

CHAPTER 7

Amendment of the Constitution

SECTIONS

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§ 701. Short title.

This chapter shall be known and may be cited as the "Constitutional Amendment Procedure Act."

Source: PL 2-51 § 1.

Cross-reference: FSM Const., art. XIV states as follows:

Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by 3/4 of the votes cast on that amendment in each of 3/4 of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

Section 2. At least every 10 years, Congress shall submit to the voters the question: "Shall there be a convention to revise or amend the Constitution?". If a majority of ballots cast upon the question is in the affirmative, delegates to the convention shall be chosen no later than the next regular election, unless Congress provides for the selection of delegates earlier at a special election.

The provisions of the Constitution are found in Part I of this code.

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For amendments to the FSM Constitution made pursuant to the Constitutional Convention held in July/August, 1990, see FSM Constitution and constitutional amendments. These provisions and other information on the Constitution can be found on the FSM Supreme Court website at <http://www.fsmsupremecourt.org/>.

Case annotations: The National Constitutional Convention is given broad authority to revise the very foundation of government, and every institution and office of government may come within its reach. *Constitutional Convention 1990 v. President*, 4 FSM R. 320, 326 (App. 1990).

The nature of a constitutional convention as authorized by the FSM Constitution, with direct control of people over the identity of

convention delegates, and ultimate acceptance of the products of the convention's efforts, and the fact that the framers view a constitutional convention as a standard and preferred amendment mechanism, preclude congressional control over the convention's decision-making. *Constitutional Convention 1990 v. President*, 4 FSM R. 320, 327 (App. 1990).

Congress has no power to specify voting requirements for Constitutional Convention and therefore any attempt to exercise this power so as to uphold tradition is also outside the powers of Congress under art. V, § 2 of the Constitution, which is not an independent source of congressional power but which merely confirms the power of Congress, in exercising national legislative powers, to make special provisions for Micronesian tradition. *Constitutional Convention 1990 v. President*, 4 FSM R. 320, 328 (App. 1990).

§ 702. Methods of proposing constitutional amendments.

(1) There shall be three methods of proposing amendments to the Constitution of the Federated States of Micronesia:

(a) *Constitutional convention.* Upon application of the legislatures of three-fourths of the States, the Congress of the Federated States of Micronesia shall enact a law authorizing a constitutional convention for the purpose of proposing a specific amendment or amendments to the Constitution. At least every ten years, the Congress shall submit to the voters the question: "Shall there be a convention to revise or amend the Constitution?" A referendum on the question shall be held no later than May 10, 1989; or

(b) *Initiative petition.* A constitutional amendment may be proposed by a popular initiative petition signed by no less than ten percent of the registered voters in not less than three-fourths of the States. An initiative petition with the requisite number of signatures shall be transmitted by the election commissioner of each respective State as established in section 703(4) of this chapter, without delay to the President of the Federated States of Micronesia; or

(c) *Congressional Act.* A constitutional amendment may also be proposed by an Act of Congress pursuant to the provisions of article IX, sections 20 through 22 of the Constitution.

(2) No proposed constitutional amendment will be placed on the ballot in a general election for Members of the Congress of the Federated States of Micronesia unless it shall have been received by the President no later than 45 consecutive days prior to the date of said general election; provided, however, that nothing in this subsection shall prevent a proposed constitutional amendment from being placed on the ballot during a special election called by the President for that purpose.

Source: PL 2-51 § 2; PL 2-58 § 1.

Cross-reference: FSM Const., art. XIV. The provisions of the Constitution are found in Part I of this code.

For amendments to the FSM Constitution made pursuant to the Constitutional Convention held in July/August, 1990, see FSM Constitution and constitutional amendments. These provisions and other information on the Constitution can also be found on the FSM Supreme Court website at <http://www.fsmsupremecourt.org/>.

The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on National Elections are found in title 9 of this code.

§ 703. Format of constitutional amendment.

The format of constitutional amendments shall be uniform as prescribed by the President, according to the following basic guidelines:

(1) Proposed constitutional amendments which have been received by the President, pursuant to section 702 of this chapter, shall be printed on ballots to be voted on simultaneously by all voters of the Federated States of Micronesia during a general election for the Members of the Congress of the Federated States of Micronesia or during a special election called by the President specifically for that purpose, unless the vote is called for at a different date pursuant to law.

(2) The proposed constitutional amendment shall cite the appropriate article of the Constitution by title and shall state at length the section or its subsection proposed to be amended, followed immediately by the question:

"Do you approve of this proposed amendment to the Constitution:

YES|_| NO|_|?"

(3) The proposed constitutional amendment shall be printed in English and shall also be translated into the major languages of the individual States as appropriate.

(4) The President shall appoint an election commissioner for each of the States with the advice and consent of Congress, who shall, as soon as practicable after the election, certify and transmit the results of the votes cast on the amendment to the President and the Congress of the Federated States of Micronesia.

(5) The President of the Federated States of Micronesia shall be the judge as to the approval or disapproval of an amendment to the Constitution, subject to an override by the Congress by not less than a three-fourths vote of all the State delegations, with each State delegation casting one vote.

Source: PL 2-51 § 3; PL 6-105 § 1.

Cross-reference: The statutory provisions on National Elections are found in title 9 of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

§ 704. Ratification of constitutional amendments.

(1) A proposed constitutional amendment is deemed to have been ratified if approved by three-fourths of the votes cast on that amendment in at least three-fourths of the States of the Federated States of Micronesia.

(2) In the event conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of the conflict.

(3) Once ratified, a constitutional amendment becomes part of the Constitution and is as effective as all other parts of the Constitution, against all States of the Federated States of Micronesia.

Source: PL 2-51 § 4.

Cross-reference: FSM Const., art. XIV states as follows:

Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by 3/4 of the votes cast on that amendment in each of 3/4 of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

Section 2. At least every 10 years, Congress shall submit to the voters the question: "Shall there be a convention to revise or amend the Constitution?". If a majority of ballots cast upon the question is in the affirmative, delegates to the convention shall be chosen no later than the next regular election, unless Congress provides for the selection of delegates earlier at a special election.

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The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

§ 705. Notice of ratification - Effectiveness.

Upon receipt of the certified results of votes pursuant to section 703(4) of this chapter, and having made the determination that a constitutional amendment has been ratified in accordance with section 704(1) of this chapter, the President shall, no later than 15 days thereafter, issue a proclamation announcing the ratification of the amendment and that its effectiveness is retroactive to the date of the election.

Source: PL 2-51 § 5.

Cross-reference: The statutory provisions on National Elections are found in title 9 of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code.

§ 706. Implementing regulations.

The President is hereby authorized to designate an agency within the executive branch to administer the provisions of this chapter with the power to issue implementing rules and regulations which, upon approval by the President, shall have the force and effect of law.

Source: PL 2-51 § 6.

Cross-reference: The statutory provisions on National Elections are found in title 9 of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code.

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Editor's note: PL 10-25 codifies most of the provisions of PL 2-48 which was the public law which originally effectuated a codification of the laws of the Nation (effective date, May 24, 1982). A copy of PL 2-48 can be found in the Introduction to Original 1982 Code. This was done because the provisions of PL 2-48 were permanent in nature and should be part of the code. PL 9-62 was enacted to do this, but

the problem with PL 9-62 was that it placed all of the provisions of PL 2-48 within a single section of the code, with each section of PL 2-48 being numbered a subsection of the section. This would have made for a very lengthy and awkward section, and would have been inconsistent with the current formatting of the code. Section 1 of PL 10-25, therefore, repealed what had been codified in section 1 of PL 9-62 as subchapter II of chapter 2 of this title in its entirety. PL 10-25, then set out each of the sections of PL 2-48 as a separately numbered section of subchapter II of chapter 2 of this title.

Case annotations: The National Constitutional Convention is given broad authority to revise the very foundation of government, and every institution and office of government may come within its reach. *Constitutional Convention 1990 v. President*, 4 FSM R. 320, 326 (App. 1990).

The nature of a constitutional convention as authorized by the FSM Constitution, with direct control of people over the identity of convention delegates, and ultimate acceptance of the products of the convention's efforts, and the fact that the framers view a constitutional convention as a standard and preferred amendment mechanism, preclude congressional control over the convention's decision-making. *Constitutional Convention 1990 v. President*, 4 FSM R. 320, 327 (App. 1990).

Congress has no power to specify voting requirements for Constitutional Convention and therefore any attempt to exercise this power so as to uphold tradition is also outside the powers of Congress under art. V, § 2 of the Constitution, which is not an independent source of congressional power but which merely confirms the power of Congress, in exercising national legislative powers, to make special provisions for Micronesian tradition. *Constitutional Convention 1990 v. President*, 4 FSM R. 320, 328 (App. 1990).