

MEMORANDUM FOR THE CHAIR, COMMITTEE ON LEGISLATIVE BRANCH
AND PUBLIC FINANCE

SUBJECT: Issues Before the Committee with Respect to Article II (The Legislative Branch)

This memorandum is aimed at helping the Chair and the members of the Committee on Legislative Branch and Public Finance 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 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. The issues that need to be addressed by the Committee range from the easy to the difficult: many of them basically relate to the kind of legislative body that the delegates want to have in the Commonwealth. The listing below attempts to organize the issues in some logical order so that, after making some major decisions with respect to the proposals before it, the Committee can then proceed to consider other matters whose resolution will be easier in light of its earlier deliberations and decisions.

1. Section 13: Sessions

Although seemingly procedural in nature, the constitutional provision defining when the Legislature meets raises the fundamental issue as to whether the Legislature should be a part-time body or a full-time legislative body. Several proposals are before the Committee with respect to the number, timing and substance of legislative sessions; they range from a proposal to increase the length of sessions to limiting them severely. They address the related question as to who can call special sessions, under what circumstances, and for what purposes. Once the Committee decides these basic issues, it can resolve the other matters raised by the proposals before it to amend this section, eg. where the Legislature must meet, when it must meet, limitations on its authority to adjourn for more than three days, and so forth.

2. Sections 2 and 3: Size and Composition of Legislature

There are many proposals before the Committee with respect to the size and composition of both houses. With respect to the Senate, there are proposals to reduce its size from 9 to 6, with the Lieutenant Governor given the new authority to preside over the body and break any tie votes. (This latter provision, of course, also would affect the constitutional provision giving the Senate the authority to choose a President of the Senate.) With respect to the House of Representatives, there are various proposals to reduce its size -- typically down to 8, 9, 10 or 11 representatives from Saipan and 1 each from Tinian and Rota. To some extent, this determination depends on the legal requirements imposed by the one-person/one vote under the U.S. Constitution. If the Legislature is reduced in size, there also are proposals to delete the statutory cap in the Constitution so that it could not be increased in the future. In addition, there are several proposals to require that the representatives from Saipan be chosen on an island-wide

basis. Several proposals also would consolidate the Northern Islands as part of Saipan for all purposes.

3. Sections 2 and 3: Qualifications and Terms of Legislators

There are some proposals that bear on the qualifications of the legislators, including proposals to increase the age requirements. Other proposals would increase the length of the terms to 4 years in the House of Representatives and 6 years in the Senate. Still other proposals would impose term limits, either two or three consecutive terms for any one legislator. There also are provisions relating to the disqualification that attaches to any felony conviction and some sentiment that this disqualification be uniform throughout the Constitution.

Several delegates have requested that legal counsel determine the maximum residence and domicile requirements that are permitted under the U.S. Constitution. We are completing the necessary research in order to respond to these requests and will provide our suggestions to the Committee as soon as it reaches this question.

4. Section 10: Compensation

Once the Committee decides what type and size of Legislature it desires, it can turn to the question of compensation. There is an updating proposal here to eliminate the dollar amount now in the Constitution. There are other proposals dealing with the use of the salary commission and implementation of its recommendations. There is considerable experience on this in the States that the Committee may wish to draw upon.

5. Section 16: Budget Ceiling

Having made the above decisions, the Committee may wish to turn to the issue of the overall budget ceiling now in the Constitution. One non-controversial proposal here is to delete the transitional provision placed in the Constitution by the 1985 Convention. There are at least three separate issues raised by the various proposals before the Committee relating to this section. First, there is the question of whether to have a ceiling at all and, if so, at what level. Second, there is the question as to how to distribute the money made available to the Legislature to fund its operations, especially whether majority and minority members should be treated equally. Third, there is the question as to the purposes for which the funds may be spend; there are proposals that would prohibit use of these funds for partisan activity, support of community functions, and other activities not specifically related to the legislative mission.

6. Section 17: Legislative Bureau

The first issue raised by the proposals to date is whether to keep the Bureau in the Constitution. If the Committee elects to keep such a provision in the Constitution, then it must decide among the various proposals relating to the ceiling currently in Section 17 regarding the cost of the Bureau; there are some proposals that would increase the present amount. In addition, the Committee has other proposals bearing on the Bureau, including some that affect the term of

the Director and others that would expand the duties of Bureau personnel.

7. Section 14: Organization and Procedures

There are several proposals relating to this section. Some of them seek to change the method for electing the officers of the Legislature, eg. by basing it on seniority or by restricting the Legislature from changing its officers during a session or term except with a super-majority vote. Other proposals would make the Supreme Court, rather than the Legislature itself, the sole judge of the qualifications of the members. Other proposals are addressed to the goal of open government and would impose certain requirements on the Legislature to publish its agenda in advance, require public hearings after adequate notice, require hearings on each of the three major islands and open sessions.

8. Section 5: Enactment of Legislation

There are several proposals that would establish new procedures for the Legislature to follow in enacting laws. Some would require an appropriation to accompany any law creating a new program. Others would attempt to enforce the "one subject" rule, require three separate readings on different days, and advance circulation to the legislators of bills on which they are being asked to act. Another proposal seeks to require the Legislature to enact laws that would preclude those with felony convictions from entering the Commonwealth.

9. Section 6: Enactment of Local Laws

Several proposals would eliminate the authority of the Legislature to enact local laws for any individual Senatorial district.

10. Section 7: Action on Legislation

There are proposals before the Committee that would provide another option when the Governor vetoes legislation. Also, there is a proposal that would require the Governor to review essentially every substantive action by the Legislature.

11. Section 8: Impeachment Power

There is a proposal to consolidate all provisions in the Constitution relating to impeachment in a single provision in this article.

12. Section 4(b): Redistricting

There is an updating proposal to make the reference to the CNMI Supreme Court rather than the courts now referred to.