

MEMORANDUM FOR THE COMMITTEE ON ORGANIZATION
AND PROCEDURES

July 5, 1995

SUBJECT: Senate Action on Amendment to the Enabling Act

The Senate considered H.B. 9-408 late last week and passed it with several significant amendments. This is the proposed legislation that would reschedule the consideration of the amendments recommended by this Convention until a special election sometime next year. The amendments are as follows:

1) For reasons unknown to us, the Senate decided that the Convention should conclude which of its proposed amendments should be deferred until a special election. This seems to present no problem, since presumably the Convention will elect to postpone all until the later date.


2) Rather than six months after the next general election, the Senate proposes the last Saturday in February 1996 -- about six months after conclusion of the Convention.

3) In Section 4 the Senate added a provision to the House bill that seeks to deal with the problem of conflicting amendments put before the voters in November 1995 (the only that we know about now is the Legislative Initiative that would increase the legislative budget to about \$8million a year). The Senate proposes that amendments covering the same subject be both given effect to the fullest extent possible, if they cannot be reconciled then the Convention's proposed amendment prevails to the extent of the conflict, but "that if the amendment concerns the legislative branch, the amendment garnering the larger number of votes shall prevail." This last provision, in our opinion, may be unconstitutional; the CNMI Constitution provides that amendments become effective upon achieving a certain fixed level of voter approval. If it reaches that level, the proposed amendment becomes effective. In other words, this is not a popularity contest. If there is a conflict between two amendments approved by the voters at the same time, the matter would presumably be left to the courts to work out the conflict; and the Senate attempt to deal with the issue might be given some effect. More to the point, this Senate amendment reveals the legislators' concerns about the current intentions of the Convention to impose certain new constraints on their spending. This argues even more strongly for persuading the Legislature to withdraw its initiative or to ensure that the Convention's amendment on the subject goes to the voters after the Legislative Initiative does.

4) The Senate also passed a new section that seeks to require the Convention to adhere to the requirement of a two-thirds vote on proposed amendments and to change the rule re the counting of abstentions. It looks as though some Convention delegates may have been discussing the situation with certain of the Senators.

The Committee needs to consider what efforts to make, if any, to deal with some of these amendments in the conference between the House and Senate representatives. The Convention's

most important priority, in our opinion, is that there be a special election to consider all the amendments that emerge from this Convention. We could try through discussions with counsel for the two houses to persuade them that the Senate amendment re conflicting amendments is unconstitutional and should be withdrawn. Or you could elect to let it go forward to the Governor and let him deal with certain portions of the bill through his item veto. As to the supramajority vote issue, it is certainly true that the Governor could sit on this proposed legislation until the Convention concludes its business and then approve it in whole or part as he thinks appropriate.

 HPW & DCS

Handwritten notes: "12/29/95", "PASSED 7 YES 1 NO", and a signature.

NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE H. B. NO. 108, SD1
FIRST SPECIAL SESSION, 1995

A BILL FOR AN ACT

To provide for a special election to consider proposed amendments to the Constitution which may be submitted by the Third Northern Mariana Islands Constitutional Convention; and for other purposes.

BE IT ENACTED BY THE NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Title. This Act shall be known as the Special Constitutional
2 Amendment Election Act of 1995.

3 Section 2. Findings. The Legislature finds that the Pre-Convention
4 Committee of the Third Constitutional Convention has requested that the
5 Legislature provide for a special election to consider constitutional
6 amendments, instead of putting the amendments on the ballot of the general
7 election of November 1995.

8 There are two compelling reasons for holding a special election. First it
9 appears that the Convention will not complete its work until August of 1995.
10 This would allow only three months for public education, discussion and
11 debate. These important issues should be given more time.

12 Second, if the amendments are placed on the general election ballot, it is
13 likely that the Constitutional issues will become part of the general election
14 campaign, and will be mixed with partisan politics.

15 ~~For these reasons~~ However, the Legislature finds that the Convention
16 alone should decide whether a particular amendments should be considered
17 separately, in a special election ~~to be held at least~~ approximately six months
18 after the end of the Convention or presented for ratification during the
19 November 1995 general election.

20 Section 3. Special Election.

21 (a) Authority. Pursuant to Article XVIII, Section 5(a) of the
22 Constitution of the Commonwealth of the Northern Marianas Islands,
the Commonwealth Legislature hereby provides for a special election to

1 consider those amendments to the Constitution ~~which may be proposed~~
2 by the Third Northern Marianas Islands Constitution Convention which
3 the Convention shall designate for submission to the voters at such
4 special election.

5 (b) Date of election. The special election shall be held on the
6 first last Saturday following ~~the date that is six months after the end of~~
7 ~~the 1995 General Election~~ of February 1996.

8 (c) Scope of election. The election shall only consider those
9 Constitutional amendments proposed and designated by the Third
10 Constitutional Convention for consideration at the election.

11 Section 4. Ratification Conflicts. In the event a legislative initiative
12 and an amendment proposed by the Third Constitutional Convention are both
13 ratified in the same election, the multiple amendments shall be given effect to
14 the fullest extent possible, but if the two amendments cannot be enforced or
15 construed together because of conflict, in whole or in part, the amendment
16 proposed by the Convention shall prevail to the extent of the conflict;
17 Provided, that if the amendment concerns the legislative branch, the
18 amendment garnering the larger number of votes shall prevail.

19 Section 4 5. Severability. If any provision of this Act or the application
20 of any such provision to any person or circumstance should be held invalid by
21 a court of competent jurisdiction, the remainder of this Act or the application
22 of its provisions to persons or circumstances other than those to which it is
23 held invalid shall not be affected thereby.

24 Section 5 6. Savings Clause. This Act and any repealer contained herein
25 shall not be construed as affecting any existing right acquired under contract
26 or acquired under statutes repealed or under any rule, regulation or order
27 adopted under the statutes. Repealers contained in this Act shall not affect any
28 proceeding instituted under or pursuant to prior law. The enactment of this
29 Act shall not have the effect of terminating, or in any way modifying, any
30 liability, civil or criminal, which shall already be in existence at the date this
31 Act becomes effective.

1 Section 6 Z. Effective Date. This Act shall take effect upon its approval
2 by the Governor or upon its becoming law without such approval.

Date: prefiled: 5-5-95

Introduced By: /s/ Rep. Jesus T. Aitao

 /s/ Rep. Heinz S. Hofschneider

 /s/ Rep. Oscar M. Babauta

Reviewed for Legal Sufficiency:

 /s/ Maya B. Kara

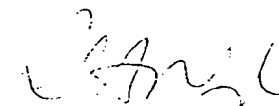
YES 1/25
King No.
7 YES
1 NO

Floor Amendment to H.B. 9-408, SD1

Page 2, line 19, insert a new section 5 and renumber the following sections accordingly; the new section to read:

Section 5. Vote Required to Propose Amendments. Section 15 of Public Law No. 9-18 is hereby amended to read:

"Section 15. Voting; Acts of the Convention. No voting shall be permitted except in person. Except as otherwise provided by the Rules of Procedure adopted by the Convention, which may provide for a voting requirement, and except for the final vote to approve a proposed amendment, any question before the Convention or a committee thereof shall be decided by the vote of a majority of those delegates present and voting, a quorum being present. ~~Voting require for the Final adoption by the Convention of each proposed amendments shall be determined by the Rules fo Procedure adopted by the .~~ convention require the affirmative vote of not less than two-thirds of the Convention delegates. A roll call vote shall be required on any motion for the final adoption of a proposed amendment to the Constitution, ~~and, on such votes, the prevailing side of the vote shall have the abstentions, for the purpose of determining the success or failure of the motion."~~


Offered by: Sen. Paul A. Manglona

3/4 75%
2/3 66%