



Third Northern Mariana Islands Constitutional Convention

ART III
-931-

June 12, 1995

MEMORANDUM FOR THE COMMITTEE ON EXECUTIVE BRANCH AND LOCAL GOVERNMENT

SUBJECT: Agenda for Committee Meetings During Week of
June 12, 1995

I have received a report from counsel regarding the proposals recently filed relating to Article III (Executive Branch) that suggests a minor change in the Committee's agenda for its meetings during the week of June 12, 1995. Counsel informs me that about 130 proposals have been screened by counsel relating to this Article; some of these will not be delivered to delegates until today. About half of them are signed, including those that the President has introduced as a matter of courtesy. Of the remaining half that are unsigned, more than half propose amendments like those already presented to the Convention by signed proposals and others in this category will probably be signed and formally introduced during the next few days.

Counsel also reports that the proposals deal with sections of Article III that were not listed on the agenda previously circulated to you. In fact, there now are proposals that deal with virtually every section of this Article. Under the circumstances, I have decided that it would be easier for all of us if we considered the sections in numerical order. If we reach a section as to which the members do not have all the relevant proposals and wish to defer discussion, we can do so.

Based on the proposals pertaining to Article III, the following appear to be the issues that the Committee should consider with respect to the sections of the Article that we will be discussing during our next few meetings.

1. Section 2: Qualifications of the Governor

There are two issues raised so far with respect to this section:

a) Does the Committee wish to change the residency and domiciliary requirement for Governor from 10 years to 7 years as originally specified? (#314)

b) Does the Committee wish to require that each candidate for Governor have a psychiatric examination before declaring his or her candidacy? (#370)

2. Section 3: Lieutenant Governor

One issue: Does the Committee wish to specify that the President of the Senate should become the Lieutenant Governor in the event that office becomes vacant? (#63)

3. Section 4: Joint Election of the Governor and Lieutenant Governor

Does the Committee want to change the section so that the Governor and the Lieutenant Governor are elected separately? (#187)

4. Section 5: Compensation

Does the Committee wish to eliminate the reference to specific dollar amounts as an updating amendment? (##4, #234)

Does the Committee wish to provide that the legislature, after receiving the report of the advisory commission, must either approve or reject the recommendation but may not change it? (#234)

5. Section 8: Absence or Disability of the Governor

Does the Committee wish to recognize the creation of the Commonwealth Supreme Court as an updating amendment? (##2,235)

6. Section 9: Executive Functions

Many proposals have been submitted relating to Section 9(a), dealing with the submission of a proposed annual balanced budget, and Section 9(b), dealing with the Governor's duty of making an annual report to the legislature. In addition, there are some proposals to add new subsections to this section.

Section 9(a): The proposals before the Committee raise the following major questions for discussion:

Does the Committee wish to require a biennial budget, specify how it should be prepared, and set forth a timetable for its consideration by the legislature? (## 144, 385)

Does the Committee wish to require the Governor to take actual collections for the last two quarters into account in estimating revenues for the next fiscal year? (#390)

Does the Committee wish to require the Governor to submit the proposed budget at some fixed time before the

beginning of the fiscal year? (##269, 236) If a biennial budget approach were adopted, a similar requirement could be imposed.

Does the Committee wish to eliminate the provision in Section (a) for a continuing resolution if a budget is not passed? (##342, 73, and others)

If the legislature does not pass the proposed budget by a fixed date, does the Committee wish to provide that the Governor's proposed budget should be deemed approved? (##73, 104, 109)

If the Committee wants to delete the continuing resolution provision and not allow the Governor's proposed budget to become effective, what are the consequences if the budget is not passed before the beginning of the fiscal year? Does the Committee want all government operations to stop? (Eg. ##138, 73) Or provide for the continuation of essential services up to some dollar percentage? (Eg. ## 269, 64) Or provide for a more detailed procedures for permitting government expenditures to go forward? (Eg. # 311)

Section 9(b): There seem to be three issues here.

Does the Committee wish to require the Governor to appear personally before a joint session of the legislature to deliver his annual report? (Eg. ##318, 65)

Does the Committee wish to specify the exact date when such a report must be made? (Eg. #318, 181)

Does the Committee wish to require the Governor to submit a comprehensive financial report on an annual basis that meets certain strict requirements? (Eg. #286)

New Subsection: One proposal has suggested that the Governor be required to publish proposed Executive Orders sufficiently in advance to allow meaningful public comment before the Order is put into effect.

7. Section 10: Emergency Powers

Does the Committee wish the Governor to act in the face of a "calamity" even though the term has not been defined by the legislature? Can the Governor do so only if the legislature cannot be called into session? Can he act only after giving the legislature a period within which to override his (proposed?) action? Or, if he is permitted to act without legislative approval, is he obligated to report to the legislature within a fixed period of time? (Eg. ## 66, 108)

8. Section 11: Attorney General

The many proposals seeking to amend this section raise the following issues:

Does the Committee wish to split the functions of the Attorney General's Office and create a new position of Commonwealth Prosecutor to handle criminal matters? (#297)

Does the Committee wish to change the position of Attorney General into an elected position? (Eg. ## 297, 189, 136, 112, 173, 30, 211)

If so, should the election be on a non-partisan basis? (Eg. #189) Or should the Attorney General run on the same ticket as the Governor and Lieutenant Governor? (Eg. #136)

How long should the term be? Should the Attorney General be limited to two consecutive terms? (Eg. ## 136, 189, 297, 112, 211)

What qualifications for the position should be specified in the Constitution? (Eg. ## 67, 324, 297, 189, 136, 67, 72, 218) Regarding age (30, 35 or other)? Regarding CNMI bar membership? Residence in the CNMI? For how long? U.S. citizenship?

If the position remains an appointed one, are there any changes re qualifications that the Committee wishes to recommend? (Eg. ## 72, 142)

9. Section 12: Public Auditor

Does the Committee wish to recommend that the Public Auditor be elected? (Eg. ## 188, 31)

If the position remains an appointed one, does the Committee wish to specify the qualifications for the Public Auditor, such as being a CPA with a degree in accounting and registered to vote in the Commonwealth? (Eg. #68)

If it is an appointed position, should there be limitations on anyone serving as a temporary Public Auditor? Should the legislature required to act on a nomination to this position within a specified period of time? (Eg. #271)

Should the ceiling on the budget be deleted from Section 12 and the Public Auditor required to submit a proposed budget to the legislature for each fiscal year? (Eg. 240)

10. Section 14: Heads of Executive Departments

Does the Committee wish to require that the Senate act within a stated period of time in considering nominations that require the Senate's advice and consent? (Eg. #88) Should there be a requirement that the Senate vote on nominations in open sessions with a recorded vote? (Eg. #88)

Does the Committee wish to require the Governor to nominate a replacement for a vacant position within a fixed period of time and provide that, if the legislature fails to act within a fixed period, the nomination shall be deemed to have been rejected? (Eg. #316)

Does the Committee wish to provide that no gubernatorial appointee rejected by the legislature may be reappointed to the same position? (Eg. #317)

Does the Committee wish to prohibit the Governor from appointing the head of any Department to serve on any board or commission whose members are appointed by the Governor? (Eg. #23)

11. Section 15: Executive Branch Departments

Does the Committee wish to require that both houses of the legislature must act before an executive order effecting changes in the laws becomes effective? If so, is a majority vote sufficient or should a higher vote be required? (Eg. ## 300, 325, 272, 174, 241, 110) Does the Committee wish to specify a limited period of time within the legislature must act? (Eg. #325) Or does the Committee wish to provide that the order would become effective if approved by both houses or if no single house rejects the order within 60 days after submission. (Eg. #379)

Does the Committee wish to specify the matters or agencies that the Governor cannot affect through his reorganization authority? (Eg. #379)

Does the Committee wish to nullify Executive Order 94-3? (Eg. #300)

Does the Committee wish to delete the limitation to 15 principal departments in this section? (Eg. #137)

12. Section 17: Public Services

Various proposals referring to this section and dealing with aliens have been transferred to the Committee on the Judiciary and Other Elected Offices. This includes ## 283, 343, 357, 371, 340.

Discussion re the delivery on public services on the separate islands under the supervision of the Mayors, since it involves fundamental issues relating to local government, will be deferred until the Committee has discussed Article VI and the many important proposals made with respect to the sections of that Article.

This leaves for the consideration of this Committee other proposals that would direct that certain actions be taken by the legislature or executive branch agencies. For example,

Does the Committee wish to require the legislature to establish a Commonwealth Health Insurance Plan within two years? (#216)

Does the Committee wish to require the Commonwealth to move towards privatization of the health care system and specifying some of the steps that must be taken to achieve this objective? (#215)

Does the Committee wish to require the Health Center to conduct public hearings on the three major islands before it increases its rates for medical or hospital services? (#282)

Does the Committee wish to direct that the Health Department become a semi-autonomous agency with authority to handle its own collections and personnel matters? (#217)

Does the Committee wish to require that CUC conduct public hearings on the three major islands before it increases its rates? (#281)

Does the Committee wish to require that all government contracts for public projects have required public notice and hearing when change orders are made? (#339)

13. Section 18: Executive Assistant for Carolinian Affairs
Section 22: Special Assistant for Women's Affairs
Section 23: Resident Executive for Indigenous Affairs

The first issue here is whether the Committee wishes to delete any of these offices from the Constitution. Some proposals recommend that all three offices be eliminated (Eg. ## 287, 179,

237, 70) Other proposals recommend that only the Women's Affairs and Indigenous Affairs Offices be deleted (Eg. ## 210, 76, 77, 170) Other proposals would eliminate only the Women's Affairs Office. (Eg. #34, 76)

Even if some of these provisions are taken out of the Constitution, there are various proposals before the Committee as to what to do with their functions. Some proposals would combine all three offices into a Department of Community and Cultural Affairs. (Eg. #179) Other proposals are most concerned with preserving the functions of the offices dealing with indigenous affairs and would consolidate the functions of the Carolinian Office and the Indigenous Affairs Office into a single office - perhaps with a constitutional provision to mandate its creation. (Eg. ##34, 388) Other proposals would delegate these responsibilities to the Mayors. (Eg. #237)

Assuming that some of these offices remain in the Constitution, there are proposals that would require the advice and consent of both houses of the legislature for the appointment of their heads and place the employees of the offices under the civil service system. (Eg. ##97, 96)

14. Section 19: Impeachment

Two proposals (##242, 374) would add to the list of offenses for which the Governor and Lieutenant Governor could be impeached.

15. Section 20: Retirement System

Does the Committee wish to delete this entire section because it deals with essentially a legislative matter?

If not, does the Committee wish to delete or add specific provisions to the section? For example, there are proposals that would prohibit the legislature from enacting any new retirement benefits without also funding them (#338), delete the additional five year credit (## 239, 21), delete the 60-day limit on re-employment (#239), preclude the legislature from expending retirement funds for any purpose other than retirement (#239), extend the five year credit back to 1980 (#98), and permit re-employment of retired persons for up to two years (#98).

Does the Committee wish to require that any changes in the terms of the retirement program regarding eligibility be decided only by popular initiative?

Or does the Committee wish to consider a substantially revised section that would seek to protect the retirement funds,

limit the authority of the legislature with respect to such funds, deal with the reemployment issue, etc? (##310, 308, 309)

16. Section 21: Boards and Commissions

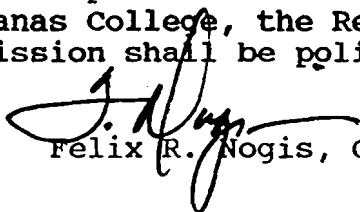
Does the Committee wish to delete this section as a legislative matter? (##238, 288, 171, 40, 33, 83)

Does the Committee wish to require that no executive department shall have any boards or commissions except as required by federal grants? (#347)

17. New Sections

Does the Committee wish to create a new elected position of Treasurer who would assume the duties and replace the Secretary of Finance? (#299)

Does the Committee wish to provide that the Public School System, the Northern Marianas College, the Retirement Fund, and the Civil Service Commission shall be politically independent? (#386)


Felix R. Nogis, Chair