

SECOND NORTHERN MARIANAS CONSTITUTIONAL CONVENTION
HOUSE OF TAGA
SAIPAN, CM 96950

MEMORANDUM

Date: June 25, 1985

Legal Opinion No. 23

To : Attorney General
From : Chairman, Committee on Governmental Institutions
Subject : Request for Legal Opinion on Delegate Proposal
Nos. 39 and 57.

These Proposals involve a technical amendment and an addendum provision.

Issue raised in the Addendum: Should political appointees be included in the restriction provided under Article II, Section 11?

Please provide your recommendation and rationale.

Juan T. Lizana, Esq.

xc: Con-Con President



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REXFORD C. KOSACK
ATTORNEY GENERAL

TO : Chairman, Committee on Governmental
Institutions

FROM: Legal Counsel

RE : Political Appointees as Board Members
Opinion No. 23

DATE: 6-27-85

You have asked for our opinion whether political appointees should be prohibited from serving in any other Commonwealth government position, such as on a board or commission. While this is not strictly a legal issue, it does require some knowledge of our laws to see what disruption this amendment could cause. This opinion makes no recommendation on the measure, but only seeks to indicate its potential impact.

Many boards, commissions, and agencies in government have political appointees who serve as members. The directors of the principal department's of the Executive Branch are appointees of the Governor. Quite frequently legislation establishing boards or commissions specifies the membership of these appointees. Here are some examples:

Law Revision Commission
P.L. 2-11

Attorney General
Public Defender

Advisory Commission on Revenue and Taxation
P.L. 2-12

Director of Finance

Coastal Advisory Council
P.L. 3-47

Special Assistant
Carolinian Affairs
Chairman, MPLC

Coastal Resources Management
P.L. 3-47

Director, DNR
Director, C & L
Director, Public Works
Director Public Health

Committee on Lottery Commission
P.L. 3-60

Director, Finance
Attorney General
Director, C & L

Interagency Audit Coordinating Group
P.O. 3-91

Director, Finance
Special Assistant
Planning and Budgeting


Rec'd 6/27/85 - pm/ea

Chairman, Committee on
Governmental Institutions
June 27, 1985
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This list is not meant to be exhaustive. There are several boards whose members are selected by the Governor in which appointees are routinely selected because of their unique experience and knowledge in the particular subject matter.

It would seem as though such a restriction would necessarily limit the talent available to staff special boards. We believe that the main purpose of the restriction on legislators is to avoid their creation of a lucrative opportunity on a board for their own advantage. This possibility is remote for members of the Executive Branch who do not have the power to create boards and commissions. Furthermore, the opportunity for enrichment on boards such as those named above is minimal.

So, the impact of the proposal would be significant. It would require restructuring several boards that already exist. And, the advantage of such a proposal is outweighed by the limitations it places on recruiting experienced members for a board.


REXFORD C. KOSACK
Attorney General