

CHAPTER 2
INITIATIVE, REFERENDUM AND LEGISLATIVE SUBMISSION
LAW

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NOTE: Rule-making authority cited for Election Commission, 3 GCA §17512.

§2100. Purpose. The purpose of these rules and regulations is to implement Public Law 14-23, 3 GCA Chapter 17 and in so doing establish an orderly and efficient method for the processing of initiative, referendum and legislative submission matters.

§2101. Definitions. For the purpose of these Rules and Regulations:

(a) *Commission* shall mean the Guam Election Commission;

(b) *Director* shall mean the Executive Director of the Guam Election Commission;

(c) *Initiative* is the power of the voters to propose statutes and to adopt or reject them at the polls. An initiative measure may expressly or impliedly repeal existing law as an incident to the new statute proposed to be enacted;

(d) *Referendum* is the power of the voters to initiate action to repeal existing statutes or parts of statutes, except statutes calling for elections or appropriations for usual current expenses of the Territory;

(e) *Legislative submission* means the power of the voters to approve or reject legislation which has been referred to them by the Legislature;

(f) *Measure* refers to the action proposed or question presented on the initiative, referendum or legislative submission;

(g) *Proponent* may mean either a registered voter of Guam or an association or registered voters of Guam. [Law governing 3 GCA §17102.]

§2102. Initiative: Submission to Election Commission. (a) A proponent desiring to propose any initiative measure, prior to circulating any petition for signatures, shall submit a draft of the measure in duplicate to the Director, with a request for preparation of a summary of the chief purposes and points of the proposed measure. The Director shall mark on the front page of both the original and the copy the exact time and date of the receipt of the draft by him. The Director shall keep the original of the draft and shall return the copy to the proponent.

(b) The initiative measure submitted to the Director should be in the exact language in which the proponent desires that it appear on the ballot for enactment into law.

(c) No draft of an initiative measure embracing unrelated subjects may be accepted. If in the opinion of legal counsel to the Commission, a submitted draft embraces subjects which are unrelated, the Director shall return the draft to the proponent along with the filing fee set forth in Subparagraph (f) below, stating the manner in which the draft violates the prohibition against unrelated subjects. If a proposed measure is returned in this manner, the original submission shall be deemed void for all purposes. Any action by the Director under this Subsection

shall be taken within ten (10) days after submission of the draft of the initiative proposal to the Director.

(d) Any submission of an initiative measure to the Director shall include the proponent's full name, mailing address and telephone number. If the proponent is an association of voters which does not have its own address and phone number, it shall designate the name, mailing address and phone number of one of its members for receipt of all official communications from the Director and from the Commission. The association shall also include the name, mailing address and telephone number of its officers, if any.

(e) Legal counsel to the Commission may suggest to the proponent changes in the form of any submitted draft of an initiative measure. The proponents are free to accept or reject any such suggestions. No changes in the language of any initiative measure shall be made without the express written consent of the proponent.

(f) No submission of an initiative measure to the Commission shall be allowed unless accompanied by a non-refundable fee of Two Hundred Dollars (\$200.00) to help defray the cost of preparing the measure for the ballot. Upon payment of this fee, the Director shall give a receipt acknowledging its payment. [Law governing 3 GCA §§17104(a) and (c); §17202.]

§2103. Same: Summary of Proposed Measure. (a) Within twenty-five (25) days of the submission of any initiative measure to the Director, legal counsel to the Commission shall prepare and provide to the Commission a summary of the chief purposes and points of the measure. The summary shall not exceed one hundred (100) words and shall be a true and impartial summary of the measure.

(b) Legal counsel to the Commission shall also prepare and provide to the Commission a Short Title of the measure showing the nature of the measure and the subject to which it relates. The Short Title shall be provided simultaneously with the summary, and shall not exceed twenty (20) words.

(c) Within thirty (30) days of the submission of any initiative measure, the Director shall either personally deliver or send by registered mail to the proponent, the summary and Short Title described in (a) and (b), and shall inform the proponent of the deadline for filing of petitions

as prescribed by 6 GAR §2107(a). The date, the summary and Short Title are delivered or deposited as registered mail with the U.S. Postal Service is designated as the "official summary date". [Law governing 3 GCA §§17104(a), 17206, 17210.]

§2104. Same: Form of Petitions. Upon receiving the summary and Short Title from the Commission, the proponent shall prepare petitions for the initiative measure, in the form provided by EC Forms 203-a and 203-b. [Law governing 3 GCA §§17206, 17207.]

§2105. Same: Circulation of Petitions. (a) Only qualified voters of the territory of Guam may solicit signatures to a petition for an initiative measure.

(b) Only persons who are registered to vote in Guam as of the date of presentation of the petitions to the Commission are qualified to sign petitions.

(c) There may be any number of signatures on each page of a petition.

(d) Signers of petitions shall include their printed name, signature, place of residence including street and number if such exist, P.O. Box and Social Security or C.I. number, as indicated on EC Forms 203-a and 203-b.

(e) No petitions for an initiative measure shall be circulated prior to the official summary date as defined in 6 GAR §2101.

(f) Any number of petitions for a single initiative measure may be circulated simultaneously provided they conform with the form attached hereto [not submitted]. [Law governing 3 GCA §§17201, 17207(a), (b) and (c), 17210.]

§2106. Same: Affidavits. (a) Each person who has solicited signatures to a petition for an initiative measure shall attach an affidavit to each page of such petition to which he has solicited signatures, stating that:

(1) He is a qualified voter of the territory of Guam;

(2) All signatures to the attached page of the petition were made in his presence; and

(3) To the best of his knowledge and belief each signature to the attached page is the genuine signature of the person whose name it purports to be.

(b) The affidavit described in (a) shall be verified free of charge by any officer authorized to administer oaths

under the laws of Guam. A petition attached to such a verified affidavit shall be prima facie evidence that signatures thereon are genuine and that the persons signing are qualified voters.

(c) No affidavit other than that described in (a) shall be required to any petition. [Law governing 3 GCA §§17207(b) and (c).]

§2107. Same: Presentation of Petitions to the Commission. (a) Signed petitions for an initiative measure shall not be presented to the Director later than ninety (90) days after the official summary date as defined in 6 GAR §2101(c). No petitions on an initiative measure may be accepted after the expiration of that period.

(b) The aggregate number of valid signatures on all petitions presented to the Commission in support of an initiative measure must be at least equal to twenty percent (20%) of all votes counted for all candidates for Governor at the last preceding general election at which a Governor was elected.

(c) The Director shall determine and publish the figure referred to in (b) at the time these regulations are adopted. Within thirty (30) days of each subsequent general election at which a Governor is elected, he shall redetermine and prominently post at the Commission headquarters the figure referred to in (b). Publication shall be in a newspaper of general circulations on Guam and both the initial publication and the posting of the redetermined figure shall state the significance of the figure within (b). [Law governing 3 GCA §§17201, 17210, 17211.]

§2108. Same: Acceptance of Petitions for Filing. (a) Upon presentation of a petition for an initiative measure, the Director shall determine whether the petition conforms with the provisions of 3 GCA Chapter 17, including but not limited to the following provisions:

- (1) Payment of the Two Hundred Dollar (\$200.00) submission fee prescribed by 6 GAR §2101(f).
- (2) The twenty percent (20%) voter signature requirement prescribed by 6 GAR §2107(b);
- (3) The requirements as to form of petition prescribed by 6 GAR §2104;
- (4) The requirement of verified affidavits prescribed by 6 GAR §2106;

(5) The time requirements prescribed by 6 GAR §§2105(e) and 2107(a);

(b) If the Director determines that the petition conforms with the above requirements and any other requirements of 3 GCA Chapter 17, he shall accept the petition for filing. The date of acceptance for filing by the Director shall be deemed the date of certification of the proposed initiative measure within the meaning of 6 GAR §§2109 and 2115.

(c) The Director shall notify the proponent of an initiative measure in writing either personally delivered or sent by registered mail of his acceptance or refusal to accept an initiative petition for filing within twenty (20) days of the presentation of the petition to the Commission. The date of delivery or deposit as registered mail with the U.S. Postal Service of a notice of acceptance shall be deemed the date of acceptance. If no notice is given within twenty (20) days, it shall be treated as an acceptance of the petition for filing on the date the period expires. The period provided by this Paragraph may be extended no more than ten (10) days by giving notice as above of the extension to the proponent, if in the opinion of the Director, an extension of the period is necessary to determine whether the requirements for filing are met. If such extension is made and no notice of acceptance or refusal is given before expiration of the extension, it shall be treated as an acceptance as of the expiration of the extension.

(d) If the Director refuses to accept a petition for an initiative measure for filing, he shall state the reason or reasons for his refusal in his notice of refusal to the proponent.

(e) If the Director refuses to accept a petition for an initiative measure for filing, and the ninety (90) day period for filing of petitions has not expired, the proponent may remedy any curable defects, provided such defects are remedied before the expiration of the ninety (90) day period set forth in 6 GAR §2108(a).

(f) Refusal to accept a petition for filing by the Director is subject to the right of appeal by the proponent to the Commission. If an appeal to the Commission is taken on this matter, and the decision of the Commission is favorable to the proponent, the date of certification of the proposed measure within the meaning of 6 GAR §§2109

and 2115 shall be the date of the decision of the appeal by the Commission.

(g) Any initiative petition accepted for filing by the Director, or by the Commission on appeal from a refusal to accept, shall be preserved by the Director for four (4) years. The Director may destroy the petition after four (4) years unless it is in evidence in some action or proceeding then pending and he has notice that it is in evidence in a pending action or proceeding. [Law governing 3 GCA §§2102(a), 17104, 17201, 17206-17210.]

§2109. Same: Preparation and Publication of Ballot Title. (a) Within ten (10) days after an initiative measure is certified pursuant to 6 GAR §2108, legal counsel for the Commission shall prepare for the measure a ballot title, which may differ from the legislative or any other title of the measure. The ballot title shall be a true and impartial statement of the purpose of the measure in such language that the ballot title shall not be an argument or likely to create prejudice either for or against the measure, and shall not be longer than one hundred (100) words.

(b) The Director shall designate the first measure to be certified for submission to the voters at any given election, whether it be by initiative, referendum or legislative submission, as "Proposal A". The next measure certified for submission to the voters at the same election, if any, shall be designated "Proposal B", and succeeding measures shall be similarly designated by letter in order of their certification. Such alphabetical designation shall precede the ballot title described in (a), and shall be deemed part of same, except that it shall not be counted in complying with the length limitation on the ballot title.

(c) As soon as the ballot title is available, the Director shall publish the ballot title once a week for three (3) consecutive weeks in a newspaper of general circulation on Guam. Publication of the ballot title shall be accompanied by publication of the date of the election at which the measure is to be submitted to the voters, as determined pursuant to 6 GAR §2115 (if the date can be determined as of the date of publication of the ballot title), by notice of the right to file voter's arguments for or against the measure, of the deadline for filing such arguments, and of the length limitation on such arguments. If the date of the election cannot be determined as of the date of publication of the ballot title, the election date shall be publicized in a manner similar to the above publication procedure as son

as the election date can be determined. [Law governing 3 GCA §17105.]

§2110. Same: Voter's Arguments. Any voter or group of voters may, not less than forty-five (45) days prior to the election at which an initiative measure is to be submitted to the voters, prepare and file with the Commission an argument not to exceed five hundred (500) words in length, for or against the initiative measure. [Law governing 3 GCA §17504.]

§2111. Same: Analysis of Measure. Legal counsel for the Commission shall, not less than forty-five (45) days prior to the election at which an initiative measure is to be submitted to the voters, prepare an analysis of the measure, not to exceed five hundred (500) words in length. The analysis shall be impartial and shall show the effect of the measure on existing law and the operation of the measure. [Law governing 3 GCA §17507.]

§2112. Same: Ballot Pamphlets. (a) The Director shall cause to be printed one and one-tenth (1-1/10) times as many ballot pamphlets as there are registered voters, to be available not less than thirty (30) days prior to the election at which an initiative measure is to be presented to the voters.

(b) The ballot pamphlets shall contain, in the following order:

(1) On the first page, the ballot title described in 6 GAR §2109;

(2) Beginning on the next page, the analysis of the proposed measure, described in 6 GAR §2111;

(3) Beginning on the next page following the end of the analysis, the selected argument for the initiative measure provided such an argument has been submitted to the Commission;

(4) Beginning on the next page following the end of the selected argument for the initiative measure, the selected argument against the measure provided such an argument has been submitted to the Commission;

(5) Beginning on the next page following the end of the argument against the proposed measure, the complete text of the initiative measure;

(6) If, in the opinion of legal counsel to the Commission, any existing statutory provision or provisions would be affected by the measure, the text

of the specific statutory provision or provisions affected shall be printed beginning on the next page following the end of the text of the initiative measure. [Law governing 3 GCA §§17508-17510.]

§2113. Same: Selection of Voter's Arguments for Ballot Pamphlet. (a) If more than one argument for or more than one argument against an initiative measure is timely filed, the Director shall select one argument for each side to be printed in the ballot pamphlets. In selecting the argument, the Director shall give preference and priority to the arguments of bona fide associations of citizens over the arguments of individual voters; however, preference and priority for the argument in favor of the initiative measure shall be given to the argument, if any, prepared by its official proponent.

(b) Within the classes of arguments described in (a), the selection of an argument for printing in the ballot pamphlets shall be in the discretion of the Director, provided that he shall attempt to select the most forceful and persuasive argument for each side.

(c) No more than three (3) names shall appear with any voter's argument printed in the ballot pamphlet. In case any argument is signed by more than three (3) persons, the first three (3) names shall be printed. [Law governing 3 GCA §§17505-17506.]

§2114. Same: Mailing of Ballot Pamphlets. Not less than thirty (30) days prior to the election in which an initiative measure is to be presented to the voters, and earlier if the ballot pamphlets are available before that date, the Director shall cause to be mailed the following number of copies of the ballot pamphlet to the following persons and places:

(a) One (1) copy to each voter registered as of the deadline for eligibility to vote in the election in which the initiative measure is to be submitted to the voters;

(b) One (1) copy to each village Commissioner;

(c) One (1) copy to each judge of the Superior Court; and

(d) One (1) copy to each Senator. [Law governing 3 GCA §17511.]

§2115. Same: Submission to Voters. An initiative measure shall be submitted by the Commission to the voters:

(a) At the next regular general election, if such general election is held at least ninety (90) days after the measure is certified under 6 GAR §2108; or

(b) At a territory-wide special election held at least ninety (90) days after the initiative measure is certified under 6 GAR §2108; or

(c) At the second succeeding regular general election if the measure fails to qualify for a ballot position under Subsection (a) or (b);

(d) The Legislature or the Governor may call a territory-wide special election expressly for the purpose of voting on an initiative measure, and the initiative measure shall be submitted at such special election;

(e) If a special election is called pursuant to (d), all pending measures that have been certified as of the date the special election is called, whether they be initiative measures, referendum measures or legislative submission, shall be submitted to the voters at said special election. [Law governing 3 GCA §§5101-5105, §17203.]

§2116 Same: Form of Ballot. (a) Proposed measures may appear on the same ballot as that containing the names of nominees for offices, or on a separate ballot, in the discretion of the Commission. If the measures appear on the same ballot as that containing the names of nominees for offices, the measures shall appear below that part of the ballot containing names of nominees. If more than one measure is submitted at a given election, they shall appear in the order of their alphabetical designation as prescribed by 6 GAR §2109(b).

(b) Each proposed measure shall appear on the ballot in the following form:

(1) First shall appear the words "Shall Proposal (insert appropriate letter designation pursuant to 6 GAR §2109(b) be adopted by the voters of the territory of Guam?";

(2) Next shall appear the ballot title as prepared pursuant to 6 GAR §2109 or 6 GAR §2123;

(3) Lastly shall appear the words "Yes" and "No", each word to be printed immediately to the left of a square of sufficient size for the placing of a mark therein.

(c) A mark in the square to the right of the word "Yes" shall be counted as a vote for the measure, and a mark in the square to the right of the word "No" shall be counted as a vote against the measure. [Law governing 3 GCA §17106.]

§2117. Same: Requirement for Adoption of Measure.

Approval by a majority of the voters casting valid votes on an initiative measure shall be required for adoption of the measure. [Law governing 3 GCA §17204.]

§2118. Same: Effective Date. (a) An initiative measure approved by a majority of the voters voting on the measure shall take effect immediately upon the date of the official declaration of the vote by the Commission. Canvass, vote tabulation and declaration of results in an election on an initiative measure shall proceed according to the provisions of 3 GCA Chapter 11 and the rules and regulations adopted thereunder.

(b) An initiative measure may, by its terms, provide for a later effective date than the official declaration of the vote by the Commission. [Law governing 3 GCA §17204.]

§2119. Same: Resolution of Conflicts. Under 3 GCA §17205, "If provisions of two (2) or more [initiative] measures approved at the same election conflict, those provisions of the measure receiving the highest affirmative vote shall prevail." It shall be no part of the Commission's or the Director's responsibility under this Section to determine whether the provisions of such measures conflict, that being a matter for determination by the courts. But the Director shall, after any election at which two (2) or more initiative measures are approved, as part of the official declaration of results, rank such measures according to the affirmative vote received by each measure, stating the order of priority between or among the measures in the event of a conflict. [Law governing 3 GCA §17205.]

§2120. Referendum Procedure Generally. Subject to the provisions of 6 GAR §2121, Referendum Procedure shall be governed by the provisions of §§2103-2119 of these rules and regulations. For the purposes of this Section, the words "referendum measure" shall be substituted for the words "initiative measure" wherever they appear in §§2103-2119, and the words "referendum petition" shall be substituted for the words "initiative petition" wherever they appear in §§2103-2119. [Law governing 3 GCA §§17301-17310.]

§2121. Qualifications to 3 GAR §2120. (a) For purposes of 6 GAR §2120 the words "EC Forms 203-a and 203-b" in 6 GAR §§2104 and 2105 shall read: "EC Forms 303-a and 303-b".

(b) Notwithstanding the second sentence of 6 GAR §2104, the word "initiative" as it appears in 6 GAR §§2109(b) and 2115(e) shall stand as "initiative", and shall not be understood to mean "referendum" for purposes of 6 GAR §2120.

(c) If a draft of a referendum measure submitted to the Director pursuant to 6 GAR §2103 would repeal a statute calling for an election, or an appropriation for usual current expenditures of the Territory, the Director shall deal with the draft as under 6 GAR §2103(c). [Law governing 3 GCA §17102(b).]

§2122. Legislative Submission: Certification for Ballot Position. (a) Certification by the Speaker of the Legislature to the Director that a legislative submission measure has duly received at least fourteen (14) votes in the Legislature as required by 3 GCA §17401 shall constitute certification of the measure for a ballot position.

(b) If the Speaker of the Legislature so requests, the Director shall direct legal counsel to the Commission to prepare a summary of the legislative submission measure of the form and character of the summary described in 6 GAR §2104(a).

(c) The certification by the Speaker of the Legislature referred to in (a) shall include a statement of the date on which the measure received the required fourteen (14) votes in the Legislature. If the certification does not include such statement, the Director shall notify the Speaker that unless the Director is timely notified of such date, the sanction prescribed by 6 GAR §2122(b) shall be applied thirty (30) days after the Speaker's initial certification to the Director. [Law governing 3 GCA §§17104, 17401, 17503.]

§2123. Same: Preparation and Publication of Ballot Title. (a) Within ten (10) days after a legislative submission measure is certified pursuant to 6 GAR §2122, legal counsel for the Commission shall prepare a ballot title for the measure, conforming to the requirements set out in 6 GAR §2109.

(b) The provisions of 6 GAR §2109(b) and (c), relating to letter designation of the measure and publication of the

ballot title, shall apply in the case of a legislative submission measure. [Law governing 3 GCA §17105.]

§2124. Same: Voter's Arguments and Analysis of Measure. The provisions of 6 GAR §§2110 and 2111 shall apply in the case of a legislative submission measure. For purposes of this Section, the words "legislative submission" shall be substituted for the word "initiative" wherever it appears in 6 GAR §§2110 and 2111. [Law governing 3 GCA §§17504, 17507.]

§2125. Same: Legislator's Arguments. (a) Within forty-five (45) days after the date referred to in 6 GAR §2122(c), the Speaker of the Legislature shall certify to the Director a copy of the argument or arguments for the measure prepared pursuant to 3 GCA §17501, and of the argument against the measure, if any, prepared pursuant to 3 GCA §17502. If the measure was approved unanimously in the Legislature, the Speaker shall so state in his certification to the Director.

(b) If the above-described certification is not made to the Director within the prescribed period, the Director shall treat the original certification of the measure pursuant to 6 GAR §2122 as void, and shall take no further action with respect to the measure. [Law governing 3 GCA §§17501-17503.]

§2126. Same: Ballot Pamphlets. The provisions of 6 GAR §2112 shall apply in the case of a legislative submission measure, provided, however, that the references in 6 GAR §2112 to 6 GAR §§2109 and 2111 shall be understood, for the purpose of 6 GAR §2105, as also referring to 6 GAR §§2123 and 2124. For purposes of this Section the words "legislative submission" shall be substituted for the word "initiative" wherever it appears in 6 GAR §2112. [Law governing 3 GCA §§17508-17510.]

§2127. Same: Selection of Arguments for Ballot Pamphlet. The provisions of 6 GAR §2113 shall apply in the case of a legislative submission measure, provided, however, that the Director shall give preference and priority to the arguments of members of the Legislature over those of bona fide associations of citizens. For purposes of this Section, the words "legislative submission" shall be substituted for the word "initiative" wherever it appears in 6 GAR §2113 and the reference to "official proponent" in the last clause of 6 GAR §2113(a) shall be understood as a reference to the members of the

Legislature referred to in 3 GCA §17501(a). [Law governing 3 GCA §§17501(a), 17505.]

§2128. Same: Mailing of Ballot Pamphlets. The provisions of 6 GAR §2114 shall be applicable to ballot pamphlets on a legislative submission measure. For the purposes of this Section, the words "legislative submission" shall be substituted for the word "initiative" wherever it appears in 6 GAR §2114. [Law governing 3 GCA §17511.]

§2129. Same: Submission to Voters. The provisions of 6 GAR §2115 shall be applicable to the submission of a legislative submission measure to the voters. For purposes of this Section, the words "legislative submission" shall be substituted for the word "initiative" wherever it appears in 6 GAR §2115 and the words "6 GAR §2122" shall be substituted for the words "6 GAR §2108" wherever they appear in 6 GAR §2115. [Law governing 3 GCA §§5101-5105; §17203.]

§2130. Same: Form of Ballot. 6 GAR §2116 shall govern the form of ballot on a legislative submission measure. [Law governing 3 GCA §17106.]

§2131. Same: Requirement for Adoption, Effective Date, Resolution of Conflict. 6 GAR 2117, 2118 and 2119 shall apply in the case of a legislative submission measure. For purposes of this Section the words "legislative submission" shall be substituted for the word "initiative" wherever it appears in 6 GAR §§2117, 2118 and 2119. [Law governing 3 GCA §§17205, 17402.]
