

[House Report 106-745]
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| 106th Congress | HOUSE OF REPRESENTATIVES | Report |
| 2d Session | | 106-745 |

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VIRGIN ISLANDS AND GUAM CONSTITUTIONAL SELF-GOVERNMENT ACT OF 2000

July 17, 2000.--Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Young of Alaska, from the Committee on Resources, submitted the following

R E P O R T

[To accompany H.R. 3999]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3999) to clarify the process for the adoption of local constitutional self-government for the United States Virgin Islands and Guam, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Virgin Islands and Guam Constitutional Self-Government Act of 2000''.

SEC. 2. FINDINGS.

Congress makes the following findings:

- (1) Congress established a process in 1976 for the United States territories of the Virgin Islands and Guam to advance local self-government by the adoption of constitutions through

their respective internal political processes, pursuant to Public Law 94-584 (90 Stat. 2899), but did not require review and approval of those constitutions by Congress.

(2) The Virgin Islands and Guam have not adopted constitutions as authorized and therefore, Congress has enacted amendments to the underlying Federal laws establishing local territorial government, the Revised Organic Act of the Virgin Islands, approved by Congress on July 22, 1954 (68 Stat. 497), and the Organic Act of Guam, approved by Congress on August 1, 1950 (64 Stat. 384), respectively, in response to periodic petitions from the Virgin Islands and Guam for various changes to the three branches of government of those territories.

(3) Congress has been requested to amend the existing Federal authorization for constitutional government (Public Law 94-584; 90 Stat. 2899), to assure the people of the Virgin Islands and Guam that adoption of a constitution would not preclude their further right to self-determination.

(4) Review and approval by Congress of any proposed constitution would ensure that the constitution--

(A) is consistent with the sovereignty of the United States in the Virgin Islands and Guam, respectively, and the provisions of the United States Constitution, treaties and laws applicable to the Virgin Islands and Guam, respectively;

(B) provides for a republican form of government, consisting of three branches (executive, legislative, and judicial); and

(C) contains a bill of rights.

SEC. 3. CLARIFYING AMENDMENTS.

(a) Congressional Approval of Constitution.--Section 5 of Public Law 94-584 (90 Stat. 2900) is amended by inserting ``', which may include recommendations regarding which provisions of the relevant organic Act should be repealed when the constitution takes effect,' after ``together with his comments''.

(b) Self-Determination Not Affected.--Public Law 94-584 (90 Stat. 2899 et seq.) is amended by adding at the end the following new section:

``Sec. 6. Establishment of local constitutional self-government pursuant to this Act shall not preclude or prejudice the further exercise in the future by the people of Guam or the Virgin Islands of the right of self-determination regarding the ultimate political status of either such territory.''

PURPOSE OF THE BILL

The purpose of H.R. 3999 is to clarify the process for the adoption of local constitutional self-government for the United

States Virgin Islands and Guam, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Congress first authorized legislation for constitutions for the organized but unincorporated United States territories of Guam and the Virgin Islands in 1976. However, since enactment of Public Law 94-584, neither territory has succeeded in adopting a constitution as intended by Congress.

Absent constitutions, the governments of Guam and the Virgin Islands have continued to operate under federal organic and revised organic acts enacted in the 1950s. Territorial leaders from both governments have petitioned Congress during the past five years for numerous changes to outdated provisions affecting the executive, legislative, or judicial branches. Congress responded by conducting oversight in the islands and public hearings on a number of these requests for change to the respective organic acts, while reaffirming the preference that these decisions should be made locally under a constitutional system, rather than by Congress. However, it became apparent during these hearings that the failure to adopt a constitution was in part due to uncertainty regarding the existing process as authorized by Public Law 94-584 and the effect on the right to self-determination. The Guam Legislature petitioned Congress to clarify that the adoption of a constitution would not affect the territories' right of self-determination. Guam Resolution No. 85, enacted September 15, 1997, asks Congress to add a new section to the current authorization stating: ``Establishment of local constitutional self-government would not preclude or prejudice the further exercise in the future by the people of Guam or the Virgin Islands of the right of self-determination regarding the ultimate political status of either such territory.'' H.R. 3999 was introduced using the exact language requested by Guam Resolution No. 85 to add a new section 6 to Public Law 94-584, and to further clarify the process for the adoption of local constitutional self-government by the Virgin Islands and Guam.

COMMITTEE ACTION

H.R. 3999, was introduced on March 16, 2000, by Congressman Don Young (R-AK). The bill was referred to the Committee on Resources. On May 17, 2000, the Committee held a hearing on the bill. On May 24, 2000, the Committee met to mark up the bill. Chairman Don Young offered an amendment to include the Administration's suggestion that the President be required to specify which provisions of the territory's organic act will be repealed at the time the President forwards the proposed constitution. The responsibility then would be on the Administration and Congress to act on any repeal of sections of the organic act within the 60 legislative days after the constitution is submitted to Congress. This latter change eliminates the primary basis for the requirement in H.R. 3999 as introduced for a separate act of Congress approving a proposed territorial constitution, and instead, leaves the underlying provision of Public Law 94-584 in place, wherein the constitution would be deemed to be approved by Congress after

sixty legislative days. The amendment also eliminates the reference to municipal government in the findings section, thereby leaving the adoption of municipal or county government as an optional and not mandatory provision of a new constitution. The amendment was adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 30, 2000.

Hon. Don Young,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

Dear Mr. Chairman. The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3999, the Virgin

Islands and Guam Constitutional Self-Government Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

Barry B. Anderson
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3999--Virgin Islands and Guam Constitutional Self-Government Act
of 2000

H.R. 3999 would amend Public Law 94-584, which authorizes the Virgin Islands and Guam to adopt local constitutions. Specifically, the bill would clarify that adopting a local constitution would not limit the rights of the citizens in determining the ultimate political status of either territory. CBO estimates that implementing H.R. 3999 would have no budgetary impact. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

H.R. 3999 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.

The CBO staff contact is John R. Righter. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

This bill is not intended to preempt any State, local, or tribal law.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic* and existing law in which no change is proposed is shown in *roman*):

ACT OF OCTOBER 21, 1976

AN ACT To provide for the establishment of constitutions for the Virgin Islands and Guam

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress, recognizing the basic democratic principle of government by the consent of the governed, authorizes the peoples of the Virgin Islands and of Guam, respectively, to organize governments pursuant to constitutions of their own adoptions as provided in this Act.

* * * * *

Sec. 5. Within sixty calendar days after the respective date on which he has received each constitution, the President shall transmit such constitution together with his comments, which may include recommendations regarding which provisions of the relevant organic Act should be repealed when the constitution takes effect, to the Congress. The constitution, in each case, shall be deemed to have been approved by the Congress within sixty legislative days (not interrupted by an adjournment sine die of the Congress) after its submission by the President, unless prior to that date the Congress has approved the constitution, or modified or amended it, in whole or in part, by joint resolution. As so approved or modified, the constitutions shall be submitted to the qualified voters of the Virgin Islands and Guam, respectively, for acceptance or rejection through islandwide referendums to be conducted as provided under the laws of the Virgin Islands and Guam, respectively, (enacted after the date of enactment of this Act). Upon approval by not less than a majority of the voters (counting only the affirmative or negative votes) participating in such referendums, the constitutions shall become effective in accordance with their terms.

Sec. 6. Establishment of local constitutional self-government pursuant to this Act shall not preclude or prejudice the further exercise in the future by the people of Guam or the Virgin Islands of the right of self-determination regarding the ultimate political status of either such territory.

A P P E N D I X

Guam Legislature Resolution No. 85, September 15, 1997

Relative to requesting the 105th Congress to amend the Organic Act by adding a new Section 6, to confirm that the adoption of a Constitution establishing local government shall not preclude or prejudice the further exercise in the future by the people of Guam of the right of self-determination regarding the ultimate political status of Guam.

Be it resolved by the Legislative of the Territory of Guam:

Whereas, in 1976 the United States Congress enabled the people of Guam, pursuant to P.L. No. 95-584, to organize a government under a constitution of our own adoption, which upon approval by Congress and the people of Guam, would provide for local government over the internal affairs of our Island; and

Whereas, when the current government of Guam structure for territorial government was established under the 1950 Organic Act, it was welcomed by the people of Guam as progress toward greater local government, but it was instituted without the consent of the people of Guam through a democratic act of self-determination or participation in the Federal lawmaking process on the basis of equal citizenship or equal representation; and

Whereas, the 1997 Constitution of Guam, drafted pursuant to Federal and local statutes, was approved by Congress but was

not approved by the people of Guam in the 1979 referendum; and

Whereas, the process of establishment of internal local government under a local constitution was suspended after linkage was created between the draft constitution and the political status process; and

Whereas, in light of representation and speculations inconsistent with the foregoing from 1979 to the present, it is essential for Congress to confirm its original and continued intention and expectation that authorization and approval of local constitutional government in Guam would not preclude or be prejudicial to the exercise of the right to self-determination, as part of the process through which ultimate political status of the territory of Guam is to be determined, now therefore, be it

Resolved, by the Guam Legislature, on behalf of the people of Guam, request the One Hundred and Fifth Congress of the United States to amend Public Law No. 94-585, Oct. 21, 1976, 90 Stat. 2899, as amended by Public Law No. 96-597, Title V. Sec. 501, Dec. 24, 1980, 94 Stat. 3479, by adding a new Section 6 to read as follows:

Section 6. Establishment of local constitutional local government pursuant to this Act shall not preclude or prejudice the further exercise in the future by the people of Guam or the Virgin Islands of the Rights of self-determination regarding the ultimate political status of either territory.' and be it further.

Resolved, that the Speaker certifies to, and the Legislative Secretary attests, the adoption hereof and that copies thereafter be transmitted to the President of the United States of America; to the President Pro Tempore, United States Senate; to the Majority Leader, United States Senate; to the Majority Leader, United States Senate; to the Chairman of the Committee of Energy and Natural Resources, United States Senate; to the Speaker, U.S. House of Representatives; to the Majority Leader, U.S. House of Representatives; to the Minority Leader, U.S. House of Representatives; to the Chairman of the Committee on Resources, U.S. House of Representatives; to the Resident Commissioner of Puerto Rico, U.S. House of Representatives; to the Virgin Islands Delegate to Washington, U.S. House of Representatives; to the Guam Delegate to Washington, U.S. House of Representatives; to the President of the Mayor's Council, and to the Honorable Carl T. C. Gutierrez, Governor of Guam.

Duly and regularly adopted on the 15th day of September, 1997.

Anthony C. Blaz,
Acting Speaker,

Joanne M. S. Brown,
Senator and Legislative
Secretary.