

FIRST REGULAR SESSION, 1986

AN ACT

To affirm the final jurisdiction of the Board of Elections to decide the validity of questionable ballots, to maintain the jurisdiction of each house of the Legislature to be the final judge of the election and qualifications of its members, to amend 1 CMC Article 2 to provide that the Board of Elections will no longer have jurisdiction to hear elections contests, to repeal Sections 6425, 6427(e), 6430, 6431 and 6432, and for other purposes.

BE IT ENACTED BY THE FIFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Findings. The Commonwealth Legislature finds that the
2 delegation of review authority of election contests to the Commonwealth
3 Courts was never intended to strip the Legislature of its final review
4 authority pursuant to Article II, Section 14(a) of the Commonwealth
5 Constitution. Furthermore, the Legislature finds that the Election Board
6 should have the sole authority to judge the validity of questionable
7 ballots. That Board has the ability to provide consistency in such
8 decisions because it is aware of the precedents it has established in
9 previous cases. However, the Legislature finds that election contests
10 should be conducted in a court of law where the parties can avail
11 themselves of the established procedures for the determination of
12 questions of fact and law. Furthermore, the Constitution does not allow
13 the Legislature to vest jurisdiction in any other agency or branch, other
14 than the Court to determine the election and qualification of its members.

15 Section 2. Conforming Amendment. The first sentence of 1 CMC
16 Section 6415(a) is amended to read as follows:

17 "(a) If a ballot being counted appears improper, the
18 final decision as to the validity of the ballot shall be
19 made by the court. This decision shall be subject to review
20 by the Legislature.

1 Section 3. Conforming Amendment. 1 CMC Section 6421(b), (c) and
2 (d) are amended to read as follows:

3 "(b) The candidate has given to an election official
4 anything of value for the purpose of procuring his election;

5 (c) Illegal votes were cast. "Illegal votes" means
6 any vote cast by a person who is not qualified to vote because
7 of failure to meet age or residency requirements or has cast
8 more than one ballot in the same election; or

9 (d) The Board in the conduct of election or arithmetical
10 tabulation of votes made errors sufficient to change the
11 final result of the election as to any person who has been
12 declared elected."

13 Section 4. Conforming Amendment.

14 (a) 1 CMC Section 6423(a) is amended to read as follows:

15 "When a voter contests any election, other than one for
16 a seat to either house of the Legislature, he shall file with
17 the Court a written complaint setting forth specifically:

18 (1) The name of the contestant;

19 (2) That he is a voter of the election district
20 in which the contested election was held;

21 (3) The name of the defendant;

22 (4) The office sought;

23 (5) The particular grounds for the contest; and

24 (6) Any other information which the Court may
25 require pursuant to Court Rules.

1 When the election being contested is for a seat in either
2 house of the Legislature, the written complaint shall be filed
3 with the appropriate house of the legislature on inauguration
4 day or 30 days after the declaration of official results,
5 whichever is later. Each presiding officer of each house will
6 appoint a Credentials Committee of five members which shall
7 include members for all political parties elected to that house
8 of the Legislature. The elected chairman of this committee
9 shall ensure that the parties are afforded a full opportunity
10 to be heard and to be represented by counsel at the hearing.
11 The decision of the Credentials Committee shall be submitted
12 to the members of the respective house who shall adopt or
13 reject that decision as the decision of the House or Senate by
14 plurality vote of the members in that house."

15 Section 5. Conforming Amendment. 1 CMC Section 6424 is amended to
16 delete the work "Board" and replace it with the word "Court" everywhere
17 it appears in the Section.

18 Section 6. Conforming Amendment. 1 CMC Section 6426 is renumbered
19 as Section 6425 and amended to delete the word "Board" and replace it with
20 the word "Court" everywhere it appears in the Section.

21 (a) The first sentence in Section 6426(a) is amended to
22 read as follows:

23 "(a) At the hearing the ballots shall be recounted
24 in the presence of all parties, where it appears from the
25 statements filed that a recount is necessary for the proper

1 determination of the contest or where less than five
2 votes separate the defendant and the next highest vote
3 getter and a contestant so requests. Such a right to
4 a recount, where less than five votes separates two
5 candidates, shall also be available to a contestant in
6 a legislative election contest; Provided, that the
7 recount shall take place before the legislature."

8 (b) Section 6426(b) is amended to read as follows:

9 "(b) If the statements of the cause of the contest
10 are insufficient, the Court may dismiss the proceedings
11 for lack of evidence or for want of prosecution."

12 (c) Section 6426(c) is amended to read as follows:

13 "(c) The Court shall hear and determine all issues
14 arising in contested elections not involving seats to
15 the Legislature, except the validity of ballots based on
16 the manner in which they are marked. After hearing the
17 evidence and within three days after the submission
18 thereof, the Court shall issue its findings of fact and
19 conclusions of law, and immediately thereafter announce
20 judgment in the case, either confirming, or reversing
21 the result of the election. The judgment of the Trial
22 Court shall be final and unappealable."

23 Section 7. Conforming Amendment. 1 CMC Section 6427 is renumbered
24 as 6426 and amended by deleting the word "Board" and replacing it with
25 the word "Court" everywhere that it appears.

1 Section 8. Conforming Amendment. 1 CMC Section 6428 is renumbered
2 as 6427 and subsection (b) is amended to read as follows:

3 "(b) If the Board has issued any certificate for the
4 same office to another person than the one declared elected
5 by the Court, such certificate shall become void by the
6 judgement of the Court."

7 Section 9. Conforming Amendment. 1 CMC Section 6429 is renumbered
8 as 6428 and amended by deleting the word "Board" everywhere it appears and
9 replacing with the word "Court".

10 Section 10. Repealer. 1 CMC Sections 6425, 6427(e), 6430, 6431 and
11 6432 are hereby repealed.

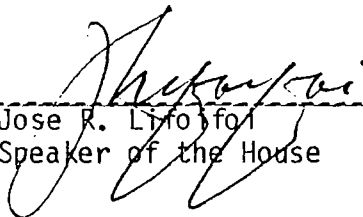
12 Section 11. Applicability. This act shall apply to any election
13 contest which has not been reduced to final judgment on the effective date
14 of this act.

15 Section 12. Transition. Any matters being transferred due to the
16 enactment of this legislation shall not be subject to the time
17 requirements imposed in Section 4 of this act.

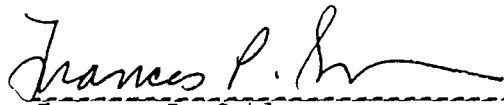
18 Section 13. Severability. If any provision of this Act, or the
19 application of any such provision to any person or circumstance, shall be
20 held invalid by a court of competent jurisdiction, the remainder of this
21 Act, or the application of such provision to persons or circumstances
22 other than those to which it is held invalid, shall not be affected
23 thereby.

24 Section 14. Effective Date. This act shall take effect upon its
25 approval by the governor or upon its becoming law without such approval.

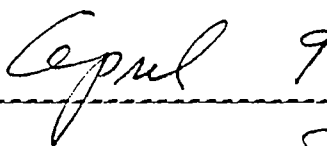
ATTEST:

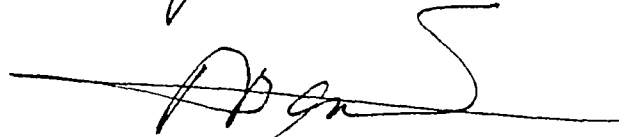


Jose R. Lirio for
Speaker of the House



Frances P. Sablan
House Clerk


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Pedro P. Tenorio
Governor
Commonwealth of the Northern Mariana Islands