



# **REPORT TO THE LEGISLATIVE ASSEMBLY**

## **Electoral Amendment Bill 2014**

**Business, Standing Orders, House & Electoral Committee**

**P.P.2014/2015. No.222.**

## Sequence of Committee Consideration:

The Electoral Amendment Bill 2014 (“Bill”) was referred to the Business, Standing Orders, House and Electoral Committee (“Committee”)<sup>1</sup> on 17<sup>th</sup> April 2014 for consideration and to present its report to the Legislative Assembly in accordance with Standing Orders<sup>2</sup>.

It was broadcast via television and radio on the 18<sup>th</sup> June 2014 that the Committee was considering the Bill and the public was invited to make submissions. The same broadcast was repeated on 20<sup>th</sup> October 2014 for the Savaii residents. The Committee conducted its meetings in Salelologa, Savaii from 23<sup>rd</sup> - 24<sup>th</sup> of October 2014.

After its investigations, on 9<sup>th</sup> January 2015, the Committee presented its amendments and consequential amendments to the Office of the Attorney General for drafting. On 13<sup>th</sup> January 2015 the Committee met with the Attorney General, Assistant Attorney General and Representatives from the Office of the Electoral Commissioner to clarify the purposes for its amendments.

The Committee hoped to meet with the responsible Minister for the Electoral Office to clarify the Committee amendments. The Chairperson (Mr Speaker) wrote to the Hon Minister requesting a meeting on 13<sup>th</sup> January 2015. The Hon Minister responded on 14<sup>th</sup> January 2015 stating that the Electoral Office requires time to examine the amendments and liaise with the Attorney General.

An Exclusive Cabinet Directive FK (15) 16 was presented on 16<sup>th</sup> February 2015 approving the Electoral Office’s response to the Committee amendments with additional amendments to the Bill. Cabinet Directive FK (14) 49 dated 23<sup>rd</sup> December 2014 was also received, changing the boundaries of the Urban Zones that was mentioned in FK (14) 11 on 2<sup>nd</sup> April 2014.

The Committee was disappointed as a meeting with the Hon Minister was anticipated as per the written correspondence between the Hon Minister and the Chairperson. However, the Hon Minister and the Office of the Electoral Commissioner approached the Cabinet directly. The Committee believes that pursuant to Parliamentary procedures, consultations between the Hon Minister and the Committee should have taken place to discuss that amendments so that there is no contradiction when the Committee Report is discussed by the Assembly.

The Committee was able to meet with the Hon Minister, the Attorney General and a Representative from the Office of the Electoral Commissioner on 17<sup>th</sup> March 2015 however; the newspaper had publicized the written correspondence between the Chairperson and the Hon Minister. At this meeting, it was agreed that:

---

<sup>1</sup> Standing Order 169 (1) – Hon LAAULI Leuatea Polataivao Fosi Schmidt MP, AGAFILI Patisela Eteuati Tolovaa MP, Hon TUILAEPA Fatialofa Lupesoliai Sailele Malielegaoi MP, Hon PALUSALUE Faapo II, Hon TUUU Anasii Leota MP, LEALALEPULE Rimoni Aiafi MP, LEFAU Harry Schuster MP

<sup>2</sup> Standing Order 169 (2) (ix) – consider any bill referred to by the Assembly

1. Committee amendment irrelevant to the clauses of the Bill shall be presented in the Review Report of the Electoral Act 1963 in accordance with the Committee's responsibilities pursuant to Standing Orders<sup>3</sup>, and
2. Other relevant Committee amendments to the Bill that are not agreed to by the Hon Minister - shall be presented to the Legislative Assembly for a decision.

The Committee considered this Bill together with the:

- Constitutional Amendment Bill No. 2 (2014)
- Review of the Electoral Act 1963
- P.P. 2014/2015 No. 15 - Commission of Inquiry Report - Electoral Matters 2012.

## Summary of Committee Findings:

The Committee noted that the amendments in the Bill are based on the Commission of Inquiry's Recommendation on the 2011 General Election. The Commission was appointed by the Cabinet at the end of the 2011 General Elections. This Bill emphasizes the division of 2 seat constituencies into single seat constituencies.

The Committee noted that a few of the witnesses questioned the purpose of the division as they believe that the current seats are acceptable. However the Government clarified the importance of transparent and efficient electoral processes undertaken in other jurisdictions which applies the "one man one vote" principle. This is a suitable formula for Samoa's elections.

Nonetheless the Committee supported the views as submitted by the majority of its witnesses that the constituencies be sub-divided based on traditional linkages. Other witnesses were of the view that the division should be based on the total number of electorates so that after the 2 seat Constituencies were divided the number of electorates would be equal, however the Committee rejects this as it would go against traditional beliefs.

The Committee confirmed that the current division of the constituencies is based on cultural linkages regardless of the uneven number of electorates in each constituency. The Committee also believes that this is the only path that ensures that the cultural standing of villages and constituencies are upheld (List of witnesses attached).

The Committee also prioritized recommendations made by the public on matters for the Committee to thoroughly consider. These recommendations are based on the continuous issues during the General Elections; from the registration period to electoral petitions. The Committee noted that there were many court cases that led to the disqualification of Members that were elected in the General Elections.

---

<sup>3</sup> Standing Order 169(2)(x) – review of the Electoral Act preceding the expiry of Parliament

There were similar matters raised during the Committee investigations and the Committee Recommendations as presented in its Report<sup>4</sup> on the Office of the Electoral Commissioner Report on the 2011 General Election<sup>5</sup>. These Recommendations included:

1. The need to review whether it is appropriate to include provisions in the Act to make the practices stated hereunder as a breach of law:
  - Citizens who register but fail to vote;
  - Candidates or their Campaign Committees collecting electors and transporting them to register with the intention to acquire votes;
  - Candidates or their Campaign Committees collecting electors and transporting them to polling booths on the day of Elections.

Based on evidence submitted by witnesses and matters investigated, the Committee believes that now is the appropriate time to seek resolutions on recurring issues during the General Elections. Furthermore, only Members of Parliament understand the difficulties of elections.

This intention is consistent with one of the functions of the Committee to review the Electoral Act 1963 preceding the expiry of the Parliamentary Term (Attachment of the Committee's Consequential Amendments).

## Result of Committee Considerations:

The Committee supports all the clauses in the Bill as presented in the Cabinet Directive FK (14) 11 on April 2<sup>nd</sup> 2014, with the exception of the following clauses with Committee amendments:

CLAUSE:	AMENDMENT:
Clause 1:	<p>Be it enacted as follows, this Act may be cited as the Electoral Amendment Act 2014 once it is assented to. This Act commences on the date of assent by the Head of State.</p> <p><u>Committee Resolution:</u></p> <ul style="list-style-type: none"> <li>• Approved with amendment:               <ul style="list-style-type: none"> <li>○ <a href="#">Change the year from 2014 to 2015</a></li> </ul> </li> </ul>
Clause 13:	<p>To provide consequential amendments on other Acts, which include strengthening transitional regulations that require access to any transitional matter.</p> <p><u>Resolution:</u></p> <ul style="list-style-type: none"> <li>• Approved with amendment:               <ul style="list-style-type: none"> <li>○ <a href="#">Vaimauga West No.1 (Vaiala includes Vaipuna, Vini, Levili and Faatoia, Moataa includes Vaivase-uta, Vaivase-tai and Matafagatele, Maagiagi includes Toomatagai and Ataga)</a></li> </ul> </li> </ul>

<sup>4</sup> P.P. 2011/2012 No. 104

<sup>5</sup> P.P. 2011/2012 No. 88

	<ul style="list-style-type: none"> <li>○ Vaimauga West No. 2 (Matautu, Tanugamanono includes Leufisa, Papaloloa, Papauta and Tanumaleko, Vailima includes Alaoa, Tiapapata, Letava and Afiamalu, Apia includes Aai o Niue, Aai o Fiti, Lelata, Leone, Maagao, Maluafou, Matafele, Motootua, Mulinuu, Sogi, Saleufi, Savalalo, Tauese, Taufusi, Togafuafua and Vaisigano)</li> <li>○ Aana Alofi No. 1 East (Faleasiu)</li> <li>○ Aana Alofi No. 1 West (Fasitoouta)</li> <li>○ Safata East (Saanapu, Sataoa &amp; Lotofaga)</li> <li>○ Safata West (Nusuatia, Vaiee, Fusi, Tafitoala, Fausaga &amp; Mulivai)</li> <li>○ Falealili East (Utulaelae, Sapoe, Salani, Salesatele &amp; Siuniu)</li> <li>○ Falealili West (Sapunaoa, Satalo, Malaemalu, Tafatafa, Matautu, Vaovai, Poutasi &amp; Saleilua)</li> <li>○ Faasaleleaga No.1 East (Salelologa)</li> <li>○ Faasaleleaga No. 1 West (Salelavalu, Iva, Vaiafai, Vaiasulu, Lalomalava &amp; Safua)</li> <li>○ Salega West (Fagafau, Faiaai, Fogatuli, Samata-i-uta &amp; Samata-i-tai) &amp;</li> <li>○ Salega East (Fogasavaii, Sagone &amp; Vaipua)</li> </ul>
--	---

However, the Amendments in Cabinet Directives FK (14) 49 on 23<sup>rd</sup> December 2014 and FK 15 (Exclusive) 10 on 16<sup>th</sup> January 2015 are not included in this consideration. The Committee believes that it should be urgently provided for in another Bill. This decision was made to:

1. Prevent discrepancies in the Bill and the proposed Committee amendments, and
2. Use the opportunity to merge the amendments recommended by the Committee in its Review Report on the Electoral Act 1963.

**Committee Recommendation:**

The Committee recommends that the Legislative Assembly take note of its Report.

**Committee Resolution:**

To progress the Electoral Amendment Bill 2014 together with the following Amendments:

1. To amend Clause 1 to read:
  - Electoral Amendment Act 2015
2. To amend clause 13 to read:
  - Vaimauga West No.1 (Vaiala includes Vaipuna, Vini, Levili and Faatoia, Moataa includes Vaivase-uta, Vaivase-tai and Matafagatele, Maagiagi includes Toomatagai and Ataga)
  - Vaimauga West No. 2 (Matautu, Tanugamanono includes Leufisa, Papaloloa, Papauta and Tanumaleko, Vailima includes Alaoa, Tiapapata,

Letava and Afiamalu, Apia includes Aai o Niue, Aai o Fiti, Lelata, Leone, Maagao, Maluafou, Matafele, Motootua, Mulinuu, Sogi, Saleufi, Savalalo, Tauese, Taufusi, Togafuafua and Vaisigano)

- Aana Alofi No. 1 East (Faleasiu)
- Aana Alofi No. 1 West (Fasitoouta)
- Safata East (Saanapu, Sataoa & Lotofaga)
- Safata West (Nuusuatia, Vaiee, Fusi, Tafitoala, Fausaga & Mulivai)
- Falealili East (Utulaelae, Sapoe, Salani, Salesatele & Siuniu)
- Falealili West (Sapunaoa, Satalo, Malaemalu, Tafatafa, Matautu, Vaovai, Poutasi & Saleilua)
- Faasaleleaga No.1 East (Salelologa)
- Faasaleleaga No. 1 West (Salelavalu, Iva, Vaiafai, Vaiasulu, Lalomalava & Safua)
- Salega West (Fagafau, Faiaai, Fogatuli, Samata-i-uta & Samata-i-tai) &
- Salega East (Fogasavaii, Sagone & Vaipua)

3. New amendments presented in FK (14) 49 on 23<sup>rd</sup> December 2014 and FK 15 (Exclusive) 10 on 16<sup>th</sup> January 2015 to be consolidated with amendments from the Committee in its Review of the Electoral Amendment Act 1963, in a separate Electoral Amendment Bill.

**Assistance:**

During the course of its investigations, the Committee sought assistance from the following:

**Office of the Attorney General:**

- Tuatagaloa Aumua Ming C Leung Wai - Attorney General
- Loretta Teueli - Assistant Attorney General

**Office of the Electoral Commissioner:**

- Papalii Malietau Malietoa - Electoral Commissioner
- Faimalo Mathew Lemisio - Assistant Commissioner
- Francis Ainuu - Assistant Commissioner
- Afualo Daryl - Principal Officer

**Office of the Legislative Assembly:**

- Fepuleai Letufuga Attila M. Ropati - Clerk of the Legislative Assembly

**Witnesses:**

During the course of its investigations the Committee heard oral evidence submitted by the following witnesses:

1. Afioga Hon Le Tagaloa Pita - Village Representative  
(Alafua/Palauli le Falefa)
2. Afioga Afamasaga Toleafoa Faamatata - Village Representative  
(Fasitoo/Falealupo)

- |   |   |  |
|---|---|--|
| 3. Afioga Aeau Taulupoo                 | - | Village Representative (Falealupo)         |
| 4. Afioga Logo Silao                    | - | Village Representative (Aana)              |
| 5. Sitagata Hanmenn Hunt                | - | Village Representative (Individual Voters) |
| 6. Hon Papaliitele Niko Lee Hang        | - | Member of Parliament for Individual Voters |
| 7. Maualaivao Pat Ah Him                | - | Member of Parliament for Individual Voters |
| 8. Hon Faumuina Tiatia F Liuga          | - | Member of Parliament for Palauli le Falefa |
| 9. Tialavea F T Seigafolava             | - | Member of Parliament for Vaa o Fonoti      |
| 10. Toeolesulusulu C P Salesa Schuster- | - | Member of Parliament for Aana Alofi No. 3  |
| 11. Lenatai Victor F Tamapua            | - | Member of Parliament for Vaimauga West     |

**Representatives from Vaimauga West:**

- |                               |   |                 |
|-------------------------------|---|-----------------|
| 12. Toomalatai Lepili         | - | Matautu tai/uta |
| 13. Papalii Tuaimalo Pisimaka | - | Matautu tai/uta |
| 14. Pupualii Senio            | - | Matautu tai/uta |
| 15. Mimisa Faapito Apelu      | - | Matautu tai/uta |
| 16. Seumanutafa Tiavolo       | - | Apia            |
| 17. Tuiletufuga Siaosi        | - | Apia            |
| 18. Fa'aolesa Katopau Ainuu   | - | Apia            |
| 19. Lima Efu                  | - | Apia            |

**Representatives from Aana No.1**

- |                                   |   |                      |
|-----------------------------------|---|----------------------|
| 20. Hon Leaupepe Toleafoa Faafisi | - | Member of Parliament |
|-----------------------------------|---|----------------------|

**Representatives from Safata:**

- |                      |   |        |
|----------------------|---|--------|
| 21. Tulafono Tualima | - | Sataoa |
| 22. Afemata Apelu    | - | Sataoa |
| 23. Taualemai Gili   | - | Sataoa |
| 24. Alo Faavesi      | - | Sataoa |
| 25. Lesu Gasologa    | - | Sataoa |
| 26. Taualemai Apelu  | - | Sataoa |
| 27. Maiava Faamati   | - | Sataoa |
| 28. Tagaloasa Fali   | - | Sataoa |
| 29. Mai Toafa        | - | Sataoa |
| 30. Maiava Toafa     | - | Sataoa |
| 31. Tuia Pua Leota   | - | Vaiee  |
| 32. Teo Vaiee        | - | Vaiee  |
| 33. Mauigoa Tafaimaa | - | Vaiee  |
| 34. Talatoa Ropati   | - | Vaiee  |
| 35. Nuutoa Ituau     | - | Vaiee  |
| 36. Aufonolua Kupa   | - | Fusi   |
| 37. Malaga Pelenato  | - | Fusi   |
| 38. Taliau Kuni      | - | Fusi   |
| 39. Suemalo Sefo     | - | Fusi   |

40. Pauga Teo Tiitii	-	Fusi
41. Malae Vaai	-	Fusi
42. Manu'alesagalala E Posala	-	Lotofaga
43. Tuua Asofou	-	Lotofaga
44. Maugagaoa Ioane	-	Lotofaga
45. Maugagaoa Peteru	-	Lotofaga
46. Maugagaoa Komu	-	Lotofaga
47. Pule Faafiu	-	Lotofaga
48. Lau Pepese	-	Lotofaga
49. Lalovimama Ieremia	-	Lotofaga
50. Tafau Aolevave	-	Lotofaga
51. Pitoamoa	-	Lotofaga
52. Lau Siliga	-	Lotofaga
53. Faifua Tofaga	-	Lotofaga
54. Maumaalii Tili	-	Lotofaga
55. Tafau Sauaso	-	Lotofaga
56. Moananu Faleupolu	-	Lotofaga

**Representatives from Falealili:**

57. Vaatilalua Fiaola	-	Vaovai
58. Luaao Aimaasu	-	Vaovai
59. Vaetui Taupati	-	Vaovai
60. Vaatilalua Fiaola (Mayor)	-	Vaovai
61. Pinofoaga Ielemia (Mayor)	-	Matautu
62. Na'i Tulipe	-	Matautu
63. Tepatuanai Alaifata	-	Matautu
64. Tusa Misi Tupuola	-	Matautu
65. Taituuga Esau	-	Sapunaoa
66. Faamaoni Taituuga	-	Sapunaoa
67. Nu'u Asotolu Tavita	-	Sapo'e
68. Fuimaono Esera Rimoni	-	Land Committee of Falealili
69. Tuatagaloa Joe Annandale	-	Land Committee of Falealili
70. Tuiloma Alaimoana Lameko	-	Land Committee of Falealili
71. Taloolemaagao Uliulileava	-	Land Committee of Falealili

**Representatives from Faasaleleaga No. 1:**

72. Seumanu Peni	-	Salelologa
73. Matamua Fiu Loimata	-	Salelologa
74. Pauli Puleaga	-	Salelologa
75. Fiu Iosefa	-	Salelologa
76. Tiotala Setu	-	Salelologa
77. Pipi Tavita	-	Salelologa

**Representatives from Salega:**

78. Tapuai Suimai	-	Fogatuli
-------------------	---	----------



79. Tapuai Telima	-	Fogatuli
80. Tapuai Etuale	-	Fogatuli
81. Tupai Siaso	-	Fogatuli
82. Leilua Tavita	-	Fogatuli
83. Afualo Niue	-	Sagone
84. Fuatia Peleti	-	Sagone
85. Poutoa Tautele	-	Sagone
86. Afualo Tavita	-	Sagone
87. Afualo Aisau	-	Sagone
88. Toa Vaiese	-	Sagone
89. Tevaga Leo	-	Sagone
90. I'amua Ituvei	-	Sagone

**Representatives from Faleata East:**

91. Manuleleua Faafaii I M	-	Vaimoso
92. Manuleleua Talitau	-	Vaimoso
93. Manuleleua Lauese	-	Vaimoso
94. Toala F Schuster	-	Vaimoso
95. Aulavemai Tafito	-	Vaimoso
96. Aumao Leao Akeripa	-	Vaimoso
97. Leapai R Brown	-	Vaimoso

-----

---

Susuga Hon LAAULI Leuatea Polataivao Fossie Schmidt  
**CHAIRPERSON/SPEAKER**

AGAFILI Patisela Eteuati Tolovaa  
**Deputy Chairperson**

Hon TUILAEPa S MALIELEGAOI  
**Prime Minister**

Hon PALUSALUE Faapo II  
**Leader of Opposition/Member of Parliament**

Hon TUU'U Anasii Leota  
**Member**

LEFAU Harry Schuster  
**Member**

LEALAILEPULE Rimoni Aiafi  
**Member**