

**TITLE 10**  
**ELECTIONS**



## TITLE 10 ELECTIONS

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### CHAPTER 1 GENERAL PROVISIONS

#### Section

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**§1-101. Short title.** — This title is known and may be cited as the “General Election Law of 1990.”

Source: S.L. No. 2L-158-90 §1, 8/2/90

**§1-102. Application of title.** —

(1) *State elections.* Unless otherwise provided, this title shall apply to all elections, recalls, referendums, initiatives, and ratifications conducted for and within the state of Pohnpei.

(2) *Federal elections.* The Federated States of Micronesia may, by duly enacted law, make this title applicable to federal elections conducted in Pohnpei State; PROVIDED that all expenses incidental thereto shall be borne by the Federated States of Micronesia. In the absence of federal law governing federal elections or any aspect thereof, this title shall apply to all such elections or aspects thereof conducted in this state.

(3) *Local elections.* Any local jurisdiction of the state may, by charter, constitution or duly enacted ordinance, make this title applicable to local elections conducted in that local jurisdiction; PROVIDED that all aspects of a local government election that is conducted outside of the jurisdictional boundaries of the local jurisdiction shall be governed by this title. Unless provided otherwise by state law, expenses for local elections under this title shall be borne by the local government for which the election is conducted. In absence of local law governing local government elections or any aspect thereof, this title shall apply to all such elections or the particular aspect thereof.

Source: S.L. No. 2L-158-90 §2, 8/2/90

**§1-103. Definitions.** — Unless the context clearly indicates otherwise, the following meanings shall apply to this title:

(1) “Election” means all voting by the qualified populace in Pohnpei State conducted or required pursuant to law including: elections for office, recall elections, initiatives, referendums, ratification of constitutional amendments, and plebiscites.

(2) “Election Commissioner” means the person described and designated as the Election Commissioner pursuant to §§2-101 through 2-105. The phrase “Election Commissioner” shall include persons who may be delegated by the Election Commissioner to exercise or perform the powers and responsibilities of the Election Commissioner as set forth in this title. The term “Election Commissioner” includes a special election commissioner appointed pursuant to Article 13 §7(2) of the Pohnpei Constitution; PROVIDED that such designation shall apply to said appointed official solely for the purposes associated with a recall election pertaining to the recall of a governor or lieutenant governor.

(3) “Election district” means that area for which a candidate is running for office.

(4) “Federal” shall refer to the national government of the Federated States of Micronesia.

(5) “FSM” means the government of the Federated States of Micronesia.

(6) “Legal residence” means the local jurisdiction in which a person registering to vote under this title feels the greatest affiliation or concern for the welfare of its people; PROVIDED that a local jurisdiction may only be designated as his or her legal residence if that person was born in the local jurisdiction, or one of his or her parents was born in the local jurisdiction, or he or she has actually resided in the local jurisdiction for at least one year preceding the date of the next election, or he or she is registered to vote in the local jurisdiction for Pohnpei Legislature elections on the effective date of this title [*August 2, 1990*]. For purposes of this title, the term “parents” shall mean the adoptive parents when the person has been legally adopted; otherwise it shall mean the person’s natural parents; PROVIDED that an individual may change his legal residence through voter registration or written declaration to the Governor if not so registered to vote, filed not less than 30 days prior to the requested change, to such local jurisdiction for which he is otherwise qualified to vote under the election laws of the state; PROVIDED FURTHER that the Election Commissioner or Governor shall promptly notify the respective local jurisdictions chief executives of the same.

(7) “Legal resident” means one who has declared a local jurisdiction to be his or her legal residence in the manner provided by this title.

(8) “Legislature” means the Pohnpei Legislature.

(9) “Local governments” shall mean the local governments designated by Article 14 §1 of the Pohnpei Constitution.

(10) “Polling place” means those locations designated by the Election Commissioner and meeting the conditions set out in this title, for voting by personally casting a ballot. Except as provided in §6-124(2), each polling place shall issue ballots only for the election district within which it is located.

(11) “State court” means the Pohnpei Supreme Court.

(12) “State Treasury” means the Pohnpei Treasury as established by law and containing all monies attributable to or managed by the Pohnpei Government.

Source: S.L. No. 2L-158-90 §3, 8/2/90; S.L. No. 2L-211-91 §1, 10/12/91; S.L. No. 4L-48-97 §1, 6/23/97

**§1-104. Authorization for appropriation; administration.** —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined and allocated annually in the Comprehensive Budget Act for all incidental and necessary expenses relative to the preparation and conduct of elections under this title, except for federal and local elections as herein specified by this title; PROVIDED that no portion of the sums authorized herein may be expended for campaign purposes for any candidate, political party or other such interested persons, or to support a particular political cause or issue.

(2) All sums herein authorized shall be administered and expended by the Election Commissioner solely for the purposes specified in Subsection (1) of this section. The Election Commissioner shall prepare and submit to the Legislature and the Governor within 30 days following each election, a full financial accounting of monies collected and expended during said election. The Election Commissioner shall further submit to the Legislature and Governor an annual report on all financial activities under this title for the previous fiscal year within 30 days following the close thereof.

(3) All sums appropriated under the authorization of this title in any one fiscal year, unobligated or unexpended on September 30 shall revert to the general fund of Pohnpei.

Source: S.L. No. 2L-158-90 §4, 8/2/90

**§1-105. Realization of revenues.** — All fees and other revenues collected pursuant to this title shall be deposited in the general fund of Pohnpei as the realization of general revenue to be appropriated in the manner provided by law; PROVIDED that all fees and revenues collected pursuant to federal or local elections under this title, except for payments or reimbursements received as provided in Subsections (2) and (3) of §1-102, shall be deposited in the treasury of the respective jurisdiction.

Source: S.L. No. 2L-158-90 §5, 8/2/90

**§1-106. Election frauds; penalties.** —

(1) The following persons shall be deemed guilty of an election fraud:

(a) Every person who, directly or indirectly, personally or through another, gives, procures or lends, or agrees or offers to give, procure or lend, or who endeavors to procure any money or office or place of employment or valuable consideration to or for any elector, or to or for any person for an elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who does any such act on account of any person having voted or refrained from voting for any particular person at any election; PROVIDED, HOWEVER, that this provision shall not prohibit those Pohnpei customs and traditions ordinarily associated with election day activities;

(b) Every person who advances or pays, or causes to be paid, any money to, or to the use of, any other person, with the intent that the money, or any part thereof, shall be expended in bribery at any election, or for any purpose connected with or incidental to any election; or who knowingly pays or causes to be paid any money to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election;

(c) Every elector who, before, during or after any election, directly or indirectly, personally or through another, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment for oneself or any other person for voting or agreeing to vote, or for refraining to vote or agreeing to refrain from voting, or for voting or refraining to vote for any particular person or issue;

(d) Every person who, directly or indirectly, personally or through another, makes use of, or threatens to make use of, any force, violence or restraint; or inflicts or threatens to inflict any injury, damage or loss in any manner, or in any way practices intimidation upon or against any person in order to induce or compel the person to vote or refrain from voting, or to vote or refrain from voting for any particular person or issue, at any election, or on account of the person having voted or refrained from voting, or voted or refrained from voting for any particular person or issue; or who by abduction, distress or any device or contrivance impedes, prevents or otherwise interferes with the free exercise of the elective franchise;

(e) Every person who, at any election, votes or attempts to vote in the name of any other person, living or dead, or in some fictitious name, or who, having once voted, votes or attempts to vote again, or knowingly gives or attempts to give more than one ballot for the same issue of office at one time of voting;

- (f) Every person who, before or during an election, knowingly publishes a false statement of the withdrawal of any candidate at the election;
  - (g) Every person who induces or procures any person to withdraw from being a candidate at an election in consideration of any payment or gift or valuable consideration; or of any threat; and every candidate who withdraws from being a candidate in pursuance of such inducement or procurement;
  - (h) Every public officer by law required to do or perform any act or thing with reference to any of the provisions in any law concerning elections' who willfully fails, neglects or refuses to do or perform the same, or who willfully performs it in such a way as to hinder the objects thereof, or who is guilty of any willful violation of any of the provisions thereof;
  - (i) Every person who offers any bribe or makes any promise of gain, or with knowledge of the same permits any person to offer any bribe or make any promise of gain for his benefit, to any voter to induce him to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing;
  - (j) Every person who willfully tears down or destroys or defaces any election proclamation or any poster or notice or list of voters or visual aids or facsimile ballot, issued or posted by authority of law;
  - (k) Every person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness or color, to the official ballot so that it could be cast or counted as an official ballot in an election;
  - (l) Every person who is disorderly or creates a disturbance whereby any meeting of the precinct officials or the election board during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at any election; and every person assisting or aiding or abetting any disturbance;
  - (m) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any meeting of the election board or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election;
  - (n) Every person, other than those authorized by law, who remains or loiters within the area set aside for voting during the time appointed for voting;
  - (o) Any person, including candidates carrying on any campaign activities within the state on the day on which an election is being held for the purpose of influencing votes. Campaign activities shall include the following:
    - (i) Any distribution, circulation, carrying, holding, posting or staking of campaign cards, pamphlets, posters, and other literature;
    - (ii) The use of public address systems and other public communication media;
    - (iii) The use of motor caravans or parades; and
    - (iv) The use of entertainment troupes or the free distribution of food, beverages, goods and services.
- The "day of election" as used in this paragraph shall commence at midnight of the day before the polls are opened and shall end with the closing of the polls;
- (p) Every person who opens a return envelope containing an absentee ballot vote other than those authorized to do so;
  - (q) Every person who willfully violates or fails to obey any law, punishment for which is not otherwise in this title specifically provided for; and
  - (r) Every person who, knowing that he is not entitled to register or to vote, registers or votes; and any person taking any oath in this title prescribed or authorized to be administered and willfully making oath to any false statement of fact, or willfully making a false answer to any question put to him thereunder.

(2) Every person found guilty of an election fraud shall be fined not more than \$1,000, or imprisoned not more than two years, or both such fine and imprisonment. If the person so convicted holds any office, either elective or appointive, at the time of the conviction, the office shall at once and without mention in the sentence or other proceeding be vacated by the conviction.

Source: S.L. No. 2L-158-90 §7, 8/2/90

Note: S.L. No. 2L-158-90 §6 repealing and superseding provisions have been omitted.

**§1-107. Construction of this title.** — This title shall be construed in a manner that will permit all electors and candidates a fair and equal opportunity to participate in elections but also in a manner that will avoid defeating the real will of the electors by an unduly strict application, interpretation, and enforcement of the formalities and procedures set forth herein.

Source: S.L. No. 2L-158-90 §8, 8/2/90

Note: S.L. No. 2L-158-90 §9 severability provision has been omitted.

ELECTIONS



## CHAPTER 2

### ELECTION COMMISSIONER AND BOARD OF ELECTION

#### Section

<p>2-101 Election Commissioner</p> <p>2-102 Election Commissioner: appointment and tenure</p> <p>2-103 Election Commissioner: impartiality</p> <p>2-104 Compensation of the Election Commissioner</p> <p>2-105 Powers and duties of the Election Commissioner</p>	<p>2-106 Board of Election: appointment and removal of members</p> <p>2-107 Powers and duties of Board of Election members</p> <p>2-108 Compensation of Board members</p>
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**§2-101. Election Commissioner.** — The Election Commissioner shall be the chief election official of Pohnpei State, with the powers and duties relating to the registration of voters and conduct of elections as are prescribed in this title. He or she is further designated as the Election Commissioner for Pohnpei as specified by, and with the powers and duties prescribed in Article 13 §§7(2) and 7(3) of the Pohnpei Constitution, including any amendments, successors or additions thereto; PROVIDED that unless the position of Election Commissioner appointed by the Governor with the advice and consent of the Legislature is vacant, a special election commissioner appointed pursuant to Article 13 §7(2) of the Pohnpei Constitution may not perform the functions of the Election Commissioner pertaining to the registration of voters and the removal of names from the General State Register.

Source: S.L. No. 2L-158-90 §10, 8/2/90; S.L. No. 4L-48-97 §2, 6/23/97

**§2-102. Election Commissioner: appointment and tenure.** —

(1) Except as otherwise provided by Article 13 §7(2) of the Pohnpei Constitution, the Election Commissioner shall be appointed by the Governor with the advice and consent of the Legislature to fulfill the duties and functions set forth in this title. The Election Commissioner may concurrently hold another position within the executive branch of the state government.

(2) Except as provided in Subsection (3) of this section, the Election Commissioner shall serve a term concurrent with the appointing Governor and, notwithstanding any other provision of Pohnpei law to the contrary, the Election Commissioner may only be removed or dismissed from this position for good, just and substantial cause.

(3) Notwithstanding Subsection (2) of this section, a special election commissioner appointed pursuant to Article 13 §7(2) of the Pohnpei Constitution shall serve until he has completed his duties pursuant to Chapter 7 of this title.

Source: S.L. No. 2L-158-90 §11, 8/2/90; S.L. No. 4L-48-97 §2, 6/23/97

**§2-103. Election Commissioner: impartiality.** — The Election Commissioner shall remain free from and independent of all undue influence and coercion that may hinder or impair the impartial and fair exercise of the duties and functions prescribed in this title. When the Election Commissioner is a candidate for office in an election, or when the performance of the Election Commissioner would constitute a direct conflict of interest, or when there is clear and convincing evidence that the Election Commissioner cannot perform the functions impartially and fairly, then the Governor shall appoint an acting Election Commissioner with the advice and consent of the Legislature; PROVIDED, HOWEVER, that when the Election Commissioner in question is a special election commissioner appointed pursuant to Article 13 §7(2) of the Pohnpei Constitution, then the Speaker of the Legislature shall appoint an acting special election commissioner for said purpose. The acting Election

Commissioner so appointed shall retain the position until the aforementioned disability of the Election Commissioner is removed or resolved, or until the Election Commissioner is removed for cause and a successor selected.

Source: S.L. No. 2L-158-90 §12, 8/2/90; S.L. No. 4L-48-97 §2, 6/23/97

**§2-104. Compensation of the Election Commissioner.** — When performing the functions and duties prescribed in this title, the Election Commissioner shall receive a salary equal to the chief executive officers of Pohnpei's authorities and commissions; PROVIDED, HOWEVER, that an Election Commissioner who is also an employee of the Pohnpei Government or any other cooperating entity shall be granted, instead, administrative leave with pay from his or her regular duties to perform the functions of the Election Commissioner; PROVIDED FURTHER that if said employee's regular compensation is less than the salary of such chief executive officers, the employee so serving as Election Commissioner, in addition to his regular compensation, shall be entitled to receive an amount equal to the difference between his regular compensation and the salary of such chief executive officers.

Source: S.L. No. 2L-158-90 §13, 8/2/90; S.L. No. 4L-48-97 §2, 6/23/97

**§2-105. Powers and duties of the Election Commissioner.** — The Election Commissioner shall supervise and administer voter registration and elections and perform such other duties as may be prescribed by law. The powers and duties of the Election Commissioner shall include, but are not limited to, the following:

- (1) To appoint all members of the Board of Election as provided in this title;
- (2) To prescribe and promulgate rules, regulations, and instructions implementing this title which, upon public notice and hearing as required by law and upon review and approval of the Governor, shall have the force and effect of law; PROVIDED that all rules and regulations heretofore adopted by the Election Commissioner pursuant to authority granted by prior laws, including those laws that are repealed by this title, shall continue in full force and effect until amended, repealed or superseded hereafter;
- (3) To determine and prescribe forms of ballots and the forms of all blanks, cards of instructions, poll books, tally sheets, and all other forms and blanks required by, or needed to fulfill this title; and to cause the same to be supplied to the Board of Election;
- (4) To require such reports from the Board as may be required by law or regulation or as may be deemed necessary;
- (5) To review and examine voting irregularities or violation of any applicable election laws or regulations;
- (6) To establish polling places within each election district;
- (7) To designate special polling places in other states of the FSM or in foreign countries and to appoint two or more Board of Election members for each such polling place;
- (8) To receive nominating petitions and to list the candidates for each election district on the ballot without indication of party affiliation;
- (9) To register or cause to be registered all the voters in the state and to maintain the General State Register as provided in this title;
- (10) To prepare or cause to be prepared from the General State Register a registered voters' list for each polling place prior to any election;
- (11) To issue voter registration cards as provided by this title;
- (12) To delegate the duties of the Election Commissioner to others; PROVIDED that the performance of such duties shall be under the supervision of the Election Commissioner, and the Election Commissioner shall be ultimately responsible for the acts of those so delegated; and

(13) To certify qualified candidates and verify the willingness of the nominee to run. If an individual who receives the necessary petition signatures chooses not to run, his name shall not appear on the ballot.

Source: S.L. No. 2L-158-90 §14, 8/2/90; S.L. No. 2L-211-91 §2, 10/12/91

**§2-106. Board of Election: appointment and removal of members. —**

(1) Not less than 30 days prior to each general election, the Election Commissioner shall appoint a Board of Election for the state. The members must be registered to vote in state elections. They shall serve until they resign or are removed for cause, or until their successors have been appointed. The Board shall be composed of a sufficient number of members to have at least two Board members present at each polling place. No Board member may participate in any election campaign, as a candidate or otherwise.

(2) Members of the Board may be removed by the Election Commissioner at any time for good and just cause. Appeals of such removal shall be to the Governor and the Governor's decision shall be final. Upon dismissal or removal by the Election Commissioner, the Board member shall not exercise any of the duties or responsibilities as a member unless and until he or she is reinstated.

Source: S.L. No. 2L-158-90 §15, 8/2/90

**§2-107. Powers and duties of Board of Election members. —** Each Board of Election member shall have the following powers and duties:

- (1) To perform all duties prescribed by law;
- (2) To supervise and manage each polling place;
- (3) To receive, preserve, and maintain ballot boxes, locks, maps, cards of instruction and other supplies and equipment necessary to conduct the election;
- (4) To give such instructions deemed necessary for the orderly conduct of elections;
- (5) To provide the issuance of all notices and publications concerning elections;
- (6) To review and examine the sufficiency and validity of nominating petitions and other documents where the Election Commissioner designates the Board to act in his or her stead;
- (7) To receive and transmit all ballot boxes, locked and sealed, to the Election Commissioner;
- (8) To receive, investigate, and decide complaints concerning election irregularities and determine the residence qualifications of voters, subject to review and appeal in accordance with this title;
- (9) To recommend to the Election Commissioner appropriate polling places within each election district as may be deemed suitable and convenient to the public; and
- (10) To perform such other duties as are prescribed by law or regulations issued by the Election Commissioner.

Source: S.L. No. 2L-158-90 §16, 8/2/90

**§2-108. Compensation of Board members. —** Board members shall be compensated at rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, and shall be entitled to expenses and standard Pohnpei Government per diem rates while engaged in authorized services for the Board. The following shall apply to Pohnpei Government officers and employees who serve on the Board:

- (1) They shall not be entitled to compensation, but shall be accorded administrative leave while serving as a Board member;
- (2) They shall receive overtime pay only if the employee is covered by the Pohnpei Public Service System Act, Title 9 Chapter 2, and meets the conditions for overtime pay as provided in such act and regulations; and
- (3) When eligible, they may receive per diem or overtime pay for services rendered during any given day, but not both.

Source: S.L. No. 2L-158-90 §17, 8/2/90

ELECTIONS

### CHAPTER 3 APPORTIONMENT

Section

3-101 Pohnpei Legislature	3-103 Congressional Districts established
3-102 Federated States of Micronesia Congress	3-104 Local elective offices

**§3-101. Pohnpei Legislature.** — Each local jurisdiction shall constitute an electoral district for the Pohnpei Legislature. Until reapportionment is completed pursuant to Article 8 §2 of the Pohnpei Constitution, the members of the Legislature shall be apportioned as follows:

Madolenihmw – four; Kitti – four; Sokehs – four; Nett – two; U – two; Kolonia Town – two; Mwoakilloa – one; Pingelap – one; Nukuoro – one; Sapwuahfik – one; and Kapingamarangi – one.

Source: S.L. No. 2L-158-90 §18, 8/2/90; S.L. No. 2L-211-91 §3, 10/12/91

**§3-102. Federated States of Micronesia Congress.** — Apportionment of Pohnpei State for representation in the Congress of the FSM shall be in a manner prescribed by Article IX §10 of the FSM Constitution and §3-103 of this title, and any amendments thereto.

Source: S.L. No. 2L-158-90 §19, 8/2/90

**§3-103. Congressional Districts established.** — Apportionment of the state of Pohnpei in the Congress of the FSM shall be as follows:

(1) For a term of four years, there shall be one member elected at-large by the qualified voters of the state; and

(2) For a term of two years, there shall be one member for each of the following Election Districts of the state elected by the qualified voters of that Election District, respectively:

(a) Election District P-1 consisting of the local jurisdictions of Kapingamarangi, Kolonia, Sapwuahfik, Nukuoro, and Sokehs;

(b) Election District P-2 consisting of the local jurisdictions of Kitti and Madolenihmw; and

(c) Election District P-3 consisting of the local jurisdictions of Mwoakilloa, Nett, Pingelap, and U.

Source: D.L. No. 4L-160-78 §1, 12/8/78

**§3-104. Local elective offices.** — Apportionment of local jurisdictions into districts for local elective offices shall be in accordance with the applicable provisions of the charters, constitutions, and laws of each local government.

Source: S.L. No. 2L-158-90 §20, 8/2/90

ELECTIONS

## CHAPTER 4 FRANCHISE AND REGISTRATION

### Section

4-101 Eligible voters	4-107 Application for registration; affidavit
4-102 Registration required	4-108 Affidavit: person before whom sworn
4-103 Where to register to vote	4-109 Translation of application
4-104 When to register	4-110 Registration of voter
4-105 Voting in legal residence only; designation of election district	4-111 General State Register
4-106 Voter qualified to vote in more than one local jurisdiction	4-112 Registration cards
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	4-114 Changing the entries in the Register

### **§4-101. Eligible voters. —**

(1) A citizen of Pohnpei who is 18 years of age on the date of the election and who has not committed a felony for which he or she is on parole or probation or under sentence, and who is not currently under a judgment of mental incompetency or insanity, shall be qualified to vote in all state elections; PROVIDED that said person has registered to vote in accordance with this title.

(2) Qualifications to vote in federal and local elections shall be as established by the laws of the respective jurisdictions; PROVIDED that if there are no laws, the qualifications to vote in the election shall be the same as in Subsection (1) of this section; PROVIDED FURTHER that the qualifications to vote in local elections shall not violate or conflict with Article 6 of the Pohnpei Constitution.

(3) No property qualification, tax or fee shall be imposed on the right to vote.

Source: S.L. No. 2L-158-90 §21, 8/2/90

### **§4-102. Registration required. —**

(1) All citizens of Pohnpei meeting the qualifications of §4-101 shall be entitled to vote in any election under this title and to be listed in the General State Register and on the election district list, but only if that citizen has registered to vote by complying with the formalities and requirements of this title.

(2) The foregoing notwithstanding, all voters already registered to vote for the election of members of the Pohnpei Legislature on the effective date of this title [*August 2, 1990*], and otherwise qualified to vote, shall not be required to register again except when re-registration is required pursuant to §4-113.

Source: S.L. No. 2L-158-90 §22, 8/2/90

**§4-103. Where to register to vote. —** Eligible voters may register to vote at the office or offices of the Election Commissioner. On the day of any election covered by this title, eligible voters may also register to vote at a polling place in the election district where he or she is entitled to cast a ballot. For the convenience of the public, the Election Commissioner may designate and announce such other temporary or permanent locations for the registration of voters.

Source: S.L. No. No. 2L-158-90 §23, 8/2/90

**§4-104. When to register. —** All applications for voter registration may be submitted to persons authorized to examine the qualifications of electors at any time prior to a voter casting his or her ballot in an election conducted pursuant to this title.

Source: S.L. No. 2L-158-90 §24, 8/2/90

**§4-105. Voting in legal residence only; designation of election district.** — No person shall register to vote or vote as an elector of any other local jurisdiction than his or her legal residence as defined in §1-103(7). Until there is a change in the voter’s legal residence, the voter shall not register as an elector of any other local jurisdiction. The Election Commissioner shall, by duly adopted regulations, establish a procedure to review and confirm the proper registration of voters and to review and correct the registration of those voters who by some error do not appear on the election district’s voter list or who appear on the incorrect election district’s voter list.

Source: S.L. No. 2L-158-90 §25, 8/2/90

**§4-106. Voter qualified to vote in more than one local jurisdiction.** — A person may register to vote and vote from only one local jurisdiction even if that person qualifies to vote in more than one of them. The choice of which local jurisdiction shall be made by the voter provided that the person otherwise meets the qualifications to vote from that local jurisdiction.

Source: S.L. No. 2L-158-90 §26, 8/2/90

**§4-107. Application for registration; affidavit.** — A person qualified and desiring to register as a voter in an election may appear at any time during business hours before a member of the Board of Election (who are hereby empowered and authorized to administer oaths and take acknowledgments) or other persons authorized by law to administer oaths, to be examined under oath as to the qualifications as an elector. The applicant shall complete an application form and swear to or affirm the truth of each of the allegations or statements in the application. When the person who administers the oath shall so desire or believe the same to be expedient, he or she may demand that the applicant produce a witness or witnesses or other evidence to substantiate the allegations in the application. Such witnesses shall not, however, be required to substantiate or support applications that accompany absentee ballots. The application shall be substantially in the following form:

AFFIDAVIT UNDER OATH TO REGISTER AS A VOTER IN THE STATE OF POHNPEI

Local jurisdiction of \_\_\_\_\_  
 State of Pohnpei  
 Federated States of Micronesia

1. Full name \_\_\_\_\_
2. Place of birth \_\_\_\_\_
3. Current age \_\_\_\_\_. (If 17 years old, I will be 18 on \_\_\_\_\_.)
4. I am a citizen of Pohnpei (check only one):
  - By my birth to a citizen and pweldak of Pohnpei;
  - By being a current resident of Pohnpei and a citizen or pweldak of the local jurisdiction in Pohnpei immediately prior to the effective date of the Pohnpei Constitution (November 8, 1984);
  - By being a current resident of Pohnpei and a citizen of Pohnpei on the effective date of the Pohnpei Constitution (November 8, 1984); or
  - By naturalization on \_\_\_\_\_ .
5. The following local jurisdiction is my legal residence: \_\_\_\_\_. This local jurisdiction is my legal residence on the following basis (check only one):
  - I was born in the local jurisdiction;
  - At least one of my parents was born in the local jurisdiction (the term “parents” shall mean the adoptive parents when the person has been legally adopted, otherwise it shall mean the person’s natural parents); or
  - I have actually resided in the local jurisdiction for at least one year preceding the date of the next election.
6. I am not currently under parole, probation or sentence for any felony for which I have been convicted by any court in the Federated States of Micronesia or any court within the jurisdiction of the United States of America.
7. I am not currently under a judgment of mental incompetence or insanity.
8. I SOLEMNLY SWEAR (or affirm) under oath and subject to the penalties of perjury, that the foregoing information and statements are true and correct.



\_\_\_\_\_  
(Signature of Applicant)

Subscribed and Sworn to before me on this \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
(Signature of Notary Public or member of the Election Board)

Approved by Pohnpei State Election Commissioner or designee.  
This registered voter shall vote in the \_\_\_\_\_ Election District.

\_\_\_\_\_  
(Signature)

Date \_\_\_\_\_  
Source: S.L. No. 2L-158-90 §27, 8/2/90

**§4-108. Affidavit: person before whom sworn.** — The affidavits required pursuant to this title shall be sworn to before any officer or person authorized by law to administer oaths.

Source: S.L. No. 2L-158-90 §28, 8/2/90

**§4-109. Translation of application.** — The Election Commissioner shall cause the application for registration to be translated into the predominant languages of the state. Persons desiring to register may use the English version or any authorized translation thereof.

Source: S.L. No. 2L-158-90 §29, 8/2/90

**§4-110. Registration of voter.** —

(1) If the person authorized to receive an application for registration is satisfied that the applicant is entitled to be registered as a voter, he shall number the affidavit consecutively as approved and shall transmit the application to the Election Commissioner, who shall thereafter cause the information thereon to be recorded in the General State Register.

(2) The Election Commissioner shall also forthwith enter or cause to be entered the name so registered in its proper place in the general alphabetical index, together with a reference to the page on which the registration appears.

(3) A voter having once registered shall not be required to register again for any succeeding elections except in case of a change of name or legal residence as specified in §4-113, or intervening disqualifications as specified in §4-114; PROVIDED that in the event the voting records are destroyed or lost, the Election Commissioner may require the re-registration of voters.

(4) The Election Commissioner shall file the accepted applications in consecutive numbers, and keep the same in some convenient place to be open to public inspection and examination during all working hours and days and such other times as the Election Commissioner deems appropriate.

Source: S.L. No. 2L-158-90 §30, 8/2/90

**§4-111. General State Register.** — The Election Commissioner shall register or cause to be registered all qualified voters in the General State Register. The Register shall consist of one or more volumes for each election district with a general alphabetical index of the voters. The General State Register shall be maintained by the Election Commissioner and shall, at all times during business hours, be open to public inspection, and shall be a public record. The Register shall be ruled and printed in such forms as the Election Commissioner may direct.

Source: S.L. No. 2L-158-90 §31, 8/2/90

**§4-112. Registration cards.** — Any person duly registered to vote under this title may, upon application to the Election Commissioner, receive a voter registration card that shall identify such

person as a registered voter and identify his or her legal residence. Such card shall bear the name and description of the cardholder and a registration number that shall be recorded with that person's name on the General State Register. Unless otherwise made invalid, such card shall remain valid for a period of five years from the date of issuance. Any person, other than the person to whom the card was issued, who uses or attempts to use such card to vote in any election under this title shall be guilty of a violation of this title and subject to punishment in the manner prescribed in §1-106. Any person who loses his or her card may reapply to the Election Commissioner upon completing a form prepared by the Election Commissioner and paying a fee of fifty cents. The Election Commissioner shall establish such other procedures as he or she deems necessary for the issuance and recording of voter registration cards as provided in this section. The Election Commissioner shall further prescribe rules for the surrender and filing of invalid cards, and shall maintain and distribute to each polling place a list of the same.

Source: S.L. No. 2L-158-90 §32, 8/2/90

**§4-113. Re-registration. —**

(1) Voters who change their legal residences or their names after entry into the General State Register must register again to be electors of the proper local jurisdiction or to correct their names in the Register. When the change involves a person's legal residence, that person must register at the place for voter registration for the new election district. In all other respects re-registration shall follow the same procedure as an original registration.

(2) Upon receiving and accepting the properly completed application for re-registration, the Election Commissioner shall cancel the former registration by drawing one or more lines in ink through the name of such voter as previously registered. The Election Commissioner shall sign and date the cancellation on the same line. The new registration shall be entered and indexed in a manner similar to an original registration.

(3) Re-registration shall be allowed at any time prior to said voter casting his or her ballot in the election for which such re-registration is required.

Source: S.L. No. 2L-158-90 §33, 8/2/90

**§4-114. Changing the entries in the Register. —**

(1) Not more than nine months nor less than six months before each general election, the Election Commissioner shall determine whether any person listed in the Registry is disqualified to vote as a result of death, adjudication of insanity or feeble-mindedness, loss of citizenship or any other disqualification. The Election Commissioner shall thereupon make such investigations as deemed necessary to prove or disprove the information regarding the disqualification. The person concerned shall be given notice and opportunity to be heard if the person is available. If after such investigation the Election Commissioner finds that such person is not qualified to vote, the Election Commissioner shall strike or direct that the name of such person be stricken from the Official Registry.

(2) The Election Commissioner shall make and keep an index of all information furnished under any requirements of law concerning any of the matters mentioned in this section. Such information shall be provided to any person authorized to receive applications for voter registration to ascertain whether or not an applicant is disqualified to vote.

(3) Any person whose name is stricken from the Register of voters under this title may appeal in the manner provided by this title.

Source: S.L. No. 2L-158-90 §34, 8/2/90

## CHAPTER 5 CANDIDATES

### Section

5-101 Qualifications for office	5-108 Nominations for local government elective offices
5-102 Candidacy of government officers and employees	5-109 Nominations by political parties
5-103 Leave of absence for state officers or employees during candidacy; timing of resignations following election when required	5-110 Petitions to be sworn under oath
5-104 Nominations: general provisions	5-111 Time for filing petitions
5-105 Nominations for Governor and Lieutenant Governor	5-112 Filing fees
5-106 Nominations for Pohnpei Legislature	5-113 Recording receipt of nominating petitions
5-107 Nominations for Federated States of Micronesia Congress	5-114 Receiving petitions; placing candidates' names on the ballot
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### **§5-101. Qualifications for office. —**

(1) *Governor and Lieutenant Governor.* To be eligible for election as Governor or Lieutenant Governor the person must be a citizen of Pohnpei by birth, at least 35 years of age, and never convicted of a felony. A person may not serve more than two full consecutive terms as Governor; except that a person who serves as Governor less than two years during a term to which another person was first elected may serve two full consecutive terms thereafter.

(2) *Pohnpei Legislature.* To be eligible for election as a member of the Pohnpei Legislature, the person must be at least 25 years of age at the time that person's term of office commences; must be a citizen of a local government of Pohnpei for at least 25 years at the time that person's term of office commences; and must be a citizen of the local government that the person intends to represent for at least three years. A person convicted of a felony is ineligible to serve as a member of the Legislature unless he has received a pardon restoring his or her civil rights at least 60 days before he or she is elected.

(3) *FSM Congress and local government offices.* Qualifications for membership in the FSM Congress and any local elective office shall be as established by the constitutions, charters or laws of the respective jurisdictions.

Source: S.L. No. 2L-158-90 §35, 8/2/90

### **§5-102. Candidacy of government officers and employees. —** No Pohnpei State or local government officer or employee may:

(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office; or

(2) Directly or indirectly coerce, attempt to coerce, command or advise a state or local government officer or employee to pay, lend or contribute anything of value to an organization, committee, agency or person for political purposes.

Source: S.L. No. 2L-158-90 §36, 8/2/90; S.L. No. 2L-211-91 §4, 10/12/91

**§5-103. Leave of absence for state officers or employees during candidacy; timing of resignations following election when required. —** Any Pohnpei State officer or employee who is a candidate for office shall, upon request, be granted leave of absence for a period not to exceed 60 days prior to and including the day of the election, for the purpose of seeking an elected office. Leave will be without pay unless the individual chooses to use his annual leave pursuant to applicable personnel

regulations. If such person is elected, he shall, if otherwise required by applicable constitution, charter, law or ordinance, resign from his employment or position upon taking the oath of office for his respective elected position.

Source: S.L. No. 2L-158-90 §37, 8/2/90; S.L. No. 3L-60-94 §1, 2/17/94

Note: 1. §37 was inserted by S.L. No. 2L-211-91 §5, 10/12/91. 2. S.L. No. 3L-60-94 §§2 & 3 temporary provisions have been omitted.

**§5-104. Nominations: general provisions.** — All nominating petitions for state elective offices shall be for a specifically stated office and shall be on a form prescribed by the Election Commissioner. It shall be signed by the nominee and include a representation by the nominee that he or she meets the qualifications for the office. When a signature is indicated by an “X” or other mark, or is written in a language utilizing other than the English alphabet, such signature must be identified in English and accompanied by the signature, in English, of one witness. All nominating petitions filed under this title shall, upon filing, become the property of the state.

Source: S.L. No. 2L-158-90 §38, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §37 as §38.

**§5-105. Nominations for Governor and Lieutenant Governor.** — Nominating petitions for candidates for the offices of Governor and Lieutenant Governor shall each be signed by no less than 50 persons, all of whom shall be registered to vote in elections for such office under this title.

Source: S.L. No. 2L-158-90 §39, 8/2/90; S.L. No. 2L-211-91 §6, 10/12/91

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §38 as §39.

**§5-106. Nominations for Pohnpei Legislature.** — The nominating petitions for candidates for membership in the Pohnpei Legislature must be signed by the nominee and no less than 25 persons who, at the time the petition is filed, are registered to vote in the electoral district in which the candidate intends to run.

Source: S.L. No. 2L-158-90 §40, 8/2/90; S.L. No. 2L-211-91 §7, 10/12/91

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §39 as §40.

**§5-107. Nominations for Federated States of Micronesia Congress.** — Nominating petitions for seats in the FSM Congress shall be on forms prescribed by the Election Commissioner. The petition and procedure for said nominations shall conform to the requirements of 9 FSMC, including any amendments thereto.

Source: S.L. No. 2L-158-90 §41, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §40 as §41.

**§5-108. Nominations for local government elective offices.** — Nominating petitions for local government elective offices shall be on forms prescribed by the Election Commissioner. The petition and procedure for said nominations shall conform to the requirements of the laws of the local jurisdiction, if any. Unless the laws of the local jurisdiction require otherwise, the nominating petitions shall be signed by the nominee and no less than 15 persons who, at the time the petition is filed, are registered to vote in the local jurisdiction or subdivision thereof in which the nominee intends to run.

Source: S.L. No. 2L-158-90 §42, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §41 as §42.

**§5-109. Nominations by political parties.** — Political parties in the state may nominate candidates to elective office by submitting nominating petitions in the same manner as independent candidates.

Source: S.L. No. 2L-158-90 §43, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §42 as §43.

**§5-110. Petitions to be sworn under oath.** — Nominating petitions required pursuant to this title shall be sworn to or affirmed by the nominee before an officer or person authorized by law to administer oaths.

Source: S.L. No. 2L-158-90 §44, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §43 as §44.

**§5-111. Time for filing petitions.** — In general elections, nominating petitions for candidates to elective office shall be filed with the Election Commissioner no more than 100 days nor less than 45 days prior to the scheduled date of the election. The time to file nominating petitions for federal or local government offices shall be set by the federal or local government law respectively, if any.

Source: S.L. No. 2L-158-90 §45, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §44 as §45.

**§5-112. Filing fees.** — Nomination is free of charge pursuant to Article 6 §2 of the Pohnpei Constitution.

Source: S.L. No. 2L-158-90 §46, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §45 as §46.

**§5-113. Recording receipt of nominating petitions.** — The Election Commissioner shall, upon receipt of a nominating petition, record on the petition the day, hour, and minute that the petition was received. The Election Commissioner shall thereafter authenticate the recording thereof by affixing the Election Commissioner's seal to the petition.

Source: S.L. No. 2L-158-90 §47, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §46 as §47.

**§5-114. Receiving petitions; placing candidates' names on the ballot.** — The Election Commissioner shall be responsible for receiving and reviewing all nominating petitions. Upon verification of the qualifications of the candidate and the signatures on the petition, the Election Commissioner shall cause the candidate's name to be placed on the ballot in alphabetical order and in accordance with §§6-107 and 6-108. If the prospective candidate does not meet the qualifications of the office, or if the nomination documents are not complete or in order, the nomination shall be rejected, and the name of the candidate shall not be placed on the ballot. The prospective candidate may, however, refile the petition after making any corrections or changes.

Source: S.L. No. 2L-158-90 §48, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §47 as §48.

**§5-115. Substitute candidates.** —

(1) If a candidate dies, withdraws or is disqualified after the deadline for filing nominations, a substitute candidate may be nominated no later than ten days before the date of the election. The substitute candidate must be nominated following the same procedure as the candidate who died, withdrew or was disqualified.

(2) The appearance of the substitute candidate on the ballot shall be administered as provided in §6-111.

Source: S.L. No. 2L-158-90 §49, 8/2/90; S.L. No. 2L-211-91 §8, 10/12/91

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §48 as §49.

**§5-116. Use of government facilities by candidates.** — Candidates must obtain the approval of the Election Commissioner prior to using state government facilities for their campaigns; PROVIDED that where government facilities are made available to candidates for elective office anywhere in the state, equal opportunity for the use of such facilities shall be given to all candidates for such elective office.

Source: S.L. No. 2L-158-90 §50, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §49 as §50.

ELECTIONS

## CHAPTER 6 ELECTIONS

### Section

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### **§6-101. General elections. —**

(1) *State elections.* Elections for the offices of Governor, Lieutenant Governor, and members of the Pohnpei Legislature shall be held as prescribed by Article 6 §4 of the Pohnpei Constitution and this title; PROVIDED that in the event of a natural disaster or other acts of God, the effect of which precludes holding the election on the appointed date, the Governor may proclaim a later election in the affected election district or districts.

(2) *Federal and local elections.* Elections for FSM and local government offices shall be held in the manner prescribed by the laws of the respective jurisdictions.

Source: S.L. No. 2L-158-90 §51, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §50 as §51.

### **§6-102. General elections: when held. —**

(1) *State elections.* General elections for the Governor, Lieutenant Governor, and the Legislature shall be held simultaneously every four years, on the second Tuesday in November; PROVIDED, that the election at polling places outside of the Federated States of Micronesia as designated by the Election Commissioner and situated east of the International Date Line and west of the Greenwich Meridian be held on the second Monday in November at such polling places.

(2) *Federal and local elections.* Elections for FSM and local government offices shall be held on the day prescribed by law of the respective jurisdiction.

Source: S.L. No. 2L-158-90 §52, 8/2/90; S.L. No. 2L-219-91 §2, 10/28/91

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §51 as §52.

**§6-103. Runoff elections. —**

(1) If no candidate for the office of the Governor or Lieutenant Governor receives a majority of votes cast, a runoff election shall be held between the two candidates receiving the greatest number of votes for the respective office in the general election.

(2) If two or more candidates receive an equal number of votes for an available seat in the Legislature, then a runoff election shall be held between or among them. An “available seat” is one not filled by a candidate receiving more votes and one that the candidate would have won except for the tie.

(3) Runoff elections shall be held 28 days after the date of the election; PROVIDED that the election at polling places outside of the Federated States of Micronesia as designated by the Election Commissioner and situated east of the International Date Line and west of the Greenwich Meridian be held 28 days after the actual date that the election was held at those polling places. In a runoff election, write-in ballots shall not be valid.

Source: S.L. No. 2L-158-90 §53, 8/2/90; S.L. No. 2L-211-91 §9, 10/12/91; S.L. No. 2L-219-91 §2, 10/28/91

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §52 as §53.

**§6-104. Special elections: filling vacancies in the Pohnpei Legislature. —**

(1) After determining that a vacancy in the Pohnpei Legislature exists, the Legislature or an authorized committee thereof, shall forward a notice of vacancy to the Governor and the chief executive of the local jurisdiction in which the vacancy occurred. Such determination by legislative committee shall be subject to appeal to the Legislature by any person showing good cause. Except as provided in Subsection (3) of this section, the Governor shall call a special election to fill the vacancy for the unexpired term. The special election under this subsection shall be held between 60 and 120 days after the Governor’s call for the special election. The exact date shall be set by the Governor.

(2) The nomination procedure shall be as provided in §§5-104 through 5-109 of this title; PROVIDED, HOWEVER, that the name of any candidate for such special election shall be printed on the official ballot only if a complete and correct nomination petition was filed at least 20 days prior to the date set for the special election.

(3) If a vacancy occurs within one year of the next general election, the notice described in Subsection (1) of this section shall be directed to the chief executive of the local jurisdiction in which the vacancy occurred. Said chief executive shall fill the vacancy by appointment, with the advice and consent of the local council.

(4) The term of office of a person who becomes a member of the Legislature through a special election or appointment commences at the time his or her credentials are accepted by the Legislature.

Source: S.L. No. 2L-158-90 §54, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §53 as §54.

**§6-105. Special elections: filling vacancies in the offices of the Governor and Lieutenant Governor. —**

(1) *Vacancy in the office of Governor.* After the Lieutenant Governor has determined that a vacancy in the office of the Governor exists, he shall accede to the office of Governor for the remainder of the unexpired term.

(2) *Vacancy in the office of Lieutenant Governor.* After the Governor has determined that a vacancy in the office of the Lieutenant Governor exists, the Governor shall call a special election to fill the vacancy for the unexpired term; PROVIDED, HOWEVER, that if the vacancy occurs within one year of the next general election, the Governor shall fill the vacancy by appointment, with the advice and consent of the Legislature. The term of office of a person who becomes Lieutenant Governor through special election or appointment commences upon taking the oath of office following certification of the election results or legislative action, whichever is applicable.



(3) *Concurrent vacancies in the offices of both Governor and Lieutenant Governor.*

(a) After the Speaker of the Legislature has determined that vacancies in the offices of both the Governor and Lieutenant Governor exist, he or she shall accede to the office of the Governor in an acting capacity until the vacancy in that office is filled pursuant to this title. The Speaker, as the acting Governor, shall call a special election to fill the vacancies in the offices of Governor and Lieutenant Governor for the unexpired terms; PROVIDED, HOWEVER, that if the vacancies occur within one year of the next general election, the Speaker shall accede to the office of Governor in a permanent status and fill the vacancy in the office of the Lieutenant Governor by appointment, with the advice and consent of the Legislature. The terms of office shall commence upon taking the oaths of office following certification of the election results or legislative action, whichever is applicable.

(b) Whenever the Speaker serves as acting Governor under this subsection, his duties as a legislator shall be suspended for the duration of his or her service as acting Governor. When the vacancies in the offices of the Governor and Lieutenant Governor shall have been filled pursuant to special election, the acting Governor shall resume the permanent responsibilities as Speaker of the Legislature.

(c) During the period that the Speaker serves as acting Governor, his seat as a member of the Legislature shall be filled by temporary appointment by the chief executive of the local government from whence the Speaker was elected, with the advice and consent of the local government council. Such temporary appointee shall continue to serve in the capacity of acting legislator until the duties of the Speaker as acting Governor cease and he or she returns to the seat in the Legislature.

(d) If the Speaker does not meet the qualifications for the office of the Governor, then the Vice-Speaker and, thereafter, the Parliamentarian of the Legislature having the necessary qualifications shall serve in lieu of the Speaker under this section. If none of these officers meet the qualifications for the office of Governor, then such member of the Legislature who has the necessary qualifications, selected by a majority vote of the entire membership of the Legislature, shall so serve.

(e) Any special election under this section shall be held between 60 and 120 days after the Governor's or acting Governor's call for the special election. The exact date shall be set by the Governor or acting Governor.

Source: S.L. No. 2L-158-90 §55, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §54 as §55.

**§6-106. Special elections: filling vacancies in the Federated States of Micronesia and local elective offices.** — The filling of vacancies in FSM and local elective offices shall be in accordance with the laws of the respective jurisdiction; PROVIDED that if there be no such law, vacancies shall be filled in the same manner as vacancies in the Pohnpei Legislature; PROVIDED FURTHER that interim and remaining term appointments to elective offices in the federal government shall be made by the Governor, with the advice and consent of the Legislature.

Source: S.L. No. 2L-158-90 §56, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §55 as §56.

**§6-107. Official and specimen ballots: distribution.** —

(1) All elections held in accordance with this title shall be held by official ballot only. An official ballot is a written or printed, or partly written and partly printed, paper, designated "official ballot" containing solely the names of persons to be voted for and the office to be filled, or the proposition or issue to be decided, and issued by the Election Commissioner.

(2) For each polling place, the Election Commissioner shall have printed exact copies of the official ballot that will be used at that polling place. These copies of the official ballot shall have the word "specimen" printed thereon in large bold letters and with ink of a color plainly contrasting to the color of the paper used. At least 35 days before the election, the Election Commissioner shall submit

copies of the specimen ballot to the members of the Board of Election and to the several candidates at their addresses as given on their nomination papers. The members of the Board shall post a copy of the same in a conspicuous place in their office or other public place within the election district where the ballot will be used. Two copies of each such specimen ballot shall also be forwarded to the members of the Board of Election along with the official ballots. The member or members of the Election Board shall post one specimen ballot on either side of every entrance to the voting place or such other places plainly in sight for the general public.

Source: S.L. No. 2L-158-90 §57, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §56 as §57.

**§6-108. Contents of ballots.** — In addition to other information required by this title, a ballot shall contain the names of the candidates and the offices they are seeking, the election district in which the ballot is being cast, and the term or terms of the respective offices on the ballot, and/or the official proposition or issue to be decided.

Source: S.L. No. 2L-158-90 §58, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §57 as §58.

**§6-109. Printing and distributing ballots.** — The ballots shall be printed by order of the Election Commissioner at a time determined by the Election Commissioner. The ballots shall be printed at the respective government's expense. There shall be delivered to each election district not less than ten percent (10%) more ballots than there are registered voters for the election for which the ballots are printed.

Source: S.L. No. 2L-158-90 §59, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §58 as §59.

**§6-110. Withdrawal of candidates; notice; reprinting of ballots; costs.** —

(1) Any candidate may withdraw before an election by giving notice in writing to the Election Commissioner or to any member or members of the Board of Election in the election district in which such candidate was running, whichever is more practical. If a candidate withdraws or dies after the printing of the ballots, the Election Commissioner shall cause the name of the deceased candidate or candidates so withdrawing to be stricken from the ballots and, in that regard, may require the assistance of the Election Board members of the election district in which the person was a candidate. The Election Commissioner shall send written notification of the withdrawal or death to the Election Board, and such notice shall be posted at the polling place before the opening of the polls on election day.

(2) If a candidate withdraws his or her name within 25 days before an election and the ballots are in the process of or have been printed, and if it becomes necessary in the opinion of the Election Commissioner for a reprinting of the ballots or a striking out of a candidate's name by a reprint block-out, then all expenses thereof (except in cases when the withdrawal is necessitated by death or medical cause and so certified by a physician) shall be charged against the withdrawing candidate and shall be paid to the Election Commissioner within 60 days after such withdrawal. In the event a candidate in a runoff election withdraws, or if a winning candidate withdraws prior to inauguration and a new election is required pursuant to §6-105 then (except for death or medical cause and so certified by a physician) the Election Commissioner may assess any or all expenses of the following election against the person withdrawing. Monies so received shall be deposited into the State Treasury as a local revenue general realization available for appropriation by the Pohnpei Legislature.

Source: S.L. No. 2L-158-90 §60, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §59 as §60.

**§6-111. Substitute candidates; insertion of names on ballots and notice at polling places; new elections. —**

(1) The Election Commissioner, in the case of any substitute candidate filling a vacancy caused by death, withdrawal or disqualification of a candidate, shall cause the name of any substitute candidate to be placed upon the proper ballots by reprinting, over-printing or through the use of stamps or such other means as he may deem satisfactory for the purpose and may require the assistance of members of the Election Board who may be in the election district in which such a person is a candidate. The Election Board shall post a notice at the polling place of the name and office sought by any such substitute candidate.

(2) In the case of death, withdrawal or disqualification of a candidate for Governor or Lieutenant Governor before a runoff election or before the Governor-elect's or Lieutenant Governor-elect's inauguration, a new general election shall be held in the same manner as the original general election within 45 days following declaration by the Election Commissioner that a vacancy in the candidacy or officer-elect exists.

Source: S.L. No. 2L-158-90 §61, 8/2/90; S.L. No. 2L-211-91 §10, 10/12/91

Note: 1. S.L. No. 2L-211-91 §11 superseding provision and §12 temporary provision have been omitted.  
2. S.L. No. 2L-211-91 §5, 10/12/91 renumbered §60 as §61.

**§6-112. Ballots to remain unopened until polls open. —** When printed, the ballots shall be fastened together in blocks of 25 each, in such manner that each ballot may be detached and removed separately. They shall be forwarded by the Election Commissioner to the member or members of the Election Board in sealed packages, which shall not be opened until the opening of the polls. A record of the number of ballots sent to each Election Board member shall be kept by the Election Commissioner.

Source: S.L. No. 2L-158-90 §62, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §61 as §62.

**§6-113. Absentee voter defined; absentee ballot. —**

(1) Any registered voter qualified to vote at any general or special election shall be entitled and enabled to vote by absentee ballot if:

- (a) The voter is confined or hospitalized by reason of such illness or physical disability as will prevent him from attending the polls; or
- (b) He or she is unable to vote in person by reason of his or her absence from the island on which the voter's election district is located.

(2) An absentee ballot is an official ballot that is authorized by this title to be voted outside of any designated polling place or prior to the date of the election.

Source: S.L. No. 2L-158-90 §63, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §62 as §63.

**§6-114. Registration application accompanying the absentee ballot. —** A qualified voter may register to vote simultaneously with submitting his or her absentee ballot. The application for registration substantially in the form as provided by §4-107 shall be attached to the affidavit required by §6-117. If the application for registration is incomplete or otherwise invalid, or if the information on the application is found to be false, or if the applicant does not qualify as a voter, then the ballot shall be rejected and processed as provided in §§6-133 and 6-134. If the application for registration is rejected, it shall be returned to the applicant with a written explanation as to why it was not accepted.

Source: S.L. No. 2L-158-90 §64, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §63 as §64.

**§6-115. Voting by confined persons. —** Any registered voter qualified to vote at any general or special election who is physically present in the state but who is confined or hospitalized because of an

illness or physical disability as will prevent him or her from attending the polls, shall be entitled to vote in such manner as may be prescribed by rules and regulations which shall be promulgated by the Election Commissioner. Such rules and regulations shall provide for supervised voting by such persons in such manner as to insure secrecy of ballot and to preclude tampering with the ballots of such voters and other election fraud; PROVIDED that any voter who by reason of physical disability is unable to mark his or her ballot shall be authorized to receive assistance in the marking thereof. Such rules and regulations may require affidavits, certificates, and other written statements under oath.

Source: S.L. No. 2L-158-90 §65, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §64 as §65.

**§6-116. Request for absentee ballot; contents.** — Any registered voter qualified to vote in any general or special election who will be prevented from voting by reason of absence on the date of the election from the island on which the voter's election district is located may request and cast an absentee ballot with the Election Commissioner. The request for an absentee ballot shall be made to the Election Commissioner in writing not more than 60 days nor less than ten days prior to the date of the election. The request shall include any information that will facilitate the location of his or her election district and the establishment of his or her right to a ballot, and the address to which he or she wishes the ballot forwarded.

Source: S.L. No. 2L-158-90 §66, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §65 as §66.

**§6-117. Marking and returning absentee ballots; voting at polls prohibited.** —

(1) Commencing 30 days prior to the date of the election, the Election Commissioner shall send the following to any person who is entitled to vote by absentee ballot outside the state and who requests the same: an official ballot, a ballot envelope, an affidavit prescribed by the Election Commissioner, and a covering reply envelope. The absentee voter shall mark the ballot in the usual manner provided by law and in such manner that no person can see or know how the ballot is marked except as provided in §6-115. The absentee voter shall then deposit the ballot in the ballot envelope and securely seal the same. The absentee voter shall then complete and execute the affidavit. The ballot envelope and the affidavit shall then be enclosed and sealed in the covering reply envelope and shall be postmarked not later than midnight on the day before the election.

(2) It shall be unlawful for any person having voted an absentee ballot to cast a ballot at the polls on election day.

Source: S.L. No. 2L-158-90 §67, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §66 as §67.

**§6-118. Disposition of absentee ballots.** —

(1) Upon the receipt of the envelope marked "absentee ballot enclosed" within the period prescribed in §6-117, the Election Commissioner shall open it, remove the ballot envelope, and examine the affidavit as to its proper execution and content. If the Election Commissioner determines that the person is qualified to vote by absentee ballot, the ballot envelope shall be deposited unopened in a container retained for the purpose. The container shall be securely sealed except for an opening sufficient to permit deposit of ballot envelopes and shall be marked with the name and official title of the Election Commissioner and the words "This container holds absentee ballots and must be opened only pursuant to law." The Election Commissioner shall safely keep each container in his office until the day of election at which time he or she shall publicly open the container, extract and segregate the ballot envelopes and deliver such envelopes to the Counting and Tabulation Committee.

(2) If the affidavit is found to be insufficient; the signatures do not correspond; the voter has not complied with the requirements of §6-117; the person is not a duly qualified elector; or the ballot envelope is open or has been opened and resealed, then the ballot envelope shall not be opened and the Election Commissioner shall write or stamp across its face "rejected," giving the reason therefor, and

shall preserve then destroy the same in the manner provided by regulations promulgated by the Election Commissioner.

(3) If the ballot is received after the time fixed in §6-117, the ballot envelope shall be endorsed by the Election Commissioner with the day and hour of receipt and it shall be safely kept unopened by the Election Commissioner for the period of time required for the preservation of ballots used at such election and shall then, without being opened, be destroyed in accordance with applicable law or regulation of the Election Commissioner.

(4) If upon receiving the ballot envelope from the Election Commissioner it is found that the voter has already voted, the election inspectors shall immediately cancel the ballot envelope and write or stamp "rejected" across its face, giving the reason therefor, and shall preserve then destroy the same in the manner provided by regulations promulgated by the Election Commissioner.

Source: S.L. No. 2L-158-90 §68, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §67 as §68.

**§6-119. Secret ballot.** — All elections governed by this title shall be by secret ballot.

Source: S.L. No. 2L-158-90 §69, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §68 as §69.

**§6-120. Polling places.** — The Election Commissioner shall designate such polling places within each election district at such locations as the Election Commissioner deems appropriate and convenient for the voting public; PROVIDED that within each local jurisdiction there shall be at least one polling place.

Source: S.L. No. 2L-158-90 §70, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §69 as §70.

**§6-121. Polling places to be supervised.** — The Election Commissioner shall ensure that polling places are supervised by the Election Board and such other officials as the Election Commissioner shall deem necessary, who must be present at the designated polling places during the election. Public schools and other public places shall be utilized insofar as practicable as polling places. Rent shall not be charged or paid for the use of such public schools or other public places.

Source: S.L. No. 2L-158-90 §71, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §70 as §71.

**§6-122. Polling places to be properly equipped and supplied.** — Each polling place shall be provided with necessary ballot boxes, locks, official ballots, cards of instructions, pencils, registered voters lists, papers, and all other necessary supplies.

Source: S.L. No. 2L-158-90 §72, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §71 as §72.

**§6-123. Proclamation on opening of polls.** — At exactly 7:00 a.m. of the day of the election, a member of the Election Board shall proclaim aloud or by other means of attention or communication at each place of election that the polls are open, and shall be kept open until 7:00 p.m. of the same day, after which time the polls shall be closed; PROVIDED that such polling places designated by the Election Commissioner outside of the Federated States of Micronesia shall be open at exactly 7:00 a.m. of the election day and shall remain open until 8:00 p.m. of the same day; PROVIDED FURTHER that the time of 7:00 a.m. will be determined by the location of the polling places; PROVIDED FURTHER that if at the hour of closing there are any other voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote; PROVIDED FURTHER that if all registered voters appearing on a registered voters' list for any polling place have voted, the polling place may close irrespective of the time of day.

Source: S.L. No. 2L-158-90 §73, 8/2/90; S.L. No. 2L-219-91 §1, 10/28/91

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §72 as §73.

**§6-124. Voting at proper polling place only. —**

(1) Except as provided in Subsection (2) of this section, registered voters may vote only at the polling place or places designated by the Election Commissioner within the election district for his or her legal residence.

(2) The Election Commissioner may permit voters to vote at a polling place other than within the voter's election district upon promulgating regulations setting forth the procedures, conditions, and other requirements therefor.

Source: S.L. No. 2L-158-90 §74, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §73 as §74.

**§6-125. Reporting of name of voter; register to be checked. —** Any person appearing in the polling place shall report his or her name, in full, and his or her address and registration number if voting by registration card to the election officials. An election official shall clearly and audibly announce them. Another election official shall then check the register of voters and registration number lists as to whether or not the person appearing is a registered voter, and if so shall announce the name and address appearing in the register or registration number and note the same on the register list. At this point a challenge may be interposed on the grounds that the ballot is subject to challenge under law or rules or regulations issued by the Election Commissioner. Voting shall then proceed in accordance with procedures prescribed by the Election Commissioner, however, all voting shall be by secret ballot.

Source: S.L. No. 2L-158-90 §75, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §74 as §75.

**§6-126. Alcoholic beverage sale prohibited. —** No alcoholic beverages shall be sold or otherwise provided to any person in the state or respective local jurisdiction during election day while the polls are open, unless the polls are open in a local jurisdiction only to receive absentee ballots. No candidate shall be allowed within 100 feet of any ballot box except for the purpose of casting his or her ballot.

Source: S.L. No. 2L-158-90 §76, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §75 as §76.

**§6-127. Poll watchers allowed. —** Each candidate shall be entitled to have not more than two poll watchers at each polling place.

Source: S.L. No. 2L-158-90 §77, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §76 as §77.

**§6-128. Election irregularity; complaint; procedure. —**

(1) Any person may file an oral or written complaint of any election irregularity with a member of the Election Board present at the polling place. The Board member shall give an individual against whom the complaint is made time to present witnesses and explanation, if any, but in no event shall such time be granted so as to prevent the Election Board from making a decision prior to the time for the closing of the polls.

(2) The complainant or the individual against whom the complaint is made may appeal the decision to the Election Commissioner. The Election Commissioner shall, as soon as possible, examine the finding of the Election Board and may hear witnesses, if the Election Commissioner deems necessary. The Election Commissioner shall exercise every reasonable effort to make the decision prior to the time of the closing of the polls. The aggrieved party may appeal the decision in accordance with §7-105.

(3) In the event the decision of the Election Commissioner cannot be obtained as heretofore provided, the aggrieved party may appeal the decision of the Election Board by filing a petition with the Election Commissioner prior to certification of the results of the election or within one week of the election, whichever occurs first. The decision shall be made and appealed in accordance with §§7-103 through 7-106.

Source: S.L. No. 2L-158-90 §78, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §77 as §78.

**§6-129. Disposition of ballot boxes after voting complete.** — After all voting is completed, all ballot boxes shall be secured and locked. The locked boxes and all other supplies provided to the polling places by the Election Commissioner shall be collected by election officials and delivered to the Election Commissioner or his duly authorized representative by the safest and most expeditious means available and be certified to the Election Commissioner that the ballots so delivered were cast in accordance with this title.

Source: S.L. No. 2L-158-90 §79, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §78 as §79.

**§6-130. Counting of ballots; announcement of unofficial results.** — The Election Commissioner shall establish a Counting and Tabulation Committee composed of not less than five nor more than 20 members. The said Committee shall publicly count and tally all votes cast and determine the acceptability thereof. Such counting of ballots cast in any election district shall begin after all the voting places in such election district are closed and shall continue until all votes cast shall have been counted. Counting shall be done at the local government office buildings and results communicated as appropriate to the Election Commissioner. Each candidate or his authorized representative shall be entitled to be present at the tabulation of the votes. Upon the completion of the counting and tabulation of all votes cast in the election district, public announcement of the unofficial results shall be made.

Source: S.L. No. 2L-158-90 §80, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §79 as §80.

**§6-131. Spoiled ballots.** —

(1) Two or more markings in one voting square or a mark made partly within or partly without a voting square or space shall not render a ballot void. A ballot shall not be rejected for any technical error that does not render it impossible to determine the voter's choice, even though the ballot is soiled or partially defaced.

(2) If for any reason a ballot is imperfectly marked or if it is impossible to determine the voter's choice for any office or issue, that ballot shall not be counted for that office or issue, but the rest of the ballot, if properly marked, shall be counted.

(3) The Election Commissioner may adopt such other regulations concerning the validity or invalidity of ballots for imperfections, marks or condition of the ballots.

Source: S.L. No. 2L-158-90 §81, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §80 as §81.

**§6-132. Write-in votes.** — Except in runoff elections, any name written upon a ballot shall be counted as a vote for the person whose name is so written for the office under which it is written.

Source: S.L. No. 2L-158-90 §82, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §81 as §82.

**§6-133. Rejected ballots.** — All ballots which have been declared invalid due to defacement or other irregularity shall be sorted and a notation placed upon them indicating that they are rejected ballots. Upon completion of the counting of the ballots, the rejected ballots shall be placed in the ballot box and returned by the Counting and Tabulating Committee to the Election Commissioner with the valid ballots.

Source: S.L. No. 2L-158-90 §83, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §82 as §83.

**§6-134. Disposition of ballots.** — All valid and rejected ballots shall be retained for 30 days after the appeal period for recounts and other challenges to the election has passed. Otherwise, the rejected

ballots shall be preserved then destroyed in the manner provided by regulations promulgated by the Election Commissioner.

Source: S.L. No. 2L-158-90 §84, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §83 as §84.

**§6-135. Certification of election results.** — Upon completion of the counting and tabulation of election results, the Election Commissioner shall certify the results and submit the results as certified to the Governor. The Governor shall declare the winning candidates and/or the disposition of other matters voted upon.

Source: S.L. No. 2L-158-90 §85, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §84 as §85.

**§6-136. Tied election; resolution of tie.** — Except as otherwise provided in this title or by other law, if, after all votes have been tabulated and certified by the Election Commissioner, two or more candidates received an equal number of votes, such tie shall be resolved by a runoff election. If another tie occurs in the runoff election, such tie shall be resolved by the Election Commissioner by lot drawn in the presence of the tied candidates or their designated representatives.

Source: S.L. No. 2L-158-90 §86, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §85 as §86.



## CHAPTER 7 RECOUNTS AND APPEALS

### Section

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### **§7-101. Petition for recount: filing; contents. —**

(1) A petition for recount may be filed by any candidate in an election who believes that there was fraud or error committed in the casting, canvassing or return of the votes cast at said election or under the circumstances set out in §6-128(1). The petition shall be filed with the Election Commissioner.

(2) Such petition shall contain a statement sworn to before a notary public or other person authorized to administer oaths that the petitioner has reason to believe and does believe that the records or copies of records made by the Board of Election are fraudulent or erroneous, specifying wherein he or she deems such records or copies thereof to be in error or fraudulent, or that votes were cast by persons not entitled to vote therein, and that he or she believes that a recount of the ballots cast will affect the election of one or more candidates voted for at such election.

(3) The petition for a recount must be filed within one week of certification of the results of the election.

(4) A review for a recount may also be instituted on the Election Commissioner's own initiative. The scope of such review shall be the same as provided in Subsection (2) of this section.

Source: S.L. No. 2L-158-90 §87, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §86 as §87.

**§7-102. Recommendation by Board of Election. —** The Election Commissioner may request the review and recommendation of the Board of Election as to whether the recount should take place. The recommendation shall be submitted within three days after the Election Commissioner submits his or her request to the Board.

Source: S.L. No. 2L-158-90 §88, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §87 as §88.

**§7-103. Time allowed to make a decision. —** The Election Commissioner shall decide on all petitions for recounts and those submitted pursuant to §6-128 within ten days after receiving the petition, or within ten days after the Election Commissioner has initiated a review on his or her own initiative.

Source: S.L. No. 2L-158-90 §89, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §88 as §89.

### **§7-104. Decision of the Election Commissioner. —**

(1) A petition for a recount must be granted if the difference between the number of votes cast for the winning candidate and the next highest candidate is one-half of one percent (0.5%) or less of the total votes cast for all of the candidates running for the same office.

(2) A petition for a recount must also be granted if the Election Commissioner determines that there is a substantial question of fraud or error and that there is a strong possibility that the outcome of the election would be affected by a recount.

Source: S.L. No. 2L-158-90 §90, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §89 as §90.

**§7-105. Denial of petition; appeal to Pohnpei Supreme Court. —**

(1) If the Election Commissioner decides not to approve the petition and grant the recount, he or she shall record the reasons for such decision. The aggrieved candidate may, within five days after receipt of the decision of the Election Commissioner, appeal the case to the Trial Division of the Pohnpei Supreme Court. Said court shall review the appeal promptly and render a decision. If the decision is in favor of a recount, the Election Commissioner shall be so notified and shall proceed as provided in §7-107.

(2) Appeals may be had in the manner prescribed in Subsection (1) of this section from any decision of the Election Commissioner concerning a ruling of an Election Board with respect to a challenge affecting the acceptability of a vote or votes. A petition hereunder for appeal shall contain the information specified in §7-101 for a petition for a recount. A decision of the Pohnpei Supreme Court in favor of the petitioner may have the effect of disallowing the challenged votes but shall not halt or delay balloting or counting and tabulating.

Source: S.L. No. 2L-158-90 §91, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §90 as §91.

**§7-106. Standard for review. —** The decision of the Election Commissioner shall be upheld by the court unless there is clear and convincing evidence that the Election Commissioner's decision was:

(1) Arbitrary, capricious, an abuse of discretion or contrary to law;

(2) In excess of statutory jurisdiction, authority or limitations, or amounts to a denial of rights protected by law; or

(3) Not in compliance with the procedures required by law, and that such noncompliance will have a significant impact on the election results.

Source: S.L. No. 2L-158-90 §92, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §91 as §92.

**§7-107. Recount by Counting and Tabulating Committee; procedure; results. —** The recount shall be held by the Counting and Tabulating Committee within ten days after the decision of the Election Commissioner and shall be public. The Counting and Tabulating Committee shall prepare certificates under oath describing the result of the recount and identifying the candidate elected. Copies of the certificates shall be filed with the Governor, the Election Commissioner, the Board of Election, and the person filing the petition for recount. The person receiving the greatest number of votes shall be deemed to have been elected, but if two or more candidates shall receive an equal number of votes for the office, the tie vote shall be resolved in accordance with the applicable provisions of §§6-103 and 6-136.

Source: S.L. No. 2L-158-90 §93, 8/2/90

Note: S.L. No. 2L-211-91 §5, 10/12/91 renumbered §92 as §93.

Extended legislative history: PDC §1-105(c) was amended by D.L. No. 2L-234-71 §1, 11/23/71; PDC §1-110 was amended by D.L. No. 3L-58-73 §9, 5/29/73; D.L. No. 4L-206-79 §11-3(1), 9/5/79 repealed D.L. No. 4L-186-79; PDC §§1-300(b) and (c) were amended by D.L. No. 4L-206-79 §11-3(2), 9/5/79 and S.L. No. 2L-158-90 §6(1), 8/2/90; PDC §§1-100 to 1-111 were repealed by D.L. No. 4L-206-79 §11-3(3), 9/5/79 and were again repealed by S.L. No. 2L-158-90 §6(2), 8/2/90; D.L. No. 4L-206-79 §1-3(2) was amended by S.L. No. 1L-9-79 §1, 9/5/79; D.L. No. 4L-206-79 §1-7 was amended by S.L. No. 3L-46-84 §1, 10/9/84; D.L. No. 4L-206-79 §5-1 was amended by S.L. No. 1L-71-86 §4-14, 4/1/86; D.L. No. 4L-206-79 §6-5 was amended by S.L. No. 2L-165-83 §1, 2/11/83. D.L. No. 4L-206-79 §6-7 was amended by S.L. No. 2L-165-83 §2, 2/11/83; D.L. No. 4L-206-79 §6-8 was amended by S.L. No. 2L-30-80 §1, 9/30/80; D.L. No. 4L-206-79 §6-9 was amended by S.L. No. 2L-165-83 §3, 2/11/83; D.L. No. 4L-206-79 §9-10 was amended by S.L. No. 3L-20-84 §1, 7/25/84; D.L. No. 4L-206-79 was repealed in its entirety by S.L. No. 2L-158-90 §6(3), 8/2/90; S.L. No. 2L-158-90, 8/2/90 provided a new election law. S.L. No. 2L-158-90 §3 was amended by S.L. No. 2L-211-91 §1, 10/12/91; S.L. No. 2L-158-90 §14 was amended by S.L. No. 2L-211-91 §2, 10/12/91; S.L. No. 2L-158-90 §18 was amended by S.L. No. 2L-211-91 §3, 10/12/91; S.L. No. 2L-158-90 §36 was amended by S.L. No. 2L-211-91 §4, 10/12/91; S.L. No. 2L-158-90 was amended by adding a new §37 in S.L. No. 2L-211-91 §5, 10/12/91; S.L. No. 2L-158-90 §37 was amended by 3L-60-94 §1, 2/17/94; S.L. No. 2L-158-90 §38 was amended by S.L. No. 2L-211-91 §6, 10/12/91; S.L. No. 2L-158-90 §39 was amended by S.L. No. 2L-211-91 §7, 10/12/91; S.L. No. 2L-158-90 §48 was amended by S.L. No. 2L-211-91 §8, 10/12/91; S.L.

No. 2L-158-90 §51, renumbered as §52 by S.L. No. 2L-211-91, was amended by S.L. No. 2L-219-91 §2, 10/28/91; S.L. No. 2L-158-90 §52, renumbered as §53 by S.L. No. 2L-211-91, was amended by S.L. No. 2L-211-91 §9, 10/12/91, and further amended by S.L. No. 2L-219-91 §2, 10/28/91; S.L. No. 2L-158-90 §60 was amended by S.L. No. 2L-211-91 §10, 10/12/91; S.L. No. 2L-158-90 §72, renumbered as §73 by S.L. No. 2L-211-91, was amended by S.L. No. 2L-219-91 §1, 10/28/91.

ELECTIONS

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