify

that the persons registered in his or her municipality are actual residents thereof in each odd-numbered year. Why should the mayors have this function? Furthermore, the provision does not indicate how the mayor is to "verify" that persons are actual residents. It is a huge undertaking, in the nature of a census. Financial resources must be provided to the mayors if they are expected to undertake such a substantial obligation. The provisions hereunder may be unworkable.

20. Section 8103 is re-enacted to prohibit campaigning on any election day at any polling place. However, the amended definition of "campaigning" is very vague and is not as well defined as the definition of "campaigning" contained in the present version of this section. Does this provision prevent an individual from wearing campaign paraphernalia into the polling place? The prohibition on campaigning within one hundred (100) feet from the entrance where public property is enclosed by a fence is very problematic. The Election Commission has spent considerable time looking at the particular requirements of each polling place to determine where campaigning should be permitted. This restriction is not suitable for all polling places.

21. Section 9115 allows each "recognized political party and every independent candidate or nominee who name appears on the ballot" to have "no more than two observers present to witness the conduct of the election and to challenge any voter." The present Commission practice allows one observer from each recognized political party. With the proliferation of independent candidates, it is not clear why each candidate, regardless of office sought, should have his or her own observers.

22. Section 9146 as proposed is in accordance with present practice.

23. Section 11108 as amended prohibits the present practice of allowing the transportation of ballots from the precinct to the election center by private conveyance accompanied by precinct officials from both parties. Allowing only public conveyance of ballots is an acceptable policy but may slow the delivery of ballots to the election center, and require greater expenditure of public resources.

24. Section 11114 as amended establishes that blank ballots and improperly marked ballots are "votes cast" for calculating a majority. As to any adoption of this provision, it appears prudent to await a final judgment in federal court litigation before this provision is changed. Only a final decision by the United States Supreme Court will determine what constitutes a majority of votes cast in any election.

From a legal point of view, this amendment is unnecessary. The District Court and the Ninth Circuit of Appeals held that notwithstanding the fact that present local law 3 GCA §11114 indicates that blank votes or over votes are not counted, federal law requires such blank ballots and over votes be included in determining a majority of votes cast. The provision of local law is irrelevant to ascertaining the meaning of the "majority" requirement in federal law. The issue of what constitutes a majority of votes cast is a matter of federal, and not local Guam law. This amendment is also an

inaccurate statement of law for the Washington Delegate Office, as a majority of votes cast for that position only include votes cast specifically for the office of delegate.

25. The changes in criminal penalties from misdemeanor to felony in Sections 14108, 14109, 14111 and 14112 are appropriate. However, have there ever been prosecutions under any of these provisions?

26. In Section 14113, the penalty for deceiving an illiterate voter is increased to a felony "of the third degree." It seems to me that the addition of the language "any blind or illiterate voter" is more problematic then it is helpful and more restrictive than the present statute. The present language refers to "any voter wishing to vote, who cannot read. . . ."

27. The amendments to Section 14114 with regard to persons improperly acting as precinct officials without authority will eventually make it more difficult to convict persons of such an offense. The proposed amendments require that he or she have actual knowledge of a lack of authority to carry out the duties of a precinct board member. Requiring actual knowledge by a person will make it more difficult to convict such persons.


28. The provisions of criminal offenses contained in Sections 14115, 14116, 14117 and 16602 are appropriate policy decisions. Similarly, Section 19119 increases potential fines for corporations, organizations or associations who violate the law in the amount of \$10,000.00 and make such amount payable per offense.

29. Section 32 would provide that the "Territorial Auditor" "shall be the seventh member of the Commission" in the gubernatorial runoff election of 1999. At present there's still uncertainty that there will be a gubernatorial runoff election. In any event, the Guam Election Commission has already chosen a seventh member. The member is now duly qualified and appointed to serve. There is no need for the "Territorial Auditor" to serve as the seventh member and such office could not be appointed in light of the fact that there is an existing seventh member. The name of "Territorial Auditor" has been changed to "Public Auditor." Under P.L. 25-42, the Public Auditor is now elected. The candidacy of the Auditor is directly reviewed by the Election Commission, rendering an Auditor's membership on the board inappropriate.

30. Section 33 should not be enacted until it is determined whether or not there will be a gubernatorial runoff. Section 33 further presumes that if there is such a runoff, it will be in "1999." This Section automatically terminates the Commission membership of members thirty (30) days after the certification of the results of a gubernatorial runoff election. No explanation is given as to the necessary connection between certification of a runoff election and termination of present board membership. In any event, the necessity for this provision is unclear.

Please let me know if you have any questions in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred J. Horecky", with a long horizontal flourish extending to the right.

FREDERICK J. HORECKY

Enclosures: Exhibits "A" and "B"

FJH:psa
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7# 150201



GUAM ELECTION COMMISSION

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Tel: (671) 477-9791/3 • Fax: (671) 477-1885
May 18, 1999



Mr. Robert G.P. Cruz, Esq.
Public Auditor
Office of the Public Auditor
Ufisinan I Aditot Pupleko
Government of Guam
P. O. Box 23667
GMF, Guam 96921

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MAY 19 1999

LAW OFFICES OF
HORECKY & ASSOCIATES

Dear Mr. Cruz

Thank you for your May 18, 1999 letter relative to the appointment of a Seventh Member.

Your letter raises two specific issues of which I will attempt to provide a reasonable explanation. I Libeslaturan Guahan has on it's agenda for this legislative session Bill No. 202 that names the office of the Public Auditor as the seventh member in the event the Commission is unable to select one. The Commission neither submitted any testimony in support of or against this Section in Bill No. 202.

Secondly, the selection of a Seventh Member has and will continue to be the first item on the Agenda as this has been the historical policy of the Commission since it's inception. The Commission, at the present, has an agreement amongst the Members that this item will be tabled in the event one of the six members is absent. Unfortunately one of the Commission's member has been off island because of medical reasons. I assure you that the Members are just as anxious to select a Seventh Member

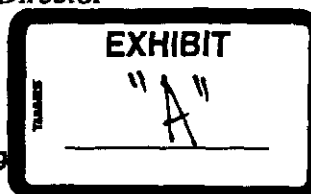
There seems to be a mis-perception that the absence of a seventh member caused a degree of disruption in the Commission's ability to resolve the issues that were raised in the recently concluded primary and general elections. I can assure you that this was not case and while the issues might have been debated with great passion they were resolved by receiving a vote of four affirmative votes.

Again, thank you for your letter and the concerns you raised.

Sincerely,

JOSEPH F. MESA
Chairman

cc: GEC Board Members & Executive Director





GUAM ELECTION COMMISSION

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June 4, 1999

MEMORANDUM

TO: Board of Directors

FROM: Executive Director

SUBJECT: Superior Court recommendations under Civil Case No. CV2765-98; and Board's Policy Implementing the Volunteer Registration Program

This memo supercedes staff's proposed recommendation of March 9, 1999.

In light of Civil Case No. CV2765-98, more specifically, Superior Court's recommendation as outlined in the decision and order of such case, the following registration procedure is being implemented:

REGISTRATION

Form: The Affidavit of Registration will remain in its existing form. EXHIBIT A

Identification: Proper identification required, such as Driver's License, U.S. Passport, Birth Certificate, Guam I.D., Certification of I.D. or Naturalization Certificate.

Procedure:

- Step 1.** The registrant is asked whether currently registered in another jurisdiction. If answered affirmatively, the registrant completes an "Affidavit of Cancellation Card". EXHIBIT B

Procedure - Affidavit of Cancellation Card

Upon completion of the Affidavit of Cancellation card, the original is mailed to its respective jurisdiction. A copy is furnished to the registrant and a copy is attached to the original Affidavit of Registration for file.



- Step 2.** The registrant is asked their place of birth. If born in a foreign country, presentation of proof of U.S. Citizenship is mandatory (U.S. Passport or Naturalization Certificate).
- Step 3.** Upon presenting proof of U.S. Citizenship, a copy is attached to the original Affidavit of Registration for file.
- Step 4.** After the required documentation is presented before the registrar, the registrant will complete the Affidavit of Registration form.
- Step 5.** A copy of the Affidavit of Registration is issued to the registrant to include other documentations, if applicable.

Note: *If the registrant does not have proper documentation in his/her possession at the time of registration, such registrant shall not be permitted to register.*

With regards to the Absentee Application process, staff proposes the following:

ABSENTEE APPLICATION

Form: Attached is a modified form of the Absentee Application. **EXHIBIT C**

Identification: Proper identification required, such as Driver's License, U.S. Passport, Birth Certificate, Guam I.D., Certification of I.D. or Naturalization Certificate.

Procedure:

- Step 1.** The registrar will ask the applicant their reason for not being able to attend the polls on election day and would also inform the applicant on the conditions upon the right to vote by absentee ballot.
- Step 2.** If the applicant falls within said conditions, the applicant will complete the Absentee Application form.
- Step 3.** If the applicant is born in a foreign country, presentation of proof of U.S. Citizenship is mandatory (U.S. Passport or Naturalization Certificate).
- Step 4.** Upon presenting proof of U.S. Citizenship, a copy will be attached to the Absentee Application form.

Step 5. Upon review and approval of a completed Absentee Application form, an Absentee Ballot will be delivered or mailed to the applicant.

Note: *Any applicant that fails to provide the required documents shall be denied an Absentee Ballot.*

PRECINCT ACCOUNTABILITY ON ELECTION DAY


The Court recommends that the Commission implement a system or a policy whereby any discrepancy or problem that arises at the precincts during election should be documented.

Proposal: The attached "Incident Report" form (EXHIBIT D) will be included in the Precinct Official's Handbook requiring the Precinct Officials to document any discrepancy or situation that may arise within their respective precinct and to indicate the resolution of said incident.

BOARD'S POLICY IMPLEMENTING THE VOLUNTEER REGISTRATION PROGRAM

Current policy allows for a maximum of one hundred fifty (150) Volunteers equally distributed among Democrats, Republicans and Non-Partisan. Staff recommends, among others, a reduction of seventy-five (75) maximum Volunteers under Section 202; an addition to Section 601; and an amendment to Section 603, number 2. Amendments are shown in the attachment. EXHIBIT E

The aforementioned proposal is for Board's consideration and action. I will be available for any questions you may have.


ELIZABETH M. BLAS
Acting

Attachments

Exhibit A - Affidavit of Registration form
Exhibit B - Affidavit of Cancellation card
Exhibit C - Absentee Application form
Exhibit D - Incident Report form
Exhibit E - Board's Policy Implementing the
Volunteer Registration Program



GUAM ELECTION COMMISSION

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E-Mail Address: gco@Kuentos.guam.net



AFFIDAVIT OF REGISTRATION

REG.NO.	DISTRICT	PRECINCT	CODE A T C
<hr/>			
NAME	Last	First	Middle Initial
<hr/>			
MAILING/STREET ADDRESS	City	State	Zip Code
<hr/>			
DATE OF BIRTH		PLACE OF BIRTH	
<hr/>		<hr/>	
SS OR I.D.		PARTY AFFILIATION (Optional)	
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OATH

I, _____ swear as evidence by my signature affixed below, that: (1) I am a citizen of the United States of America; (2) the residence of (Municipal or Municipal division or district) _____ since _____; was acquired with the intent to make Guam my legal residence with all the accompanying obligations therein; (3) I will be at least 18 years of age on or before the next election; (4) I am not confined to a mental institution nor declared insane by the courts; (5) I am not serving a criminal sentence; and (6) the information supplied by me to complete this affidavit is true and correct.

I last voted in:

City _____ State _____

I was registered under the name:

Signature of Registrant _____

(Last) _____ (First) _____ (Middle) _____

SUBSCRIBED & SWORN TO BEFORE ME ON _____, 19 _____

§3108. Unlawful Registration as Crime. Every person who willfully causes, procures or allows himself or any person to be registered as a voter, knowing himself or that other person not to be entitled to registration, is guilty of a felony of the third degree.

009273

Officer authorized to take oaths

