

Calendar No. 398

105TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 105-203

ALLOWANCE FOR ELECTION OF THE DELEGATE FROM GUAM BY OTHER THAN SEPARATE BALLOT, AND FOR OTHER PURPOSES

JUNE 5, 1998.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

REPORT

[To accompany H.R. 1460]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1460) to allow for election of the Delegate from Guam by other than separate ballot, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The legislation amends the Organic Act of Guam to remove the requirement that the Delegate be elected by a separate ballot. In addition, it provides a five year extension to the supplemental food assistance program for Enewetak and adjusts the program to reflect population changes.

BACKGROUND AND NEED

Guam Delegate: The southernmost of the Mariana Islands, Guam was discovered by Magellan and was a major port for the Spanish for the galleon trade from Acapulco to Manila. Guam was acquired by the United States from Spain at the end of the Spanish-American War and has a land area of 209 square miles. It was occupied by the Japanese during World War II and recently celebrated the 50th anniversary of the Liberation. The population is about 150,000. Guam is currently an organized, unincorporated territory. Local self-government was provided by the 1950 Organic Act which also extended citizenship to the residents. Legislation in 1968 pro-

vided for a popularly elected Governor and in 1972 for a non-voting delegate in the House. Congress has generally provided for a non-voting delegate for territories since 1974. At the present time, all territories, except for the Commonwealth of the Northern Mariana Islands, are represented by a non-voting Delegate or Resident Commissioner (in the case of Puerto Rico) in the House of Representatives. The 1972 legislation providing for the non-voting Delegate specifies that the Delegate shall be elected "by separate ballot". The requirement for a separate ballot is estimated to cost the local government approximately \$10,000 each election.

Marshall Islands Food Program: The Marshall Islands are comprised of 31 atolls and major islands. Majuro, the capital, lies some 2,300 miles southwest of Hawaii and nearly 2,000 miles southeast of Guam. The Republic of the Marshall Islands was part of the former United Nations Trust Territory of the Pacific Islands and is a sovereign foreign nation in free association with the United States under a Compact of Free Association. The United States tested 43 nuclear weapons at Enewetak and 23 at Bikini. The populations were relocated to other atolls and islands and the United States has provided a supplemental food program to the populations until such time as the populations were resettled on their home atolls and the atolls were capable of providing adequate food supplies. Over \$200 million was expended during the 1970's doing a scrape of the islands at Enewetak to remove all radioactive material in preparation for resettlement in 1980. As a result of the scrape, the soil necessary to support vegetation was removed and the normal food products of taro, pandanus, breadfruit, and coconuts could not be grown. Resettlement of Bikini has been slower, partially to avoid the environmental damage from a scrape, and a large portion of the population remains at Kili, a small island with no lagoon. The legislation would continue the supplemental program for an additional five years and also adjust the program to reflect population changes.

LEGISLATIVE HISTORY

H.R. 1460 passed the House on September 23, 1997 and was referred to the Committee. The Committee conducted a hearing on February 6, 1997 on S. 210 which contains similar language on the food assistance program for Bikini and Enewetak. S. 210 was favorably reported by the Committee and passed the Senate on June 12, 1997. At the business meeting on May 13, 1998, the Committee on Energy and Natural Resources ordered H.R. 1460 favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on May 13, 1998, by a unanimous vote of a quorum present, recommends that the Senate pass H.R. 1460, without amendment.

The rollcall vote on reporting the measure was 20 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Murkowski	

Mr. Domenici
Mr. Nickles*
Mr. Craig
Mr. Campbell
Mr. Thomas
Mr. Kyl
Mr. Grams*
Mr. Smith
Mr. Gorton
Mr. Burns*
Mr. Bumpers
Mr. Ford
Mr. Bingaman
Mr. Akaka
Mr. Dorgan*
Mr. Graham*
Mr. Wyden
Mr. Johnson
Ms. Landrieu*

*Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1 of the legislation removes the requirement that the Delegate from Guam be elected by a separate ballot.

Section 2 of the legislation extends the supplemental food program for the populations of Bikini and Enewetak for an additional five years and provides that the assistance reflects any changes in population.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 15, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1460, an act to allow for election of the Delegate from Guam by other than separate ballot, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs) and Marc Nicole (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 1460—An act allow for election of the Delegate from Guam by other than separate ballot, and for other purposes

Summary: H.R. 1460 would allow the Guam Election Commission to include the office of the Delegate to the U.S. House of Representatives on the same ballot as other elected offices. In addition, the legislation would extend the U.S. Department of Agriculture's (USDA's) authority to continue shipping excess food commodities to the Marshall Islands through fiscal year 2001. Subject to appropriation of the necessary funds. CBO estimates that implementing that provision would cost the federal government about \$4 million over the 1999–2001 period. Because the legislation would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

H.R. 1460 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1460 is shown in the following table. Assuming appropriation of the necessary funds, CBO estimates that implementing H.R. 1460 would cost about \$4 million between 1999 and 2001.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget Authority ¹	1	0	0	0	0	0
Estimated Outlays	1	0	0	0	0	0
Proposed Changes:						
Authorization Level	0	1	1	1	0	0
Estimated Outlays	0	1	1	1	0	0
Spending Under H.R. 1460:						
Authorization Level ¹	1	1	1	1	0	0
Estimated Outlays	1	1	1	1	0	0

¹The 1998 level is the amount appropriated for that year.

Basis of estimate: H.R. 1460 would extend the Department of Agriculture's (USDA's) authority to continue shipping excess food commodities to the Marshall Islands through fiscal year 2001. CBO estimates that extending the program would cost about \$4 million over the 1999–2001 period, with annual costs beginning at just under \$1.3 million in fiscal year 1999 and rising to slightly less than \$1.5 million in fiscal year 2001. According to the department, \$581,000 was appropriated in fiscal year 1998 for the program. Of the amount, about \$525,000 is for food commodities and about \$55,000 is for administrative expenses.

The amount provided to the program has varied since it began in fiscal year 1987. According to USDA, the program received about \$1.6 million in 1987. Between 1988 and 1992, the program received, on average, about \$465,000 a year. Since fiscal year 1993, \$581,000 has been appropriated each year for the program.

The bill would require that the amount of commodities provided to the Marshall Islands reflect changes in its population that have occurred since the enactment of the Compact of Free Association in

fiscal year 1986. H.R. 1460 only specifies a base year from which to calculate changes in the Islands' population but not a base level of funding. Our estimate assumes that the level of funding received in fiscal year 1988—\$501,000—would be adjusted for changes in the price level and population since fiscal year 1986. (CBO estimates that the population will have increased by about 70 percent between fiscal years 1986 and 1999.)

Pay-as-you-go considerations: None.

Estimated impact on State, local, and Tribal governments: H.R. 1460 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Enacting the legislation would result in reduced election costs for the government of Guam. Based on information provided by officials from Guam, CBO estimates that these savings would amount to about \$10,000 for each election. The bill would also benefit the Marshall Islands by extending USDA's authority to continue shipping excess food commodities.

Estimated impact on the private sector: This legislation would impose no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On July 29, 1997, CBO prepared a cost estimate for H.R. 1460, as ordered reported by the House Committee on Resources on July 16, 1997. For the House version, CBO estimated that enacting the legislation would have no impact on the federal budget. That version, however, did not authorize the USDA to continue shipping excess food commodities to the Marshall Islands through fiscal year 2001. The House added that provision during its floor consideration of H.R. 1460.

Estimate prepared by: Federal costs—John R. Righter, impact on State, local, and Tribal governments—Marc Nicole.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1460. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 1460, as ordered reported.

EXECUTIVE COMMUNICATIONS

At the hearing on S. 210 on February 6, 1997, the Director of the Office of Insular Affairs for the Department of the Interior presented the formal views of the Administration on the provisions of S. 210. The pertinent portions of that testimony for this legislation are set forth below.

STATEMENT OF ALLEN P. STAYMAN, DIRECTOR, OFFICE OF INSULAR AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Senate Committee on Energy and Natural Resources, I am pleased to be here today to discuss the provisions of S. 210. Additionally, I have comments on several other island issues that you may wish to consider for inclusion in the bill.

S. 210 contains eleven provisions designed to address a number of island issues.

Marshall Islands Agricultural and Food Programs. Section 1 of the bill would amend section 103(h)(2) of Public Law 99-239, dealing with the United States Department of Agriculture surplus food program in the Marshall Islands. It would authorize extension of the program for an additional five years and ensure that the program's benefits are distributed on the basis of population.

As you are aware, the United States' nuclear testing program was conducted at Enewetak and Bikini Atolls from 1946 to 1958. One of the tests significantly affected the atolls of Rongelap and Utirik, also. Because of the special responsibilities of the United States for the welfare of the peoples of the four atolls, Public Law 99-239 called for continuation of the food and agricultural programs for five years, until 1991; they were later extended through October 20, 1996. This extension, for a third five-year period, would ensure that the United States continues to provide excess commodities to the peoples of these atolls through October 20, 2001.

We discussed this re-authorization provision during the hearing last June. While the Senate took action on this Enewetak provision, the House did not. Since that time, the situation has become much more pressing. The specific authorization ceased on October 20, 1996. Food continues to be delivered only by virtue of the fiscal year 1997 appropriation.

The Administration strongly supports section 1, and early action by the Congress.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by H.R. 1460, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

[Public Law 99-239, 99th Congress]

JOINT RESOLUTION To approve the "Compact of Free Association", and for other purposes.

* * * * *

SEC. 103. AGREEMENTS WITH AND OTHER PROVISIONS RELATED TO THE MARSHALL ISLANDS.

* * * * *

(h) DOE RADIOLOGICAL HEALTH CARE PROGRAM; USDA AGRICULTURAL AND FOOD PROGRAMS.—

(1) MARSHALL ISLANDS PROGRAM.—Notwithstanding any other provision of law, upon the request of the Government of the Marshall Islands, the President (either through an appropriate department or agency of the United States or by contract with a United States firm) shall continue to provide special medical care and logistical support thereto for the remaining 174 members of the population of Rongelap and Utrik who were exposed to radiation resulting from the 1954 United States thermonuclear “Bravo” test, pursuant to Public Laws 95–134 and 96–206. Such medical care and its accompanying logistical support shall total \$22,500,000 over the first 11 years of the Compact.

(2) AGRICULTURAL AND FOOD PROGRAMS.—Notwithstanding any other provision of law, upon the request of the Government of the Marshall Islands, for the first ~~ten~~ *fifteen* years after the effective date of the Compact, the President (either through an appropriate department or agency of the United States or by contract with a United States firm) shall provide technical and other assistance—

(A) without reimbursement, to continue the planting and agricultural maintenance program on Enewetak;

(B) without reimbursement, to continue the food programs of the Bikini and Enewetak people described in section 1(d) of Article II of the Subsidiary Agreement for the Implementation of Section 177 of the Compact and for continued waterborne transportation of agricultural products to Enewetak including operations and maintenance of the vessel used for such purposes. *The President shall ensure the assistance provided under these programs reflects the changes in the population since the inception of such programs.*

(3) PAYMENTS.—Payments under this subsection shall be provided to such extent or in such amounts as are necessary for services and other assistance provided pursuant to this subsection. It is the sense of Congress that after the periods of time specified in paragraphs (1) and (2) of this subsection, consideration will be given to such additional funding for these programs as may be necessary.

[Public Law 92–271, 92d Congress]

To provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the territory of Guam and the territory of the Virgin Islands each shall be represented in the United States Congress by a nonvoting Delegate to the House of Representative, elected as hereinafter provided.

SEC. 2. (a) The Delegate shall be elected by the people qualified to vote for the members of the legislature of the territory he is to represent at the general election of 1972, and thereafter at such general election every second year thereafter. The Delegate *from the Virgin Islands* shall be elected at large, by separate ballot and by a majority of the votes cast for the office of Delegate. *The Delegate from Guam shall be elected at large and by a majority of the votes cast for the office of Delegate.* If no candidate receives such majority, on the fourteenth day following such election a runoff election shall be held between the candidates receiving the highest and the second highest number of votes cast for the office of Delegate. In case of a permanent vacancy in the office of Delegate, by reason of death, resignation, or permanent disability, the office of Delegate shall remain vacant until a successor shall have been elected and qualified.