



House of Representatives
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
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Saipan, Mariana Islands 96950

① Private Atty Gen
② Clarify "transfer" def
③ Pocket Veto

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MEMORANDUM

April 11, 1985

TO : Speaker
FROM : Chief Legal Counsel Joel J. Bergsma
SUBJECT: My Ideas For Possible Proposed Constitutional Amendments

ARTICLE I

1. Article I, Section 8 concerning trial by jury may be amended to either extend jury trials to all criminal defendants or to further restrict such trials.
2. Adopt a freedom of information right for Commonwealth citizens to access governmental information, unless there is a compelling governmental interest in its confidentiality.
3. Adopt a sunshine provision requiring public boards and agencies to meet in open session when final action is taken on any matter.
4. Adopt a sunset law which will terminate public agencies and corporations, unless the legislature acts to reauthorize the existence of the agency. A 5-year sunset provision for each CNMI agency might be one example.

ARTICLE II

1. Article II, Section 4 could be amended to provide for proportional representation of the members of the House elected at-large from the Island of Saipan. Proportional representation would enhance the ability of minority interests and groups, such as Carolinians, to elect some members to the House. Each political party or group would receive a number of seats based upon its percentage of the votes cast.
2. Article II could be amended to require a unicameral legislature, conditional upon approval for by the United States Government. This amendment requires an amendment of the Covenant.
3. Article II could be amended to establish a ceiling that is indexed for inflation on the budget of the legislature. H.J.Res. No. 18, now pending in the Senate, is one such proposal.

4. Article II could be amended to require the legislature to be a part-time body, meeting four times a year in January, April, July and October.
5. Article II could be amended to grant the Governor item or section veto authority over any legislation. Currently the Governor has such authority only with respect to appropriations bills.
6. The Governor could be given authority with respect to appropriation bills to veto an item or section and to then add or write in the appropriation amount that he desires. A few states have this procedure.
7. Article II could be amended to permit other government employment of legislators if the constitutional convention determines that their need be only be a part-time legislature.
8. Article II could be amended to set forth a requirement that the house may expel a member only by a 3/4 vote of the entire membership of the house. Currently, the Constitution permits a simple majority to expel a member of the house if other provisions are not adopted in the rules of procedure.
9. Article II could be amended to require campaign finance disclosure of electoral candidates.
10. Article II could be amended to grant the legislature a one or two house legisla-tive veto over executive action.

ARTICLE III

1. Article III, Section 9(a) could be amended to specify in greater detail the continuing resolution authority of the government. The Section could also be amended to require the Governor to submit a balanced budget to the Legislature by no later than April 1 prior to the fiscal year.
2. Article III could be amended to reduce the budget of the Legislature in the event it does not enact an appropriation law prior to the beginning of a fiscal year.
3. Article III, Section 10 could be amended to limit the governor's powers to declare a state of emergency for financial reasons.
4. Article III, Section 12 could be amended to provide direct funding for the Office of the Public Auditor.

5. Article III, Section 13 could be amended to provide direct funding to the Department of Education and College. An example might be to give the Board of Education authority to levy a one percent business gross revenue tax for educational purposes. In this way the Department of Education might be removed from politics in the same manner as the Legislature has just removed the college from politics providing an automatic funding formula. The Department of Education would still be subject to salary ceilings and other provisions of law passed by the Legislature.
6. Article III of the Constitution could be rewritten to require the advise and consent of both the Senate and the House to appointments made by the Governor.
7. Article III could be amended to freeze and reduce by 5% each year the number of government employees or the total government budget appropriations.
8. If it is felt that the Civil Service is not sufficiently nonpartisan and independent, the Constitutional Convention could add additional language to Article II, Section 16 to provide for such a nonpartisan and independent body.
9. Article III, Section 17 could be amended to clarify the status of resident department heads in Rota and Tinian and the ability of the Governor to delegate to the Mayors such responsibility.
10. Article III, Section 18 could be amended to grant the Executive Assistant for Carolinian Affairs specific duties within the executive branch. For example, the Executive Assistant may be given ombudsman responsibilities.
11. Article III could be amended to require privatization of certain services.

ARTICLE V

1. Article V of the Constitution may be amended to provide for an increase in the term of office of the Representative to the United States. This change might be superseded by federal law if the Representatives is given Congressional or territorial delegate status.

ARTICLE VI

1. Article VI may be amended to clarify the sharing of responsibilities between the Governor and the Mayors.

ARTICLE VIII

1. Article VIII, Section 4 may be amended to prohibit a lame duck legislature from meeting or to provide that legislators take their seats prior to the second Monday of January of each year. There appears to be very little reason for allowing a two month lame duck legislature to sit for two months prior to the taking of office of the newly elected candidates. The lame duck legislature was used in the U.S. when it took two months to move a family to Washington, D.C.

ARTICLE IX

1. Article IX, Section 1 may be amended to provide for the enactment of laws by initiative pursuant to a much easier procedure. Currently, such an initiative must be approved by 2/3 of the votes cast by persons qualified to vote in Commonwealth. It may be better for an initiative to become law if approved by a majority of the votes cast. Such is the case with respect to rejection of laws by referendum.

ARTICLE X

1. Article X, Section 3 may be amended to require legislative approval prior to the issuance of any bonds by any public corporation.
2. Article X, Section 4 may be amended to specifically require a balanced budget and to prohibit any accumulating deficits, whether contingent or cash based. Amendments may also specify what procedures are to be taking in the event a deficit is incurred, e.g. reduction of government expenses during the next year.

ARTICLE XI

1. Article XI, Section 4 may be amended to abolish the Marianas Public Land Corporation and to make it a division of Public Land within the Department of Natural Resources.

ARTICLE XII

1. Article XII, Section 6 may be amended to provide that the principal of the Marianas Public Land Trust may be used as a guarantee for the issuance of bonds by the Commonwealth.

2. Article XII, Section 3 may be amended to increase the ability of outside persons to own land for more than 40 years. One suggestion has been to increase this to at least 50 years, so that the ability of the Commonwealth to attract title insurance, federal programs, and other market oriented land development businesses might be enhanced.
3. Article XII may be amended to provide for greater enforcement of the land alienation provisions. Currently such provisions are being evaded by dubious methods.

ARTICLE XIV

1. Article XIV may be amended to declare a 200 mile exclusive economic zone and a fisheries and conservation zone belonging to the people of the Commonwealth.
2. Article XIV may be amended to create a Nuclear and Chemical Free Zone.

ARTICLE XVIII

1. Article XVIII could be amended to provide for a third Constitutional Convention 5 years after the conclusion of the second Constitutional Convention.

MISCELLANEOUS

The Constitution's Schedule on Transitional Matters, Section 8 may be amended to make the interim definition of citizenship consistent with the definition of citizenship in the Covenant. The Constitutional Convention may also wish to establish a procedure for the Constitutional certification of permanent residents and immediate relatives.

The Constitution may be amended to limit the number of aliens permitted to work and reside in the Commonwealth.


Joel J. Bergsma

cc: DCLC