

STANDING COMMITTEE REPORT NO. CC-SCR-04-04

DATE: March 2, 2020

RE: CC-PR-4-46

The Honorable Redley Killion  
President  
Fourth Constitutional Convention of the  
Federated States of Micronesia  
Palikir, Pohnpei FM 96941

Dear Mr. President:

Your Committee on General Provisions, to which was referred Delegation Proposal No. CC-PR-4-46, entitled;

TO AMEND ARTICLE XIV, SECTION 1 OF THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA TO LOWER THE PERCENTAGE OF VOTES CAST REQUIRED IN EACH STATE TO ADOPT AMENDMENTS TO THE CONSTITUTION FROM THE CURRENT THREE-FOURTHS OF THE VOTES REQUIRED IN THREE-FOURTHS OF THE STATES TO TWO-THIRDS OF THE VOTES IN THREE-FOURTHS OF THE STATES.

begs leave to report as follows:

Current language of Article XIV, Section 1 of the FSM Constitution:

*“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.”

The intent and purpose of CC-PR-4-46 is to lower the percentage of votes required to be cast in each state to adopt an amendment to the Constitution from the current 3/4 of the votes cast to 2/3 of the votes cast. In addition to CC-PR-4-46, there were three other proposals, CC-PR-4-03, CC-PR-4-16, and CC-PR-4-32, which also sought to amend Article XIV, Section 1 to lower the threshold required to approve an amendment to the Constitution.

Your Committee discussed all four proposals at length and determined that there was a need to change the threshold required to approve an amendment to the Constitution. The threshold proposals proposed two different standards. One standard would change the threshold standard to

a national standard of 3/4 of the votes cast across the nation. The other standard would maintain the threshold requirement of a percentage of votes cast in 3/4 of the states, but change that requirement from 3/4 of the votes cast in each state to 2/3 of the votes cast in each state. Proposal CC-PR-4-32 proposed that the measurement be 2/3 of the votes cast in 2/3 of the states; but, it was noted that with four states, the measurement of 2/3 and 3/4 is the same and that 3/4 is an easier measurement for the people to understand.

The Committee determined that a threshold requirement that uses a national standard that measures the votes cast across the nation was not the best standard to use for two reasons. First, a threshold standard that measures the total votes cast nationally may allow one or two states to approve an amendment at the expense of the other states. Second, the Constitution was specifically drafted to create a federation that recognizes all four states as equals, and a threshold standard determined by a national vote fails to honor the principle of federation between and equality of the four states. The Committee determined that a threshold requirement that measures the votes in each of the states and requires 3/4 of the states to meet that threshold was the best standard.

As noted by some Delegates, the purpose of the amendment procedure is to allow for a reasonable majority to amend the Constitution to meet changing needs. One of the Delegates stated that the original drafters of the Constitution all held to the principle of what a constitution is – that a constitution should last through the test of time and changing conditions, as long as the constitution provides for the needs of the people. The focus should be on what would allow for a better future for people.

The Committee focused its discussion on what standard best provides for the flexibility to meet changing needs, but still provides for the stability that a constitution must provide to the nation and its people. Some of the Delegates raised the concern that out of the 38 constitutional amendments proposed by the 1990 and 2001 FSM Constitutional Conventions, only 4 amendments have been approved. There was a discussion regarding whether the failure to approve more of the amendments which had been previously proposed was due to the threshold requirement or due to a lack of public education. A request for data was made to the National Election Commission which has been unable to provide sufficient data for the Committee to make a determination as to the cause of the failure to approve the constitutional amendments proposed by the 1990 and 2001 Conventions.

Other Delegates stated that they did not believe that the threshold requirement needed to be changed. The fact that 4 amendments have passed means that the current threshold can be satisfied. Thus, the reason for failure to approve must be either a failure of the public education program or that the people do not want the amendment. If the problem is a failure of public education, that can be remedied with a better program of public education. If the failure to approve is because the people do not want the amendment, then there is no failure. The process has worked, and the people have said “No amendment.” The will of the people must be respected.

Most Delegates, however, were of the opinion that the 3/4 threshold was too high. Many of the prior proposed amendments had almost gained the required support of 3/4 of the votes cast in 3/4 of the states. One Delegate reminded the Committee that the FSM Constitution itself was adopted by a simple majority vote, and thus, the amendment process requirement of a super-majority vote was more than what was required to put the current Constitution in place.

The Committee determined that a simple majority vote, although the standard used to approve the Constitution, did not provide the stability that the Constitution must provide the nation. The Committee determined that the current 3/4 of the votes cast did not provide a standard that allowed the country to meet the needs of the people in a world that is changing so quickly. The Committee determined that 2/3 of the votes cast was a reasonable standard that would provide stability and allow the flexibility to meet changing times.

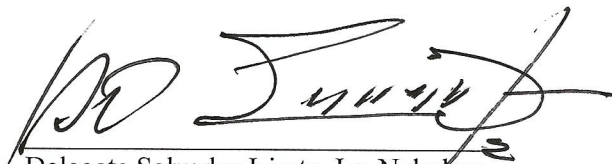
There was a discussion of whether the final version of the Committee Proposal should use percentages or fractions in order to make the proposal easier for the people to understand. The Committee determined that this issue should be left to the Committee on Style and Arrangement.

For the reasons stated herein, your Committee on General Provisions is in accord with the intent and purpose of the committee proposal attached hereto and recommends its passage on First Reading, and that it be placed on the Calendar for Second Reading for review by your Committee of the Whole, then placed on the Calendar for Final Reading after review by your Committee on Style and Arrangement.

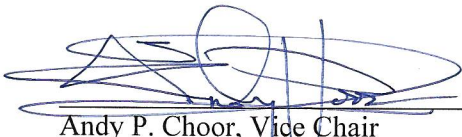
Respectfully submitted,



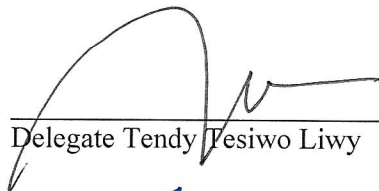
Yoslyn Sigrah, Chairman



Delegate Salvador Iriarte, Iso Nahrken



Andy P. Choor, Vice Chair



Delegate Tendency Liwy



Delegate Jack S. Fritz




Delegate Berney Martin

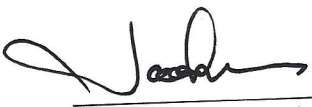


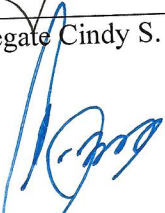
Delegate Kind K. Kanto

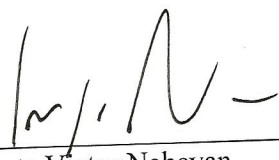


Delegate Salomon Saimon

  
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