



Parliament of Sint Maarten Staten van Sint Maarten

To the Honorable President of Parliament
Wilhelminastraat 1
Philipsburg

STATEN VAN SINT MAARTEN		
Ingek. 09 APR 2018		
Volgnr. IS/452/17-18		
Par.	VB	neg

Philipsburg, April 6, 2018

Re: Proposal establishment Ad Hoc Committee Electoral Reform and TOR.

Honorable President,

The matter of Electoral Reform has been a topic of public debate for years fueled by the phenomenon of “ship jumping” that has plagued the political arena since the inception of country Sint Maarten. Parliament has also debated this topic on numerous occasions.

The Parliament of Sint Maarten for example approved a motion on April 18, 2013 instructing the Government to do all that is necessary to ensure the achievement of a free, fair and balanced administered electoral system by amending the current electoral laws with respect to voters, political parties and candidates, agents or supporters before the upcoming Parliamentary elections 2014 and in so doing protecting the integrity of the democratic process.

Furthermore on January 24, 2014 Parliament received a discussion paper titled “Reforms in the Electoral System of St. Maarten, an Initiative by the People” from Government. The Parliament exchanged views on this paper with the Government in a Central Committee meeting.

After more than a year of inactivity, this topic was brought to the forefront again in April 2015 when the Central Voting Bureau appeared in Parliament to answer several questions and queries from Members of Parliament. The Central Voting Bureau made several suggestions for amendment of the Electoral Ordinance for more free, fair and effective elections. So has the Electoral Council that met with Parliament on several occasions.

Subsequently Parliament received a proposal from citizen Mr. Julio Romney to change the Electoral Ordinance to introduce the d’Hondt system for the determination of the election results for the distribution of seats in July 2015. Mr. Romney was invited to a Central Committee of Parliament where the proposal was discussed.

On December 23, 2015 the Commission Electoral Reform was established by Government with the specific task to come with solutions for the phenomenon of “ship jumping”. As a result of the efforts of said Commission, Government submitted a draft national ordinance containing a solution for “ship jumping” to the Council of Advice for advice in May 2016, just a few months before scheduled September 2016 snap elections. In its advice the Council comes to the conclusion that the draft is in contravention with the principles of equality and free mandate.



The Kingdom Council of Ministers also had some serious objections towards the draft in this form and advised the Government of Sint Maarten to address these objections and then resubmit the draft.

Since mid-2016 there has been no significant progress where this topic is concerned.

Considering the above, I propose to Parliament that an Ad Hoc Committee Electoral Reform be established to advise and propose to Parliament how best to implement Electoral Reform to curb the phenomenon of “ship jumping” and tackle other items in the Electoral Ordinance, as brought forward by the Central Voting Bureau and the Electoral Council, that should be addressed. The tasks of the Committee will be:

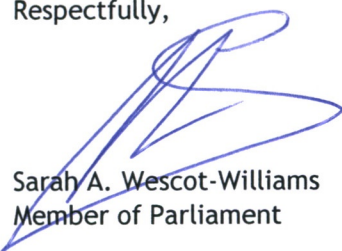
- Draft a Terms of Reference (TOR) for the drafting of legislation to implement Electoral Reform with a tangible timeline;
- Review the proposals submitted based on the TOR, choose the one that will be granted the assignment and advise the Presidium to handle accordingly;
- Monitor along with the Presidium the progress of the assignment as established in the timeline;
- Review the final proposal and advise Parliament how best to handle it further.

Once the Committee has fulfilled its task, it will be dissolved.

To speed up the process and enable the Committee to hit the ground running, a draft TOR has been attached to this letter.

I look forward to having this proposal debated as soon as possible in order for this Ad Hoc Committee to become a reality.

Respectfully,



Sarah A. Wescot-Williams
Member of Parliament



TERMS OF REFERENCE

1. Introduction

The matter of Electoral Reform has been a topic of public debate for years fueled by the phenomenon of “ship jumping” that has plagued the political arena since the inception of country Sint Maarten. Parliament has also debated this topic on numerous occasions.

The Parliament of Sint Maarten for example approved a motion on April 18, 2013 instructing the Government to do all that is necessary to ensure the achievement of a free, fair and balanced administered electoral system by amending the current electoral laws with respect to voters, political parties and candidates, agents or supporters before the upcoming Parliamentary elections 2014 and in so doing protecting the integrity of the democratic process. Furthermore on January 24, 2014 Parliament received a discussion paper titled “Reforms in the Electoral System of St. Maarten, an Initiative by the People” from Government. The Parliament exchanged views on this paper with the Government in a Central Committee meeting. After more than a year of inactivity, this topic was brought to the forefront again in April 2015 when the Central Voting Bureau was appeared in Parliament to answer several questions and queries from Members of Parliament. The Central Voting Bureau made several suggestions for amendment of the Electoral Ordinance for more free, fair and effective elections. So has the Electoral Council that met with Parliament on several occasions. Subsequently Parliament received a proposal from citizen Mr. Julio Romney to change the Electoral Ordinance to introduce the d’Hondt system for the determination of the election results for the distribution of seats in July 2015. Mr. Romney was invited to a Central Committee of Parliament where the proposal was discussed. On December 23, 2015 the Commission Electoral Reform was established with the specific task to come with solutions for the phenomenon of “ship jumping”. As a result of the efforts of said Commission, Government submitted a draft national ordinance containing a solution for “ship jumping” to the Council of Advice for advice in May 2016, just a few months before the September 2016 snap elections. In its advice the Council comes to the conclusion that the draft is in contravention with the principles of equality and free mandate. The Kingdom Council of Ministers also had some serious objections towards the draft in this form and advised the Government of Sint Maarten to address these objections and then resubmit the draft.

Since mid-2016 there has been no significant progress where this topic is concerned.

2. Defining the assignment

2.1 Goals of assignment

The objective of the assignment is for the Assignee to draft legislation to implement Electoral Reform to curb “ship jumping” by amending the regulation of the so called free mandate (“vrije mandaat”) in accordance with article 61, paragraph 3 of the Constitution as well as to address several other matters that need attention in the Electoral Ordinance, as brought forward by the Central Voting Bureau and the Electoral Council.



2.2 Results of the assignment

The following deliverables are due upon completion:

1. Start notitie (discussion paper) on Electoral Reform highlighting the issues that need to be addressed, as brought forward by the Central Voting Bureau and the Electoral Council;
2. A draft national ordinance including presentation (aanbieding), draft (ontwerp) and elucidation (memorie van toelichting);
3. A draft reaction to the advice of the Council of Advice on the draft national ordinance;
4. Legal advising during the handling of the draft national ordinance in the Central Committee if necessary;
5. A draft report following the report (“nota naar aanleiding van het verslag”);
6. A draft final text (“eindtekst”) of the draft national ordinance including Memorandums of Modification and Amendments;

2.3 Project method, planning and payment scheme.

The Assignee is required to do research and study documentation on the subject matter. The Assignee can request documents and files (including audio and video) that are in the possession of Parliament as long as they are not confidential.

The total length of the project is difficult to pin point seeing that it depends heavily on the planning of Parliament itself and other institutions (such as the Council of Advice). Nevertheless, please find below the deadlines for each deliverable:

1. Start notitie (discussion paper) on Electoral Reform highlighting the issues that need to be addressed under point 2: **6 weeks after the start of the assignment (payment 15% of total amount upon completion);**
2. A draft national ordinance including presentation (aanbieding), draft (ontwerp) and elucidation (memorie van toelichting): **4 months after the start of the assignment (payment 35% of total amount upon completion);**
3. A draft reaction to the advice of the Council of Advice on the draft national ordinance: **this depends on how long the Council of Advice takes to render an advice but in any case 8 months after the assignment (payment 10% of total amount upon completion);**
4. Legal advising during the handling of the draft national ordinance in the Central Committee if necessary: **this depends on the planning of Parliament but in any case 10 months after the start of the assignment (payment 20% of total amount upon completion);**
5. A draft report following the report (“nota naar aanleiding van het verslag”): **within 4 weeks after the report is finalized (payment 10% of the total amount upon completion);**



6.A draft final text (“eindtekst”) of the draft national ordinance including Memorandums of Modification and Amendments: **within 4 weeks after the draft national ordinance is accepted by Parliament (payment 10% of the total amount upon completion);**

The start of the assignment can be defined as the day after the signing of the proposal.

3. Principal

The Parliament of Sint Maarten is the Principal. The Secretary General of Parliament is the Project manager. The Assignee is to report to the Project manager.

This project will be financed from the budget post of Parliament, 2030 43476 Rechts- en ander deskundig advies. The Project manager will approve payouts to the Assignee based on the deliverables and payment scheme.

The Presidium will supervise the execution of the project by the Project manager. The Project manager will inform both the Presidium as the Ad Hoc Committee Electoral Reform periodically of the progress of the project.

4. Assignee

The Assignee is able to execute the project from Sint Maarten. The Assignee also has the required experience and capacity to execute the project in the timeline as outlined under 2 at a high quality level.

A full oral and written command of both the English and Dutch language is required. Deliverable numbers 1 and 4 have to be in the English language while deliverable numbers 2, 3, 5 and 6 in Dutch.

The Assignee preferably has experience in similar projects for government organizations and is required to work closely with the secretariat of Parliament (Secretary General).

5. Procedures and requirements

Proposals need to be submitted in writing and signed no later than **April 15, 2018 at 12 pm** via e-mail (in PDF): info@sxmparliament.org or in a sealed envelope at the front desk of the Parliament building.

Proposals are valid for a maximum of three months.

The proposal can be in either Dutch or English.

The proposal must contain a breakdown of the price in Antillean guilders for each deliverable as well as the total price for the execution of the project. Deliverables will be paid out in accordance with aforementioned payment scheme.