

## TRUK DISTRICT LEGISLATURE

TWENTY-SEVENTH-REGULAR SESSION, FIRST SPECIAL SESSION, 1978

ACT NO. 27-1-21

## AN ACT

To enact a District election law, to repeal Chapter 1 of Title 21 of the Truk District Code on Election of Legislators, to amend TDL No. 27-20 to fund special and general elections, to appropriate \$10,000, therefor, and for other purposes.

BE IT ENACTED BY THE TRUK DISTRICT LEGISLATURE THAT:

Section 1. Title. The act shall be known and may be cited as the "District Election Act of 1978."

Section 2. Franchise. Every citizen of the Trust Territory shall be entitled to vote in every election conducted under the provisions of this Act who fulfills all the following requirements:

- (1) is eighteen years of age or older on the day of an election;
- (2) has fulfilled the residence requirements for registration;
- (3) is not currently under a judgment of mental incompetency or insanity;
- (4) is not currently under parole, probation, or sentence for any felony for which he has been convicted by any court of the Trust Territory or any court within the jurisdiction of the United States; and
- (5) is registered to vote under the provisions of this Act.

Section 3. Elections to be by secret ballot. All elections in accordance with the provisions of this Act shall be by secret ballot. The marking of each ballot shall take place in an area where the ballot cannot be seen by any other person, including any election official, poll watcher or other voter. Election officials are responsible for assuring that ballots are marked in secret and deposited in the appropriate ballot box in a manner so that no person can see the marking on the ballot.

Section 4. Special Election-Vacancies-How filled.

(1) In the event a candidate for Governor or Lieutenant Governor does not receive at least forty-five percent of the votes cast, or if two candidates for an office receive the highest and equal number of votes, the Governor shall proclaim as special election within thirty days after certification of the votes.

(2) Whenever, one year or more before the end of a term, a vacancy occurs in the Legislature, the Governor shall call a special election to fill such vacancy. The call of the Governor shall specify the date of the special election, the deadline for registration of electors for such special election, and the period during which the nomination of candidates for such special

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election may take place. In all other respects, special elections to fill vacancies in the Legislature shall be held in accordance with the provisions of this Act.

Section 5. Municipal Elections. Any provision of any municipal charter, law, or ordinance to the contrary notwithstanding, the Election Commissioner shall have overall authority and responsibility for the conduct of all elections, the registration of all voters, the tabulation of all votes, and the announcement of the official results of all district and municipal elections in accordance with all provisions of the applicable district law, charter provisions, or municipal ordinance governing the election which are not inconsistent with the provisions of this Section PROVIDED, that if there is no applicable district law, charter provision or municipal ordinance governing any district or municipal election or to the extent that such law, charter provision, or ordinance does not fully provide for the conduct of such election, the registration of voters, the tabulation of votes, or the announcement of official results, the Election Commissioner shall formulate regulations to govern such election which shall be substantially similar to the provisions of this Act with due recognition for local conditions, and which regulations shall have the force and effect of law.

Section 6. Election Expenses. All expenses of this Act for elections conducted in accordance with the provisions of this Act shall be borne by the District Government.

Section 7. Use of Government Facilities by Candidates.

(1) Government broadcast facilities may be made available to candidates, except on the day of election, pursuant to law and the discretion of the Election Commissioner where not provided by law. The Election Commissioner shall afford each candidate equal opportunity in the use of government broadcast facilities. If the Election Commissioner cannot provide equal opportunities to the candidate in the use of government broadcast facilities, then no candidate shall be allowed their use whatsoever. Each candidate shall advise the Election Commissioner not later than 24 hours prior to his intended use of government broadcast facilities. Failure to notify the Election Commissioner of the proposed use of the above-described facilities within the prescribed time limit may disqualify the candidate from the use of these government facilities.

(2) No Government facilities other than broadcast facilities may be made available to candidates.

Section 8. Affidavits to be sworn under oath. The affidavits required pursuant to this Act shall be sworn to before any officer or person authorized by law to administer oaths.

Section 9. Penalties. Any person who violates any of the provisions of this Act or any rules or regulations promulgated pursuant thereto, for which a penalty is not otherwise provided, who votes or attempts to vote more than one time or interferes with the orderly process of the election, shall be punished by a fine not to exceed five hundred dollars or imprisonment for not more than one year, or both.

Section 10. Intimidating or Bribing a Voter. Every person who shall in any manner (a) intimidate or threaten a voter in order to induce or compel him to vote or refrain from voting at any election, or to vote or refrain from voting for any particular person at any election or, (b) bribe or attempt to bribe any voter in giving his vote, or to deter him from giving it, shall be fined not more than one thousand dollars, or imprisoned for not more than one year, or both. Each intimidation, threat or bribe shall constitute a separate offense.

Section 11. Election Districts. Election districts shall be as established by Article XI of the Charter for the Truk District Government.

Section 12. Nomination by Petition.

(1) Nomination of candidates may be made by petition initiated by a candidate or any five citizens registered to vote under the provisions of this Act and authorized by the candidate so to initiate a petition. Forms of nominating petitions shall be prescribed by the Election Commissioner and shall include a representation that the candidate meets the qualifications for office which shall be stated therein. When a signature is indicated by an "X" or other mark or is written in the Japanese language, such signature must be identified in Trukese or English and accompanied by the signature, in Trukese or English, of one witness. Nominating petitions shall be filed with the Election Commissioner or his appointee or appointees.

(2) Nominating petitions for the candidates for Governor or Lieutenant Governor shall be signed by no less than fifty persons, all of whom shall be registered to vote under the provisions of this Act.

(3) Nominating petitions for the candidates for the Legislature shall be signed by no less than twenty-five persons, all of whom shall be registered to vote under the provisions of this Act in the Election District in which the candidate intends to run.

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Section 13. Placing Candidate's Name on Ballot. The Election Commissioner shall examine the nomination papers of all candidates and political parties and investigate all candidates to ensure that all the qualifications of office have been met. If a prospective candidate has not met the qualifications of office, then the name of the candidate shall not be placed on the ballot. All signatures on the nomination papers shall be verified. All nomination papers shall be reviewed by the Election Commissioner and if not in order, the nomination papers shall be rejected.

Section 14. Time of Filing Papers-Fee. Nomination papers shall be filed as follows:

(1) Not more than 180 days nor less than 60 days prior to the day for holding the election except as provided in Section 33 of this Act; provided that for the first general election nomination papers shall be filed not less than thirty days prior to the day of the election;

(2) There shall be deposited with each nomination for Governor or Lieutenant Governor a fee of fifty dollars and the Legislature a fee of twenty-five dollars. The Election Commissioner shall pay over all such nomination fees to the District Director of Finance to remain available for conducting general and special elections; and

(3) Upon the receipt at the office of the Election Commissioner or appointee or appointees of a nomination of a candidate, the day, hour, and minute when it was received shall be endorsed thereon.

Section 15. Office of Election Commissioner.

(1) The District Administrator is hereby appointed as the Election Commissioner to serve in that capacity until the Governor takes oath of office. At that time, the Lieutenant Governor shall become the Election Commissioner.

(2) The Election Commissioner shall be the chief election officer of the District, with such powers and duties relating to the registration of voters and the conduct of the election as prescribed in this Act.

Section 16. Powers and Duties. Without additional compensation, the Election Commissioner shall have the overall supervision and administration of the election and shall perform such duties as are prescribed by law, which shall include, but not be limited to the following:

(1) appoint all members of the several Boards of Election as provided for in this Act;

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(2) To prescribe and promulgate rules, regulations and instructions, including rules, regulations and instructions for absentee ballots, for the conduct of the election;

(3) To determine, and prescribe forms of ballots and the form of all blanks, cards of instructions, pollbooks, tally sheets, and all forms and blanks required by the provisions of this Act for use by candidates, boards, committees, and voters, and supply the same to Boards of Election;

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

(5) To review and examine voting irregularities or violation of any election laws in accordance with the provisions of this Act;

(6) To establish voting precincts within each election district and designate appropriate polling places within each voting precinct, upon recommendations of the members of the Board of Election of the particular Election District;

(7) To receive nomination petitions and list of all candidates for election in alphabetical order on the ballots for each Election District;

(8) To register or cause to be registered all the voters in his administrative district and to maintain the general district register as provided in this Act; and

(9) To prepare from the general district register a registered voter's list for each voting precinct prior to any election.

Section 17. Official Register to be Kept by Election Commissioner. The Election Commissioner shall register or cause to be registered all voters in the general district register. The register shall consist of one or more volumes for each election district with a general alphabetical index of the voters. The general district register shall be divided into as many parts as there are election precincts in the election districts and shall have an index of precincts. The general district 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. The complete general district register shall be published and made available for public inspection at least 60 days prior to any election.



Section 18. Changing Register-Striking Name of Disqualified Voters.

(1) The Election Commissioner shall ascertain, not less than six months before election, information of the death, adjudication of insanity or feeble-mindedness, loss of citizenship, or any other disqualification to vote, of any person registered to vote or who he has reason to believe may be registered to vote. He shall thereupon make such investigation as he may deem necessary to prove or disprove such information, giving the person concerned, if available, notice and an opportunity to be heard. If after such investigation he finds that such person is dead, incompetent, has lost his citizenship, or is disqualified for any reason to vote, he 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 to him under any requirements of law concerning any of the matters mentioned in this Section and shall provide any person authorized to receive affidavits on application for registration with any information the latter may need to ascertain whether or not any applicant is in any manner disqualified to vote.

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

Section 19. Boards of Election-Created-Appointment of Members. The Election Commissioner shall appoint, with the advice and consent of the Speaker of the Legislature, a Board of Election for each election district whose members shall serve until resignation or until their successors are appointed. The members shall be citizens of the Trust Territory registered to vote under the provisions of this Act and be of such numbers as are necessary to have at least one board member present at each polling place. No board member shall participate in an election campaign during his appointment.

Section 20. Powers and Duties. Each Board of Election member shall have the powers and duties as follows:

- (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 instructions and other supplies and equipment necessary to conduct the election;
- (4) To give such instruction deemed necessary for the orderly conduct of the election;

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(5) To provide for the issuance of all notices and publications concerning the election;

(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 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 according to Section 58 of this Act;

(9) To recommend to the Election Commissioner designation of appropriate polling within each voting precinct or election district as may be deemed suitable and convenient to the public;

(10) To perform such other duties as are prescribed by law or rules issued by the Election Commissioner; and

(11) To register electors.

Section 21. Place of registering and Voting.

(1) Every person who has reached the age of eighteen years, or who will have reached the age of eighteen years on or before the date of the next election, and who has resided in the Trust Territory for nine months and in the Election District of registration three months preceding the date of registration and who except for the requirement of registration, is otherwise entitled to vote may register to vote in the election district in which he resides.

(2) The Election Commissioner shall designate such place or places within each election district wherein registration of voters may be made.

(3) No person shall register to vote or vote as an elector of any other precinct than that in which he resides; PROVIDED, that where there is a mistake in placing the name of the voters on the list of voters of a precinct in which he does not actually reside, such voter shall nevertheless be allowed to vote therein, if otherwise qualified; and the member of the Board of Election of the particular election district and precinct where such voter has voted shall notify the Election Commissioner of the error in order that the name of such voter may be placed on the next succeeding list of voters of the precinct where he actually resides.

(4) If any person resides in more than one precinct, he may choose which precinct as an elector of which he will register, but he shall register as an elector of one precinct only.

Section 22. Formality of Registration Required. No person shall be entitled to vote in any district election or to be listed upon any general district register, or upon any precinct list, who fails to register with the formalities and subject to the restrictions and qualifications required by this Act.

Section 23. Application for Registration-Affidavit. Any person qualified to and desiring to register as a voter in any election district, may present himself at any time during business hours to any of the members of the Election Board (herein empowered and authorized to administer oaths and take acknowledgments) or persons authorized by law to administer oaths, then and there to be examined under oath as to his qualification as an elector. Each applicant shall make and subscribe to an applications in substantially the following form:

AFFIDAVIT ON APPLICATION  
FOR REGISTRATION

Trust Territory of the )  
Pacific Islands )ss  
District)

1. My full name is \_\_\_\_\_.
2. I was born at \_\_\_\_\_ on the \_\_\_\_\_  
day of \_\_\_\_\_ in the year \_\_\_\_\_.
3. My age is \_\_\_\_\_. 4. I live at \_\_\_\_\_.
5. My occupation is \_\_\_\_\_.
6. I am a citizen and resident of the Trust Territory of the  
Pacific Islands.
7. I was naturalized as a citizen of the Trust Territory of the Pacific  
Islands at \_\_\_\_\_ District on the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_.
8. I have resided in the Trust Territory of the Pacific Islands (or  
Truk District) not less than nine months, and in Election District No.  
(or Representative District No.) \_\_\_\_\_ not less than three  
months, immediately preceeding this date on which I now offer to  
register, to wit, the \_\_\_\_\_ date of \_\_\_\_\_, 19\_\_\_\_.
9. I am not currently under parole, probation, or sentence for any felony  
for which I have been convicted by any court of the Trust Territory or  
any court within the jurisdiction of the United States.



10. I am not currently under a judgment of mental incompetency or insanity.

11. I solemnly swear that the foregoing statements are true, so help me God.

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

The applicant shall strike out allegations that are inapplicable, and shall swear to the truth of the allegations in his application. In any case where the person who administers the oath shall so desire or believe the same to be expedient, he may demand that the applicant produce a witness or witnesses to further substantiate the allegations of his application.

Section 24. Registration of Applicant. Every affidavit on application for registration shall be submitted to the persons authorized to examine the qualifications of electors, not less than 90 days before an election.

Section 25. Entry of a Voter's Name in the General District Register.

(1) If the person authorized to receive an affidavit of application for registration is satisfied that the applicant is entitled to be registered as a voter, he shall number the affidavit consecutively as approved by him, and shall transmit the affidavit to the Election Commissioner. The Election Commissioner shall thereupon enter or cause to be entered in the general district register the following facts:

- (a) number of affidavit;
- (b) date of registration;
- (c) name of applicant in full;
- (d) occupation;
- (e) age;
- (f) if naturalized, the date of such naturalization;
- (g) residence; and
- (h) any other information which the Election Commissioner may deem necessary.

(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.

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A voter having once been registered shall not be required to register again for any succeeding election, except in case of change of name or residence or intervening disqualification; PROVIDED, that in the event the voting records are destroyed or lost, the Election Commissioner may require the re-registration of voters.

(3) The Election Commissioner shall file the accepted affidavits in consecutive numbers, and keep the same in some convenient place so as to be open to public inspection and examination.

Section 26. Re-registration. Any voter who changes his residence from one voting precinct to another, or who changes his name, after registration in any general district register, may register again in such general district register under the proper voting precinct or the proper name and the Election Commissioner or his authorized representative shall cancel the former registration by drawing one or more lines through the name of such voter as previously registered and enter or cause to be entered his own signature and the date of such cancellation with ink on the same line; PROVIDED, that no such registration shall be allowed on account of any change of residence or name made within 90 days before an election.

Section 27. Voters at Previous Elections deemed Registered. Notwithstanding any requirements of registration provided by this Act, all voters who registered and voted in the first election of the members of the Congress of Micronesia held before, on or after January 19, 1965, or the July 12, 1978, Referendum on the Constitution of the Federated States of Micronesia, shall not be required to register again except where re-registration has become necessitated because of change of name or residency and except where disqualifications have intervened; PROVIDED, that in the event, voting records have been destroyed or lost, the Election Commissioner may require re-registration of voters.

Section 28. Registration not Required. No registration in person shall be required of a full time student at any institution of learning outside Truk District, but such person shall make and subscribe to an affidavit substantially similar to the form set forth in Section 23 of this Act and as the Election Commissioner may prescribe, to establish fully such person's right to vote.

Any duly qualified elector may challenge the acceptance of the voted ballot at the time of casting of the ballot under the provisions provided by law.

Section 29. Official and Specimen Ballots-Penalty for Imitating.

(1) All elections held in accordance with the provisions of this Act shall be held by official ballot only. An official ballot is a written or printed, or partly written and partly printed, paper, designated as an official ballot and containing the names of persons to be voted for and the office to be filled, and issued by the Election Commissioner of each administrative district. The Election Commissioner shall have printed two exact copies of each official ballot which is to be used in the general election, for each voting place, such copies to have printed thereon, in large bold letters, and with ink of a color plainly contrasting to the color of the paper used, the word "Specimen". Two copies of each such specimen ballots shall be forwarded to the members of the Board of Election at the same time with the official ballots and the member or members of the Election Board shall post one of each such specimen ballots on either side of the entrance of the voting place or other places plainly in sight for the general public.

(2) Any person who knowingly, wilfully, and unlawfully prints, copies, imitates, or distributes, or causes to be printed, copied, imitated, or distributed any official ballot or any document that is so substantially similar in style or content to the official ballot as to cause the likelihood of confusion with the official ballot without the authorization of the Election Commissioner shall be guilty of a misdemeanor.

Section 30. Contents of Ballots. A ballot shall contain the names of the persons and the offices to be voted for and the election district in which the election is being held, and the term of the respective offices being voted for. There shall be a ballot for the office of Governor and Lieutenant Governor and a ballot for offices in the Legislature.

Section 31. Printing and Distributing Ballots.

(1) The ballots shall be printed by order of the Election Commissioner at government expense. The Election Commissioner shall deliver an adequate amount of ballots to each election precinct.

(2) At least ten days before the election, the Election Commissioner shall print a specimen ballot and shall forthwith submit copies to the same to the members of the several Boards of Election and to the several candidates at their addresses as given on their nomination papers, and the members of the Board shall

post a copy of the same in a conspicuous place in their office or public place.

Section 32. Withdrawal of Candidates-Notice-Reprinting of Ballots, Costs.

(1) Any candidate may withdraw before an election by giving notice in writing to the member or members of the Board of Election or to the Election Commissioner, whichever is more practical, in the Election district in which such candidate was seeking nomination or election. If a candidate withdraws after the printing of the ballots, the Election Commissioner shall cause the name of the candidate so withdrawing and the name of any candidate who may have died, to be stricken from the ballots and, in that regard, may require the services of the Election Board of the election district or precinct in which any person was a candidate and shall notify in writing such Election Board of the withdrawal or death, whereupon notice thereof shall, before the opening of the polls on election day, be posted at the polling place.

(2) If a candidate withdraws his name later than twelve days before an election and the ballots are in the process of or have been printed and it becomes necessary in the opinion of the Election Commissioner or the Election Board for a reprinting of the ballots or a striking out of a candidate's name by a reprint block-out, all expenses thereof, except in case of a withdrawal necessitated for medical cause and so certified by a physician, shall be a charge against the withdrawing candidate and shall be paid by him within sixty days after such withdrawal to the Election Commissioner. Monies so received shall be paid to the District Director of Finance to remain available for conducting general and special elections.

(3) Any person who shall, directly or indirectly, physically threaten or intimidate any candidate so as to cause or attempt to cause the candidate to withdraw from an election shall upon conviction be fined not more than two thousand dollars or imprisoned for not more than one year, or both.

Section 33. Substitute Candidate-Insertion of Names on Ballots and Notice at Polling Places. In the case of the death, withdrawal, or disqualification of candidates after the deadline for filing nominations, substitute candidates may be nominated prior to ten days before the date of an election. A person nominated as a substitute for a candidate nominated by petition must be nominated by petition in the same manner as the candidate who has died, withdrawn, or been disqualified. The

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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 the Election Commissioner may deem satisfactory for the purpose and may require the services of members of the Election Board who may be in the election district or precinct in which 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.

Section 34. Ballots to Remain Until Polls Open. When printed, the ballots shall be fastened together in blocks of one hundred 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.

Section 35. 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) he is confined to his home or hospital by reason such illness or physical disability as will prevent him from attending the polls; or

(b) he is prevented from voting by reason of being at sea or absent from Truk District.

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

Section 36. Voting by Confined Persons. Any registered voter qualified to vote at any general or special election who is confined to his home or hospital by reason of such illness or physical disability as will prevent him 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 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 frauds; PROVIDED, that any voter who by reason of physical disability is unable to mark his ballots shall be authorized to receive assistance in the marking thereof. Such rules and regulations may require affidavits, certificates, and other



written statements under oath.

Section 37. Request for Absentee Ballot-Contents.

(1) Any registered voter qualified to vote in any election may request and cast an absentee ballot with the Election Commissioner; PROVIDED, that he meets the requirements as set forth in Section 35.

(2) Any registered voter qualified to vote by absentee ballot may, not more than 90 days nor less than 10 days before the election, request the Election Commissioner in writing for an absentee ballot to be voted at the election. The request shall include information stating the voter's voting precinct, election district, reasons for being absent, address to which he wishes his ballot forwarded and the establishment of his right to a ballot.

Section 38. Marking and Return of Absentee ballot-Voting at Polls Prohibited.

(1) The Election Commissioner or the Board of Election, as the case may be, shall at least 10 days prior to an election, provide to any person who may be entitled to vote by absentee ballot, 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 the ballot is marked except as provided in Section 36. 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 mailed or delivered to reach the Election Commissioner issuing the absentee ballot not later than the established closing hour of business on the fourth day before the election, except as provided in Section 36.

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

Section 39. Disposition of Absentee Ballots.

(1) Upon the receipt of the envelope marked "Absentee Ballot Enclosed" within the period prescribed in Section 38, from any person voting under the provisions of this Act, the Election Commissioner, or his appointee, shall open it, remove the ballot envelope, and examine the statement as to its proper execution, the person's qualification to register as an elector, and to vote. If the Election Commissioner determines that the person is qualified to vote by absentee ballot, the ballot envelope shall be deposited

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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, or his appointee, and the words "This container holds absentee ballots and must be opened only pursuant to law." The Election Commissioner or his appointees shall safely keep each container in his office until the day of election and at such time he shall publicly open the container, extract and segregate the ballot envelopes and deliver such envelopes to the Counting and Tabulation Committee.

(2) In case the statement is found to be insufficient or in case the signatures do not correspond, or in case the voter has not complied with the requirements of Section 38, or is not a duly qualified elector or the ballot envelope is open or has been opened and resealed, the ballot envelope shall not be opened and the Election Commissioner or his appointees shall mark across its face "Rejected," giving the reason therefor, and shall preserve the same in the manner provided by law.

(3) If the ballot is received after the time fixed in Section 38, the ballot envelope shall be endorsed by the Election Commissioner or his appointees with the day and hour of receipt and it shall be safely kept unopened by the Election Commissioner or his appointees 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.

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

Section 40. Voting at Another Polling Place.

(1) A voter shall have the right to vote on election day at a polling place other than the polling place at which he is legally registered to vote if the following conditions are met:

(a) he is lawfully registered to vote in his representative or election district; and

(b) he notifies the Election Commissioner in writing at least 7 days before the election that he will not be voting in his proper voting place and that he requests to vote at a specific voting place.

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(2) Upon receipt of a voter's request for a change in polling place, and no later than five days from such receipt if request is made seven days before the election, the Election Commissioner shall immediately assign and notify the voter by any means of communication, including the use of radio, as the place where the voter may vote. Upon such notification, the voter shall be permitted to vote only at that polling place.

(3) The Election Commissioner shall cause a mark to be placed next to the name of the voter in that part of the general district register for the election precinct or the polling place where the voter would normally cast his ballot. This mark shall indicate that the voter will be casting his ballot at another polling place and that he is prohibited from voting in that election at his usual polling place. The Election Commission shall provide the proper ballot at the newly designated polling place for each voter who complies with the provisions of this Section.

Section 41. 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. Only one poll worker may be absent from a polling place at any time while the polling place is open. 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 thereof.

Section 42. 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 other necessary supplies.

Section 43. Proclamation on Opening of Polls. At exactly seven o'clock a.m., of the day of the election, a member of the Election Board shall proclaim aloud at each place of election that the polls are open, and shall be kept open until six o'clock p.m., of the same day, after which time the polls shall be closed; PROVIDED, 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 be kept open a sufficient time to enable them to vote; PROVIDED FURTHER, that, if all registered voters appearing on a registered voter's list for any polling place have voted, that polling place may close irrespective of the time of day.

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Section 44. Reporting of Name of Voter-Register to be Checked. Any person appearing in the polling place shall report his name, in full, and his address to the election officials. An election official shall clearly and audibly announce them. Another election official shall then check the register of voters 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. 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.

Section 45. Campaigning, Alcoholic Beverage Sale at Polling Place Prohibited. No campaigning shall be conducted within one hundred feet of a ballot box on election day and no alcoholic beverages shall be sold, or otherwise provided to any person during election day while the polls are open. No candidate shall be allowed within one hundred feet of any ballot box except for the purpose of casting his ballot. There shall be no campaigning over any district broadcast station on Election Day.

Section 46. Poll Watchers Allowed. Each candidate shall be entitled to have one poll watcher at each polling place.

Section 47. Ballot Area. An area where a ballot is marked shall not be occupied by more than one person at a time. A voter shall not remain in or occupy such area longer is reasonably necessary to prepare his ballot, which shall not exceed five minutes.

Section 48. Reception of Ballot. On receiving his ballot, the voter shall without delay directly retire alone to an area provided to prepare his ballot.

Section 49. Marking Ballot. The voter shall place a check (✓) or a cross (X) mark in a space on the ballot after the name of a candidate for whom he intends to vote. A voter shall not place his voting marks in excess of the number of candidates who are to be elected. Instead of marking a space a voter may vote by writing the name of person whose name does not appear on the ballot in a space provided for such purpose.

Section 50. Return of Ballot. After marking a ballot, a voter shall fold his ballot in such a manner as not to display his markings and shall then deposit his ballot in the ballot box.

Section 51. Assistance in Marking Ballot. When it appears from the registry book that a voter has declared under oath when he registered:

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(1) That he cannot read or write; or

(2) That by reason of physical disability he is unable to mark his ballot, or when a voter declares under oath, administered by any election official at the time he appears at the polling place to vote, that he is then unable to mark his ballot because of physical disability, he shall receive the assistance of not less than two election officials.

Section 52. Cancellation of Spoiled Ballots. The officials at the polls shall immediately cancel all spoiled ballots returned by drawing a cross upon the face in ink or indelible pencil and these, and those not distributed to the voters, shall be returned with the register lists and ballots.

Section 53. Return of Ballot. A voter who does not deposit his ballot in the ballot box shall before leaving the polling place return it to an election official in charge of the ballots, who shall immediately cancel the ballot and return it in the same manner as a spoiled ballot.

Section 54. Accounting of Ballots. Every precinct board shall account for the ballots delivered to it. The ballots shall be accounted for by reconciling the number of ballots cast, returned unused and spoiled against the number of ballots delivered. The Election Commissioner, upon receiving the returned ballots, shall require such an accounting.

Section 55. Inquiry on Vote at Polling Place. No person shall ask another person at a polling place as to which candidate he intends to vote for unless otherwise provided by this act.

Section 56. Removal of Ballot Box. Unless otherwise provided by this Act, no person shall remove any ballot box from any polling place before the closing time of the polls.

Section 57. Closing of Polls. Immediately upon the closing of the polls and before any ballot is taken from any of the ballot boxes for tabulation, the election officials of each polling place shall, in the presence of all authorized poll watchers, proceed to deface all unused ballots including spoiled ballots by drawing a cross mark on the face of such ballots and shall place them within an envelope and seal the envelope, and a majority of the election officials of the polling place shall affix their signatures thereupon. Such ballots shall be transmitted, along with the ballot boxes and other supplies provided to the polling place, to the Election Commissioner or his duly authorized representative by the safest and most expeditious means available.



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Section 58. Election Irregularity-Complaint-Procedures. 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. The complainant or the individual against whom the complaint is made may appeal the decision to the Election Commissioner or his designated representative. The Election Commissioner, or his said representative shall, as soon as possible, examine the finding of the Election Board and may hear witnesses, if he deems necessary. The Election Commissioner or his said representative shall make his decision prior to the time of the closing of the polls, and the aggrieved party may appeal the decision in accordance with Section 71. In the event the decision of the Election Commissioner or his designated representative cannot be obtained as heretofore provided, the aggrieved party may appeal the decision of the Election Board in accordance with Section 71.

Section 59. 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 the provisions of this Act.

Section 60. Counting of Ballots-Announcement of Unofficial Results. The Election Commissioner, with the advice and consent of the Speaker of the Legislature, shall establish a Counting and Tabulation Committee composed of not less than five 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 polls in such election district are closed and shall continue until all votes cast shall have been counted. 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.

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Section 61. Certification of Election Results. Upon completion of the counting and tabulation of election results, the Election Commissioner shall certify the results and declare the winning candidates.

Section 62. Local Counting and Tabulating Committees. In election districts or precincts outside Truk Lagoon, the Election Commissioner, with the advice and consent of the Speaker of the Truk Legislature, shall appoint a local committee to count, tabulate, certify and report votes in such manner and according to such rules and regulations as the Election Commissioner may establish.

Section 63. 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 validly cast ballots.

Section 64. Imperfectly Marked Ballots Void. Two or more markings in one voting square or a mark made partly within and partly without a voting square or space do not make a ballot void.

Section 65. Spoiled Ballot. Any voter who spoils a ballot may return it to a member of the Election Board and receive another in its place, one at a time, not to exceed three in all.

Section 66. Ballot not Rejected for Technical Error. At any election a ballot shall not be rejected for any technical error which does not render it impossible to determine the voter's choice, even though the ballot is soiled or partially defaced.

Section 67. Only Invalid Portion Rejected. If for any reason, a ballot is imperfectly marked or if it is impossible to determine the voter's choice for any office, his ballot shall not be counted for that office, but the rest of his ballot, if properly marked, shall be counted.

Section 68. Write-In-Votes. 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.

Section 69. Petition For Recount—Filing—Contents. 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.

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

Section 70. Recommendation To Be Made By Board of Election. If a petition for recount is filed with a Board of Election, the Board shall recommend to the Election Commissioner within three days from the receipt of the petition whether the recount shall take place.

Section 71. Denial of Petition--Appeal to District Court.

(1) If the Election Commissioner decides not to approve the petition and grant the recount, he shall record the reasons for such decision. The aggrieved candidate may, within five days after receipt of the decision of the Election Commissioner, appeal his case to the District Court. The District Court shall review the appeal promptly and render a decision. If the decision is in favor of recount, the Election Commissioner shall be so notified and shall proceed as provided in Section 72 and 73.

(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 Section 69 for a petition for a recount. A decision of the District 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.

Section 72. Approval of Petition--Notice of Recount. Regardless of whether a petition for recount is first filed with a Board of Election or with the Election Commissioner, if the Election Commissioner determines that there is a

substantial question of fraud or error and that there is a substantial possibility that the outcome of the election would be affected by a recount, he shall cause notice of the recount to be given in a manner decided by him.

Section 73. Recount by Counting and Tabulating Committee-Procedure-Results.

The recount shall be held by the Counting and Tabulation Committee within ten days after the decision of the Election Commissioner and shall be public. The Counting and Tabulating Committee shall make certificates of such determination under oath showing the result of the election and what persons were declared elected to fill office, one of which shall be filed with the Election Commissioner, one with each Board of Election concerned, and one with the person filing the petition for recount.

Section 74. First General Election. Due to the limited period of time between the effective date of this Act and the first general election, the following subsections shall govern the general election and a special election called within thirty days after the results of the general election have been certified, notwithstanding any other provisions of this Act:

(1) Rules and Regulations promulgated by the Election Commissioner are not subject to the provisions of Chapter 1, Title 17 of the Trust Territory Code, Administrative Procedure Act, but shall be posted at government offices of the District Government, distributed to public officials, filed with the Clerk of Courts, and appear in the English and Trukese languages.

(2) Candidates who have deposited nomination fees prior to the effective date of this Act may pay the difference between the fee paid and the fee required by this Act or withdraw their nomination paper and have their paid fee refunded.

(3) The Election Commissioner shall appoint persons as election officials who will serve in the same or similar capacity for the July 12, 1978, Referendum on the Constitution of the Federated States of Micronesia, wherever practical, except no person who is a candidate shall be appointed as an election official.

(4) Notwithstanding other provisions of this Act, and for the purposes of maintaining continuity in election procedures in conducting the July 12, 1978, Referendum and the August 8, 1978, first general election, the District Administrator may promulgate rules and regulations pursuant to Subsection (1) of this Section to adopt and apply applicable regulations promulgated by the Constitutional Referendum Board for the conduct of the Referendum on the Constitution of the Federated States of Micronesia.

(5) Every affidavit on application for registration shall be submitted to the persons authorized to examine the qualifications of ~~electors~~ not less than 60 days prior to the first general election.

(6) The complete general district register shall be published and made available for public inspection at least 40 days prior to the first general election.

Section 75. Repeal. Chapter 1, Title 21 of the Truk District Code, Election of Legislators, is repealed.

Section 76. Amendment. Section 2 to 4 of TDL No. 27-20 are amended as follows:

"Section 2. The sum of \$7,000, or so much thereof as may be necessary, is appropriated from the General Fund of the Truk District Legislature for the purpose of funding the Truk District general election.

Section 3. The sum appropriated by Section 2, shall be administered by the District Administrator, who shall be responsible for ensuring that these funds are used only for the purpose specified in Section 2, and that no obligations are incurred in excess of the sum appropriated. Any part of this appropriation not obligated as of September 30, 1978, shall revert to the General Fund of the Truk District Legislature.

Section 4. The District Administrator shall submit a report to the Truk District Legislature not later than October 15, 1978, which shall provide for the full disclosure of the obligations incurred against the sum appropriated by Section 2, and indicate the status of these funds as of September 30, 1978."

Section 77. Appropriation. The sum of \$10,000, or so much thereof as may be necessary, is appropriated from the General Fund of the Truk District Legislature for the purpose of conducting general and special elections pursuant to the provisions of the Charter for the Truk District Government and this Act.


Section 78. The sum appropriated by Section 77, is allotted to the District Administrator who shall be responsible for ensuring that these funds are used only for the purpose specified in Section 77, and that no obligations are incurred in excess of the sum appropriated. The funds shall remain available for expenditure.


Section 79. The District Administrator shall submit a report to the Truk District Legislature before October 15, 1978, which shall:




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- (1) Provide for the full disclosure of expenditures and obligations incurred against the sum appropriated by Section 77;
  - (2) Indicate the planned use of funds not obligated; and
  - (3) Present the fiscal support requirements for future general and special elections.

Section 80. This act shall take effect upon its approval by the District Administrator, or upon its becoming law without such approval.

Attested to:   
Datasi Albert  
Legislative Clerk/Secretary  
Truk District Legislature

Signed by:   
Roichi Sana, Speaker  
Truk District Legislature

Date: May 19, 1978

Approved by:   
Erhart Aten  
Acting District Administrator,  
Truk

Date: May 25, 1978