

RALPH DLG. TORRES
Governor



ARNOLD I. PALACIOS
Lieutenant Governor

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

20 AUG 2021

The Honorable Jude U. Hofschneider
President of the Senate
Twenty-Second Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

The Honorable Edmund S. Villagomez
Speaker, House of Representatives
Twenty-Second Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. President and Mr. Speaker:

This is to inform you that I have signed into law **Senate Bill No. 22-26, SD1** entitled, "To Amend 1 CMC § 2263 to require a special election to fill a Board of Education vacancy; to clarify when an elected member of the board must resign from his or her PSS employment; to amend 1CMC § 6502(f); and for other purposes.," which was passed by the Senate and the House of Representatives of the Twenty-Second Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 22-04**. Copies bearing my signature are forwarded for your reference.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Torres", written over a circular stamp or seal.

RALPH DLG. TORRES
Governor

cc: Lt. Governor; Press Secretary; Public School System; Board of Education; Commonwealth Election Commission; Attorney General; Law Revision Commission; Public Auditor; Special Assistant for Administration; Special Assistant for Programs and Legislative Review



THE SENATE

Twenty-Second Northern Mariana Commonwealth Legislature
P. O. Box 500129
Saipan, MP 96950

July 15, 2021

The Honorable Ralph DLG. Torres
Governor
Commonwealth of the Northern Mariana Islands
Capital Hill
Saipan, MP 96950

Dear Governor Torres:

I have the honor of transmitting herewith for your action Senate Bill No. 22-26, SD1, entitled: "To amend 1 CMC § 2263 to require a special election to fill a Board of Education vacancy; to clarify when an elected member of the board must resign from his or her PSS employment; to amend 1 CMC § 6502(f); and for other purposes," which was passed by the Senate and the House of Representatives of the Twenty-Second Northern Mariana Commonwealth Legislature.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dolores S. Bermudes".

Dolores S. Bermudes
Senate Clerk

Attachments

PROGRAMS & LEGISLATIVE REVIEW
RECEIVED BY: JAPLR
DATE & TIME: 7/15/2021 3:55 PM



THE SENATE
TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SENATE BILL NO. 22-26, SD1

AN ACT

To amend 1 CMC § 2263 to require a special election to fill a Board of Education vacancy; to clarify when an elected member of the board must resign from his or her PSS employment; to amend 1 CMC § 6502(f); and for other purposes.

SENATE ACTION

Offered by Senator(s): Justo S. Quitugua

Date: February 19, 2021

Referred to: Health, Education, and Welfare Committee

Standing Committee Report No.: 22-04 – Adopted 03/12/21

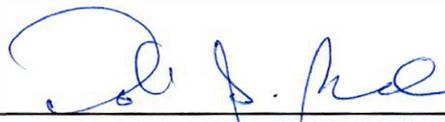
Final Reading: March 12, 2021

HOUSE ACTION

Referred to: Education Committee

Standing Committee Report No.: 22-18 Adopted on 07/06/21

First and Final Reading: July 06, 2021


DOLORES S. BERMUDES
SENATE CLERK



THE SENATE
TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2021

S. B. NO. 22-26, SD1

AN ACT

To amend 1 CMC § 2263 to require a special election to fill a Board of Education vacancy; to clarify when an elected member of the board must resign from his or her PSS employment; to amend 1 CMC § 6502(f); and for other purposes.

BE IT ENACTED BY THE TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings and Purpose.** The Legislature finds that NMI Constitution
2 Art. XV, Sec. 1 established a representative Board of Education to formulate policy and
3 exercise control over the public school system through the Commissioner of the Public
4 School System. Art. XV, Sec. 1 provides for the number of board members and their
5 qualifications. However, Art. XV, Sec. 1 does not discuss what happens when there is a
6 vacancy on the Board of Education due to death, resignation, or removal of a member. In
7 addition, Art. XV, Sec. 1 does not have a provision addressing what happens in the event
8 there is no candidate certified to run for a seat on the Board of Education, which is what
9 happened in the Second Senatorial District in the 2018 election. One person withdrew his
10 candidacy and the other person was not certified to be a candidate for the Board of
11 Education.

12 Although the NMI Constitution does not address Board of Education vacancies,
13 CNMI statute set forth at 1 CMC § 2263 addresses vacancies on the Board of Education.
14 Specifically, 1 CMC § 2263(a) provides that a vacancy on the board caused by death,
15 resignation, or removal of a member shall be filled by appointing the candidate with the
16 next highest number of votes for that board seat. This vacancy provision is consistent with

SENATE BILL NO. 22-26, SD1

1 vacancy provisions of other elected offices and positions. Additionally, 1 CMC § 2263(a)
2 provides that “[i]f no candidate is interested in filling the vacancy, the Governor shall
3 appoint someone from that senatorial district.” The Legislature finds that this appointment
4 procedure is solely based on the governor’s discretion and is not a true representation of
5 the people of the respective Senatorial District.

6 The Legislature further finds that NMI Constitution Article XV, Section 1(c)
7 provides that “[t]he board of education shall have five members, elected at large on a non-
8 partisan basis . . .” *Id.* The Office of the Attorney General commented that to be properly
9 seated on the board, all the five members must have received the approval of the electorate
10 in a general election. A court could determine that holding a special election to fill a vacant
11 board seat is the alternative that mirrors the intent of the drafters of Article XV, and not the
12 appointment and confirmation process. Moreover, the special election should be held
13 within 30 days after a vacancy on the board is declared or the general election results are
14 certified if no candidate is certified during a general election to ensure that each senatorial
15 district is properly represented on the Board of Education. The leaders of each respective
16 community can assist and encourage qualified members of their community to be a
17 candidate for the Board of Education when there is a vacancy.

18 The Legislature also finds that 1 CMC § 2263(a) must be amended to clarify that
19 any elected member of the board who is also employed by the Public School System must
20 resign from his or her office once the Commonwealth Election Commission certifies that
21 the person is duly elected as a member of the Board of Education. As a candidate for
22 office, the PSS employee must only take a leave of absence. In line with the amendments
23 to 1 CMC § 2263, the special election provision set forth in 1 CMC § 6502(f) must also be
24 amended to mandate a special election for a vacancy on the board in lieu of an appointment
25 by the Governor. Accordingly, the purpose of this Act is to require a special election to fill
26 a vacant position of the Board of Education to be consistent with the intent of NMI
27 Constitution Article XV, Section 1, to clarify that a PSS employee who is elected to be a
28 member of the Board of Education must resign from his or her employment at PSS upon
29 certification of the person’s election to the Board of Education and to amend 1 CMC §

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1 6502(f) to mandate a special election if there is a vacancy on the Board of Education and
2 there is no interested candidate upon a vacancy or qualified candidate during a general
3 election.

4 **Section 2. Amendment.** 1 CMC § 6502(f) is hereby amended to read as follows:

5 “(f) In case of a vacancy on the Board of Education, the vacancy shall be
6 filled ~~Governor shall appoint a replacement~~ pursuant to 1 CMC § 2263 ~~regardless~~
7 ~~of the time remaining in the term of office.”~~

8 **Section 3. Amendment.** 1 CMC § 2263 is hereby amended by adding a new
9 subsection (b) and (c) and renumbering the remaining subsection to read as follows:

10 **“§ 2263. Board of Education: Vacancies.**

11 (a) Any vacancy on the board caused by the death, resignation, or removal
12 of an appointed member shall be filled in the same manner as the original
13 appointment to serve the unexpired term of that vacancy. Upon a vacancy on the
14 board caused by the death, resignation, or removal of an elected member, the
15 Governor shall appoint the candidate who received the next highest number of
16 votes in the same election and district where the former board member was elected
17 regardless of the time remaining in the term of office.

18 (b) If no candidate is interested in filling the vacancy or no person is
19 certified as a candidate during a general election, a vacancy on the Board of
20 Education shall be filled by a special election ~~the Governor shall appoint someone~~
21 ~~from that senatorial district.~~ The Commonwealth Election Commission shall
22 conduct a special election to fill such a vacancy within 30 60 days after a vacancy
23 on the board is declared or the general election results are certified if no person is
24 certified as a candidate during a general election to fill such vacancy.

25 (c) Elected members who are employed by the Public School System, shall
26 resign from their employment upon certification that they are duly elected as a
27 member of the Board of Education a candidate by the Board of Elections.

28 (d) In the event the appointed Teacher Representative is not able to serve
29 the complete term, or resigns, the Commissioner shall submit the name of the

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1 second candidate in the last run-off election to the Governor to appoint as the new
2 Teacher Representative to complete the remaining period of the term.”

3 **Section 4. Severability.** If any provision of this Act or the application of any such
4 provision to any person or circumstance should be held invalid by a court of competent
5 jurisdiction, the remainder of this Act or the application of its provisions to persons or
6 circumstances other than those to which it is held invalid shall not be affected thereby.

7 **Section 5. Savings Clause.** This Act and any repealer contained herein shall not
8 be construed as affecting any existing right acquired under contract or acquired under
9 statutes repealed or under any rule, regulation, or order adopted under the statutes.
10 Repealers contained in this Act shall not affect any proceeding instituted under or pursuant
11 to prior law. The enactment of the Act shall not have the effect of terminating, or in any
12 way modifying, any liability, civil or criminal, which shall already be in existence on the
13 date this Act becomes effective.

14 **Section 6. Effective Date.** This Act shall take effect upon its approval by the
15 Governor or becoming law without such approval.

CERTIFIED BY:

JUDE U. HOFSCHEIDER
PRESIDENT OF THE SENATE

ATTESTED BY:

VICTOR B. HOCOG
SENATE LEGISLATIVE SECRETARY

Approved this 20th day of August, 2021

RALPH DLG. TORRES
Governor

Commonwealth of the Northern Mariana Islands