



Third Northern Mariana Islands Constitutional Convention

June 7, 1995

MEMORANDUM FOR THE CHAIR OF THE COMMITTEE ON EXECUTIVE BRANCH AND LOCAL GOVERNMENT

SUBJECT: Issues Before the Committee with Respect to Article III (The Executive
Branch)

This memorandum is aimed at helping the Chair and members of the Committee on Executive Branch and Local Government with an overview of the issues before the Committee so that it can set an agenda and accomplish its task as diligently and expeditiously as possible. The analysis and suggestions here are necessarily preliminary because they are based primarily on the delegate proposals shared to date with counsel, and it can be expected that many additional proposals will be forthcoming after the Convention begins. We have attempted to list the issues raised by section within Article III ranked by their apparent complexity or controversial nature and, in the same process, we have tried to create an order in which there is a reasonably logical flow from one issue to the next. . In addition, we have offered some comments on those proposals as to which the Committee may wish to seek some input from experts or others before presenting its recommendation to the Convention. This may provide a starting point for the Chair, in consultation with the Committee on Organization and Procedures, to decide the sequence in which subjects should be considered by the Committee and to recommend areas in which public hearings may be desirable.

1. Section 9(b): Governor's Annual Report

There are a few proposals requiring that the Governor present his report in person.

2. Section 10: Governor's Emergency Powers

There are proposals to define the Governor's authority to act in the event of a "calamity." Some would require that he not act unless the Legislature is unavailable; others would permit him to act if the Legislature subsequently within a limited time confirms his action. These proposals appear to present a relatively straightforward question for the Committee.

3. Section 15: Governor's Reorganization Orders

There is some sentiment for eliminating the limit of 15 for the number of executive departments. The principal issue in this area, however, is the Governor's authority to reorganize the executive departments by executive order absent the disapproval by both houses

of the Legislature. Several proposals have been made to require the affirmative approval of both houses before an executive order changing the law becomes effective. The committee, in consultation with the Committee on Organization and Procedures, may want to consider some process for hearing from the Governor on the subject.

4. Section 21: Boards and Commissions

There are several proposals to delete this provision from the Constitution.

5. Section 14: Heads of Departments

There are a number of proposals here, dealing with such subjects as changing the term of office, qualifications, appointment method, confirmation procedure and service on boards and commissions. Although seemingly easy, these subjects bear on the general topic of executive authority and the committee will probably want to evaluate these proposals along with other such items under other sections and decide whether and when to hear from the Executive Branch on these topics.

6. Section 22: Special Assistant for Women's Affairs

Section 23: Resident Executive for Indigenous Affairs

These two sections are generally treated together in the proposals that have been submitted to date. There is widespread support for eliminating these offices in the Constitution and leaving it up to the Executive Branch to assign them to some appropriate department. It is up to the Committee to decide whether it can address these two offices separately from the office of the Carolinian Affairs; some delegates may feel that one or both of these offices should not be eliminated if the Carolinian Affairs Office is not similarly treated. The Committee may want to hear from present or former holders of these offices to get some sense of exactly what they have done and what difference, if any, their constitutional status makes.

7. Section 18: Executive Assistant for Carolinian Affairs

Because of its history and and importance to the Carolinian community, the status of this office under the Constitution presents issues separate and distinct from the two offices added by the 1985 Convention relating to women's affairs and indigenous affairs. There are some proposals to eliminate this office, along with the other two, but we expect proposals from other delegates designed to either make the position an elected one or to change the appointment process in one way or another. The Committee will probably want to hear from representatives of the Carolinian community in a committee session at some relatively early stage of its proceedings and anticipate that any proposal that emerges from the Committee, either before or after it goes to the Convention, will be the subject of public hearings.

8. Section 12: Public Auditor

There are proposals before the Committee dealing with the qualifications of this

office and making it an elected office. There are some general issues regarding appointed vs. elected officials within the Executive Branch that the Committee will want to discuss, which relate also to the Attorney General, before coming to some preliminary judgment on these proposals.

9. Section 3: Offices of Governor and Lieutenant Governor

Only a few proposals have been submitted to date on this general subject. Some are essentially updating or otherwise noncontroversial, eg. deleting the dollar amount of compensation from the Constitution. Others are more controversial, such as requiring separate election of the Governor and Lieutenant Governor by not allowing them to run on the same ticket. These issues might be relatively easy to resolve.

10. Section 11: Attorney General

Many proposals have been made to change this office to an elected one. There are differences, however, as to whether the office should be declared a non-partisan one, length of terms, and many other aspects of the office. This is a fairly straightforward issue, but there are other proposals aimed at creating new elected offices or independent agencies that affect the authority of the governor, and some overall perspective and discussion generally among the delegates on these issues would probably be useful.

11. Section 9(a): Processing of Budget

Based on the proposals submitted to date, there is widespread interest among the delegates to change the annual handling of the budget. The specific proposals, however, raise some complex issues of implementation and enforcement. This may be an area where some outside expert assistance might be valuable and the committee may want to hear from representatives of the Executive and Legislative Branches (both present and past) about their practical experience and their assessment of the proposals on this subject before the committee.

12. Section 20: Retirement System

These is a broad range of proposals affecting this section. Some would eliminate it from the Constitution entirely; others would change its provisions relating to the five years credit; others would require popular initiative for certain changes; other relate to the "double-dipping" issue. The Committee may wish to hear from some knowledgeable experts regarding these issues and the financial impact of any proposed changes.

13. New Agencies and Other Issues on the Executive Branch

The committee also has proposals to require advance publication of all executive orders proposed to be issued by the Governor and to mandate the Legislative to create a new health system for the Commonwealth, including privatization. Other proposals that cannot be

easily categorized will probably be submitted after the Convention convenes.

14. Section 17: Delegation of Executive Authority to the Mayors

Most of the proposals to date with respect to the local government issue have been submitted by way of proposed amendments to Article VI, also within the jurisdiction of this Committee. The Committee probably will want to consider Section 17, which provides for public services in the municipalities, together with Article VI. Because the question of delegation of executive authority by the Governor to the mayors requires some preliminary judgement as to the powers of the mayors, it may be best to defer consideration of this specific question until the Committee has confronted the broader issue of local government in the CNMI. This may be an area in which the Committee will want to conduct public hearings on Tinian and Rota. Exactly when in the process such hearings would be timely needs discussion within the Committee and the Convention's leadership.

After considering this memorandum and similar reports regarding the other articles within its jurisdiction, the Committee will want to decide upon an appropriate schedule that it can discuss with the Committee on Organization and Procedures. Once this schedule is tentatively announced, the Committee may wish to establish a timetable for the introduction of proposals relating to the articles that the Committee is considering so that all relevant proposals are before the Committee before it makes its preliminary determinations or has committee hearings on the subject.