

SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2008 PUBLIC LAW NO .16-38
SENATE BILL NO. 16-22, SS1, SD1, HS1, HD1

AN ACT

To amend parts of 1 CMC 6101 et seq., The Northern Mariana Islands Election Law; and for other purposes.

BE IT ENACTED BY THE SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings and Purpose.** The Legislature finds that the Northern Mariana
2 Islands Election Law, as amended, requires further amendments to establish a clear policy
3 governing elections in the Northern Mariana Islands and to set forth procedures that would
4 allow the Commonwealth Election Commission to more effectively and efficiently
5 administer absentee voting, and other matters.

6 The Legislature finds that, currently the election law of the CNMI requires voters to
7 proffer an excuse to vote by absentee ballot. This requirement is outdated and an
8 unnecessary barrier to the exercise of the franchise. Thirty one (31) states allow no-excuse
9 pre-Election Day in-person voting - either early voting on a voting machine or in-person
10 absentee voting. Twenty nine (29) states allow no-excuse absentee voting by mail. The
11 Legislature finds that the Commonwealth should join this majority of jurisdictions who have
12 removed impediments such that more people are likely to exercise their rights to vote.

13 The Legislature further finds that other amendments proposed in this Act serve to
14 establish uniformity in the processing of absentee voting and to further clarify ambiguities in
15 the Northern Mariana Islands Election Law. For example, voters have noted disparate
16 treatment when they wish to obtain absentee ballots because they will be within the CNMI
17 but outside the senatorial district in which they are to vote on election day. The Legislature
18 finds that, to the greatest extent possible, voters exercising the franchise by absentee ballot
19 should be treated similarly. Absentee ballots in the possession of the Commission on

1 election day should be counted on election day; so doing will remove a great deal of
2 uncertainty regarding the outcome of elections and allows for a speedy transition of powers
3 between outgoing and incoming officeholders. This Act amends current election law to the
4 benefit of the voters wishing to participate in the political process. This Act is intended to
5 promote fair, honest, and transparent elections in the Commonwealth, and is therefore
6 necessary and a proper use of the legislative power granted by Section 1 of Article II of the
7 Commonwealth Constitution.

8 **Section 2. Amendment.** Subsection (a) of Section 6211 of Title 1 of the
9 Commonwealth Code is hereby amended as follows:

10 “§ 6211. **Absentee Voting: Absence from the District in Which Voter is Registered**
11 **Commonwealth.**

12 (a) Any registered voter of the Commonwealth may, as provided in this part and
13 subject to the conditions of this Section, may vote at any election by absentee ballot if he or
14 she feels it likely he or she will be prevented from personally going to the polls in the
15 senatorial district in which he or she is registered to vote and voting on election day because
16 of:

- 17 (1) The conduct of his or her business;
- 18 (2) The necessity of travel;
- 19 (3) Attendance at an institution of learning;
- 20 (4) Serving in the United States Armed Forces or the Merchant Marine;
- 21 (5) Employment;
- 22 (6) Training;
- 23 (7) Receiving treatment at a medical institution;
- 24 (8) Government representation; or
- 25 (9) Accompanying a member of the household who is engaged in an activity
26 listed above.”

27 **Section 3. Amendment.** Subsection (c) of Section 6211 of Title 1 of the
28 Commonwealth Code is hereby amended as follows:

1 “(c) Beginning one week before the day of election, the Commission may establish
2 special ~~policing~~ polling places within the Commonwealth at which a voter eligible to cast an
3 absentee ballot may request an ~~absent~~ absentee ballot, cast their ballot, and deliver it into the
4 custody of the Commission to be counted ~~seven days after the election~~ as provided by this
5 Chapter.”

6 **Section 4. Amendment.** Section 6214 of Title 1 of the Commonwealth Code is
7 hereby amended by the addition of a new subsection that reads as follows:

8 “(d) Voters requesting an absentee ballot due to an expected inability to vote at the
9 polls on election day shall be subject to the same deadlines and requirements without regard
10 as to whether they shall be outside their home senatorial district or outside the
11 Commonwealth.”

12 **Section 5. Amendment.** Sub-subsection (2) of Subsection (a) of Section 6213 of
13 Title 1 of the Commonwealth Code is hereby amended as follows:

14 “(2) The reply envelopes shall not be opened but shall be marked as provided in
15 subsection (b) and shall be deposited in a locked ballot box until processed by the
16 Commission pursuant to subsections (c) through (h) ~~fourteen days after the election.~~”

17 **Section 6. Amendment.** Section 6213 of Title 1 of the Commonwealth Code is
18 hereby amended by the addition of a new Subsection (i) as follows:

19 “(i) Absentee ballots in the possession of the Commission on Election day shall be
20 processed, counted and tabulated on Election day, and reported pursuant to 1 CMC § 6524.
21 Other absentee ballots postmarked not later than the date of election and received by the
22 Commission not later than fourteen days after the date of election shall be counted fourteen
23 days after the date of the election.”

24 **Section 7. Amendment.** Section 6209 of Title 1 of the Commonwealth Code is
25 hereby amended as follows:

26 “§ 6209. **Absentee Voting.**

27 (a) Subject to the procedures set forth in this Chapter, any registered voter at any
28 election may request and cast an absentee ballot with the Commission. The Commission
29 shall compile and keep immediately current a list of persons requesting an absentee ballot

1 pursuant to 1 CMC sections 6210 and 6211, including the date such request was made; shall
2 make and keep immediately current a list of persons to whom an absentee ballot was
3 personally delivered or mailed, including the dates the ballots were delivered or mailed; and
4 shall make each list immediately available for public inspection:

5 (1) at one government building in each senatorial district which maintains regular
6 business hours; and

7 (2) on a website accessible without requiring user registration or the use of a
8 password.

9 (b) For the purposes of this section, ‘keep immediately current’ and ‘make each list
10 immediately available’ mean the information is updated and published to the public as soon
11 as practical after the information is received, and in no case later than 48 ~~24~~ hours after the
12 receipt of the information.”

13 **Section 8. Amendment.** Section 6524 of Title 1 of the Commonwealth Code is
14 hereby amended as follows:

15 “(a) Except as provided in subsection (d), tThe Commission shall establish an
16 accounting and tabulation committee composed of not less than five (5) members. The
17 accounting and tabulation committee shall count and tally all votes cast and determine the
18 acceptability thereof.

19 (1) The accounting of ballots shall begin after all the polls in each election district are
20 closed and shall continue in any tabulating location specified by the Commission until
21 all votes are counted. No person may be present in the vicinity of the counting and
22 tabulation area, except that each political party may have not more than two observers
23 in the area, and each candidate for partisan office not affiliated with a political party
24 may have one (1) observer in the area. When the ballots are in the counting and
25 tabulation area, the area shall not be left unattended. There shall be a minimum of two
26 (2) election officials at all times, in addition to the two observers from each political
27 party and the observers, if any, representing the independent candidate(s) standing for
28 election to partisan office. For the purpose of this sub-subsection, ‘partisan office’

1 includes Governor or Lieutenant Governor, Senator, Representative, Resident
2 Representative Delegate to the United States, or Mayor.”

3 (2) Upon the completion of the counting and tabulation of all votes cast in the
4 Commonwealth or local elective office, an official public announcement shall be made
5 by the Commission, except that no official announcement of the results may be made
6 for those offices in which a proceeding affecting ballots or the election results has been
7 initiated until the legality of such issues raised in such proceeding affecting ballots or
8 election results have been determined. As soon as is practicable after the tabulation of
9 ballots is completed, the Commission shall issue certificates of election to the winning
10 candidates for those Commonwealth or local elective offices in which no proceeding
11 affecting ballots or election results has been initiated. The Commission may make
12 periodic announcements of results during tabulating and counting.

13 (3) If precincts are established, the Board of Election must publish the unofficial
14 precinct results as soon as is practicable after the tabulation of the ballots is completed. If
15 sub-precincts are established, the Board of Election must publish the sub-precinct results as
16 soon as is practicable after the tabulation of the ballots is completed.”

17 **Section 9. Amendment.** Section 6524 of Title 1 of the Commonwealth Code is
18 hereby amended by the addition of a new subsection (d) that reads as follows:

19 “(d) Votes cast for Senator, Representative, Municipal Council and Mayor, as well as
20 for any local initiative or any other matter for which only voters registered in one senatorial
21 district may determine the outcome must be:

22 (1) placed on ballots to be known as ‘local ballots’, separate from any contest
23 decided by voters from more than one senatorial district.; and

24 (2) preliminarily counted, tabulated, and published in the senatorial district in which
25 they were cast prior to shipment to the Third Senatorial District for any final
26 counting, tabulation, or publication deemed necessary by the Commission.

27 Hand counting of local ballots is acceptable, as is counting by electronic or mechanical
28 means. This preliminary count may be conducted by one Commission Member in the

1 presence of one representative from the Office of the Public Auditor and one assistant
2 attorney general.

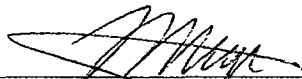
3 If a senatorial district has access within the district to electronic or mechanical means of
4 counting similar to those utilized by election officials in the Third Senatorial District, the
5 requirements of this subsection may be waived.”

6 **Section 10. Severability.** If any provisions of this Act or the application of any
7 such provision to any person or circumstance should be held invalid by a court of competent
8 jurisdiction, the remainder of this Act or the application of its provisions to persons or
9 circumstances other than those to which it is held invalid shall not be affected thereby.

10 **Section 11. Savings Clause.** This Act and any amendment or repealer contained
11 herein shall not be construed as affecting any existing right acquired under contract or
12 acquired under statutes repealed or under any rule, regulation or order adopted under the
13 statutes. Repealers or amendments contained in this Act shall not affect any proceeding
14 instituted under or pursuant to prior law. The enactment of this Act shall not have the effect
15 of terminating, or in any way modifying, any liability, civil or criminal, which shall already
16 be in existence at the date this Act becomes effective.

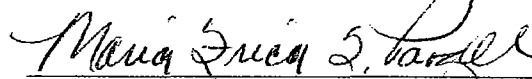
17 **Section 12. Effective Date.** This Act shall take effect upon its approval by the
18 Governor or upon its becoming law without such approval.

CERTIFIED BY:



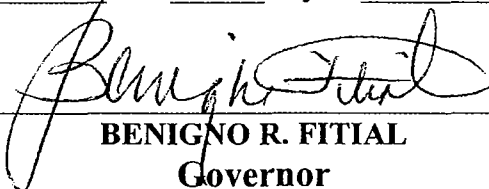
PETE P. REYES
PRESIDENT OF THE SENATE

ATTESTED BY:



MARIA FRICA T. PANGELINAN
SENATE LEGISLATIVE SECRETARY

APPROVED this 5th day of APRIL, 2009


BENIGNO R. FITIAL
Governor

Commonwealth of the Northern Mariana Islands