

ARTICLE 9

Executive

Section 1. Governor: Executive Power.

The executive power of the Governor of Pohnpei is vested in the Governor who shall be elected by the qualified voters of Pohnpei.

Section 2. Lieutenant Governor.

There shall be a Lieutenant Governor. The Lieutenant Governor shall perform the duties delegated to him by the Governor and such other duties as may be prescribed by statute.

Section 3. Qualifications.

(1) No person is eligible to become Governor or Lieutenant Governor unless he is a citizen of Pohnpei by birth; he is at least thirty-five years of age; and he has never been convicted of a felony.

(2) No person may serve more than two full consecutive terms as Governor, except that a person who serves as Governor less than two years during a term to which another person was first elected, may serve two full consecutive terms thereafter.

Section 4. Election.

Nominations for the office of Governor or the office of Lieutenant Governor shall be by petitions signed by qualified voters as provided by statute. If no candidate receives a majority of the votes cast for the office of Governor or Lieutenant Governor, a run-off election shall be held between the two candidates for that office receiving the highest votes. Tied elections shall be resolved in the manner prescribed by statute.

Section 5. Terms of Office.

The terms of office of the Governor and the Lieutenant Governor shall be four years and shall begin at noon on the second Monday of January following their election, and they shall hold office until the qualification of their successors.

Section 6. Vacancy and Incapacity.

(1) The Lieutenant Governor shall become Governor when the office of Governor is vacant.

(2) The Lieutenant Governor shall serve as the Acting Governor when the Governor is absent from Pohnpei or is incapacitated. The Legislature shall provide by statute for the determination of incapacity.

(3) Statute shall provide for the filling of the vacancy when the office of the Lieutenant Governor is vacant.

Section 7. Faithful Execution of Laws.

The Governor is responsible for the faithful execution of the provisions of this Constitution and of all laws of Pohnpei.

Section 8. Powers Over Criminal Penalties.

The Governor may grant reprieves, commutations and pardons after conviction of offenses other than impeachment, subject to regulation by statute.

Case annotations: The English version of the Pohnpei Constitution gives the Governor the power to commute a sentence and to grant a pardon (though the Pohnpei version restricts that power to felony cases); and both versions are silent on the power to grant parole. *Pohnpei v. Hawk, 3 FSM Intrm. 17, 23* (Pon. S. Ct. Tr. 1986).

Rule 35 of the Pohnpei Supreme Court Rules of Criminal Procedure is void because the statute and Constitution of this State do not give the power to reduce sentences to the courts. Rather, the statute and Constitution of this state explicitly reserve that power for the executive branch, in the person of the Governor. *Pohnpei v. Hawk, 3 FSM Intrm. 17, 24* (Pon. S. Ct. Tr. 1986).

In one line of cases, the United States Supreme Court held that the presidential power to pardon includes the power to commute a sentence even if not specifically provided for by statute, as long as the conditions do not offend the Constitution; in another line of case, however, the Court holds that Congress may vest the power to commute by statute. This latter line, requiring legislative enactment, should be adopted by the Pohnpei State Court system. *Pohnpei v. Hawk, 3 FSM Intrm. 17, 24* (Pon. S. Ct. Tr. 1986).

Section 9. Reports.

The Governor shall report to the Legislature at the beginning of each regular session in January on the condition of Pohnpei, and he may do so at other times. He may recommend legislative measures for the consideration of the Legislature.

Section 10. Executive Officers.

Members of all policy-making boards, the chief officers of all executive departments and agencies, and such other executive officers as may be provided by law, shall be appointed by the Governor with the approval of the Legislature by affirmative vote of the majority of the members, without regard to vacancies. The chief officers of the executive departments and other agencies shall serve at the pleasure of the Governor. Such officers may be removed by the Governor or be impeached in accordance with Article 13, Section 6, of this Constitution.

Section 11. Executive Reorganization.

The executive branch, or any part thereof, may be organized by statute or by executive reorganization plan. Executive reorganization plans shall be presented by the Governor to the Legislature. The Legislature may reject an executive reorganization plan or any portion of it by resolution within thirty session days after its presentation. If the Legislature is not in session at the time of presentation, the Governor shall call a special session to consider the plan.