

JULY 24, 1995

REPORT OF THE COMMITTEE ON LEGISLATIVE BRANCH AND PUBLIC FINANCE

ARTICLE II: LEGISLATIVE BRANCH, SECOND READING

The Committee presents the following report to the delegates with respect to Article II: Legislative Branch, on second reading.

Delegate Proposals. The Committee's Report No. 5 is dated July 10, 1995. Thereafter, Delegate Proposals 566, 575, 591 and 593 were introduced. The Committee has considered each of these proposals. The Committee had considered Delegate Proposal No. 479 in preparing Report No. 5, but that proposal was inadvertently omitted from the list attached to the Report.

Floor Discussion. The Committee of the Whole discussed Report No. 5 on July 11, 1995. One delegate suggested that the lieutenant-governor should preside over the closing session of the Senate. The Committee concluded that to respect the separation of powers, once the senate elects a presiding officer, the lieutenant-governor should not preside over any of its sessions.

Delegate Amendments. The Committee received Delegate Amendment No. 1, proposing to amend Section 3 to reduce the term of office for a house member to two years. The Committee does not recommend this change. The Committee has revisited this issue and concluded that the benefits of a four year term outweigh the disadvantages noted by the proponents of the amendment. A longer term will improve the political process. It will provide more experienced legislators. It will reduce the amount of time that a member must direct towards reelection and thereby provide more time for the member's legislative duties. By reducing the number of elections, campaigning and election costs will be lower. The Committee expects that the longer term may also attract a larger pool of qualified candidates. The coordination of elections for the house and the senate (as well as the governor) every four years may also produce a more consistent electoral result that will help the Commonwealth government function more effectively than it has in the past.

The Committee received Delegate Amendment No. 13, proposing a 7 year "sunset" provision on all new entitlement and regulatory programs. The Committee does not recommend this change. Sunset provisions may be useful but are best enacted by the legislature on a bill by bill basis.

The Committee received Delegate Amendment No. 21, which proposes Commonwealth wide at large elections for the senate, while keeping the requirement that two senators must be from each district. The Committee does not recommend this change, in part because of concerns that it may not be consistent with the Covenant.

The Committee received Delegate Amendment No. 22, which proposes that any legislator convicted of a crime carrying a sentence of 30 days or more be automatically expelled. The Committee recommends this change in Section 13(a). A legislator occupies a position of the highest public trust and should be held strictly accountable for criminal misconduct. So long as the conviction is not for a felony (See Article VII, Section 3), the legislator is free to seek election to other public office.

The Committee received Delegate Amendment No. 23, which proposes that no legislator may have private employment. The Committee does not recommend this change. The Committee earlier rejected proposals to convert to a part time legislature, concluding that the Commonwealth would be more effectively served by full time legislators. The Committee believes that full time legislators should treat the office as a full time position and should not be employed in the private sector at the same time. However, the Committee is mindful that many legislators are employed in family businesses and concluded that the level of detail that an effective and fair prohibition would require did not belong in the Constitution. The Committee urges legislators to regard their offices as full time employment.

The Committee received Delegate Amendment No. 28, which requires the governor to transmit a vetoed bill to the legislature in 5 working days. The Committee recommends this change in Section 6(a). This will clarify when the sixty days given the legislature to reconsider a vetoed bill begins to run.

Committee Changes. The Committee recommends a change to Section 2(a) on the recommendation of The Committee on Executive Branch and Local Government . That Committee concluded that a fourth senatorial district should not be automatically created for the islands north of Saipan until they have 1000 resident citizens, a number larger than presently required by the Constitution. The Committee recognized that many persons in these islands may not be full-time residents, either because of the nature of their work or because they maintain residences elsewhere. Furthermore, the current requirement of one thousand persons was selected at a time when it represented an intermediate figure between the populations of both Rota and Tinian. The proposed requirement of 1000 resident citizens is much closer to, but still below, the citizen

population of Rota or Tinian.

The Committee recommends a change in Section 3(a) clarifying that the number of representatives may be decreased as well as increased pursuant to Section 4.

The Committee recommends changes in Section 5(a), which deals with the enactment of appropriation bills. These changes were originally considered for Article X, Public Finance. The Committee concluded that these changes, which deal with appropriations, were more appropriately placed in Article II.

First, the Committee recommends that every expenditure of public funds be authorized in an appropriation bill. Any bill that authorizes public spending for any purpose is an appropriation bill. The Committee believes it is fiscally irresponsible for expenditures to be authorized by resolutions or other devices that do not contain the safeguards built into the appropriation process.

Second, the Committee believes that the legislature should not enact new or expand existing programs that require public money to be spent without appropriating the necessary funds. The Committee is aware that the legislature has enacted a workers' compensation program and a tax task force without funding them. This unfortunately creates the impression that the legislature has responded to a public need when, in fact, the response has been an empty one. There is no good reason for such legislative irresponsibility and the Committee recommends it be stopped.

The Committee recommends a change to Section 5(c), requiring that bills be read on at least two separate session days. Under this provision neither house can suspend its rules to pass a bill on fewer than two readings on two separate session days. This will ensure that legislators and the public, where appropriate, have an opportunity to study and comment on the proposed law.

The Committee recommends the deletion of Section 6, Local Laws, on the recommendation of the Committee on Executive Branch and Local Government. That Committee will address this issue in its work on Articles III and VI.

The Committee considered a change to Section 6(a) on vetoes. The Committee is concerned that riders are being added to bills to circumvent the requirement in Section 5(a) that bills be confined to one subject. The Committee disapproves of this practice since it tends to produce legislation which has not been subjected to all the constitutional safeguards designed to insure that legislation is carefully enacted. For example, riders are often not submitted to public hearing. The Committee believes that the legislative process will function

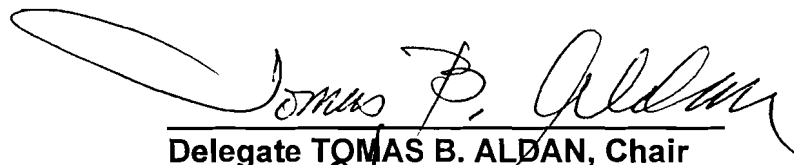
more effectively if the legislature avoids the use of riders which are not on the same subject as the main bill. The Committee also considered strengthening the governor's power to veto such riders, but is satisfied that the governor has this power under Section 6(a).

The Committee recommends an additional change to section 13(a). With a reduction in the size of each house, the Committee concluded that it would be impractical to require a three fourths vote to discipline members and recommends a two thirds vote instead.

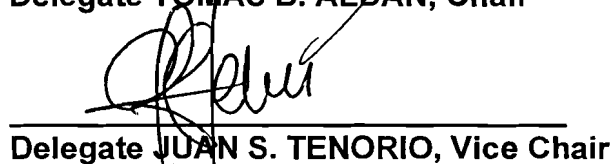
The Committee recommends the deletion of the directory language in the transitional section on the salaries of the majority and minority leaders. The Committee concluded that their salaries should be left to the Salary Advisory Commission.

Summary. The Committee recommends no changes to Sections 1, 4, 8, 9, 10, 11, 12, 13, 15, 16 and 17 as passed on first reading. The Committee recommends changes to Sections 2, 3, 5, and to renumbered Sections 6 and 13 and to the transitional section. These changes are contained in the attached revised Article II. The Committee recommends its passage on second reading.

Respectfully submitted,



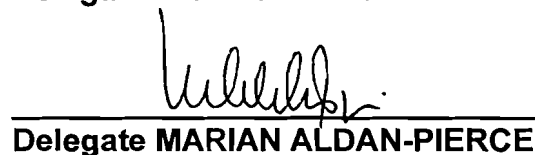
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Delegate MARIAN ALDAN-PIERCE

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ARTICLE II: LEGISLATIVE BRANCH

[July 24,1995]

Section 1: Legislative Power.

The legislative power of the Commonwealth shall extend to all rightful subjects of legislation and shall be vested in a Northern Marianas Commonwealth legislature composed of a senate and a house of representatives.

Section 2: Composition of the Senate.

a) The senate shall consist of six members with two members elected at large from each of three senatorial districts. The first senatorial district shall consist of Rota, the second senatorial district shall consist of Tinian and Aguiguan, the third senatorial district shall consist of Saipan and the islands north of it. The senate shall be increased to eight members and two members shall be elected at large from a fourth senatorial district consisting of the islands north of Saipan at the first regular general election after the population of these islands exceeds one thousand resident United States citizens.

b) The lieutenant governor shall preside over the senate until it elects a presiding officer and shall vote only in the event of a tie.

c) The term of office for senator shall be four years.

d) A senator shall be a United States citizen qualified to vote in the Commonwealth, at least twenty-five years of age, and a resident and domiciliary of the Commonwealth for at least five years immediately preceding the date on which the senator takes office. A longer residency and domicile requirement may be provided by law. A candidate for the senate shall be a registered voter in the senatorial district where he or she is a candidate.

Section 3: Composition of the House of Representatives.

a) The house of representatives shall consist of thirteen members with eleven members elected from Saipan and the islands north of it, one member elected from Rota and one member elected from Tinian and Aguiguan. The number of representatives may by law be decreased or increased to not more than fifteen.

b) For purposes of electing representatives Rota shall constitute one district, Tinian and Aguiguan shall constitute one district, and Saipan and the islands north of it shall constitute one district. When the number of United States citizens residing in the islands north of Saipan equals or exceeds the number of United States citizens represented by any member of the house of representatives, these islands shall constitute a separate district electing one representative.

c) The term of office for representative shall be four years.

d) A representative shall be a United States citizen qualified to vote in the Commonwealth, at least twenty-one years of age, and a resident and domiciliary of the Commonwealth for at least three years immediately preceding the date on which the representative takes office. A longer residency and domicile requirement may be provided by law. A candidate for the house of representatives shall be a registered voter of the district where he or she is a candidate.

Section 4: Reapportionment.

a) At least every ten years and within one hundred twenty days following publication of the results of a decennial census, the legislature shall reapportion the seats in the house of representatives as required by changes in Commonwealth population or by law. A reapportionment plan shall provide for a house of representatives with the fewest number of seats that will permit each member to represent approximately the same number of United States citizens and will provide that the districts for Rota and for Tinian and Aguiguan will have at least one member each.

b) If the legislature fails to act pursuant to section 4, subsection (a), the governor shall promulgate a reapportionment plan within one hundred twenty days after the expiration of the time for the legislature to act. The governor's plan shall be published in the same manner as an act of the legislature and upon publication shall have the force of law. Upon the petition of any person qualified to vote, the Commonwealth supreme court has original and exclusive jurisdiction to review a plan and to amend it to comply with the requirements of this Constitution or to establish a plan if the governor has failed to act within the time provided.

Section 5: Enactment of Legislation.

a) Appropriation and revenue bills may be introduced only in the house of representatives. Other bills may be introduced in either house of the legislature. The legislature shall hold joint hearings on all appropriation bills and on all bills involving public debt, taxation or revenue. Every expenditure of public funds must be authorized in an appropriation bill. The legislature shall not enact a law which requires the expenditure of public funds without also appropriating the funds.

b) A bill shall be confined to one subject except bills for appropriations or bills for the codification, revision or rearrangement of existing laws. Appropriation bills shall be limited to the subject of appropriations. Legislative compliance with this subsection is a constitutional responsibility not subject to judicial review.

c) The legislature may not enact a law except by bill. Each bill shall be read at least twice on two separate session days in each house before it is voted upon. No bill may be enacted without the approval of at least a majority of the votes cast in each house of the legislature.

d) The legislature shall enact no law which increases the class of nonaliens, except as to those persons defined in Covenant Section 506(c).

Section 6: Action on Legislation by the Governor.

a) Every bill enacted shall be signed by the presiding officer of the house in which the bill originated and transmitted to the governor. If the governor signs the bill, it shall become law. If the governor vetoes the bill, it shall be returned within five working days of the veto to the presiding officer of each house of the legislature with a statement of the reasons for the veto. The governor may veto an item, section or part in an appropriation bill and sign the remainder of the bill; provided that the governor may not veto an item, section or part governing the manner in which an appropriation may be expended if any appropriation affected by the item, section, or part is approved.

b) The governor shall have 20 days in which to consider appropriation bills and 40 days in which to consider other bills. If the governor fails either to sign or veto a bill within the applicable period, it shall become law.

c) A bill or item, section, or part of a bill vetoed by the governor may be reconsidered by the legislature. The legislature shall have sixty days from the receipt of the governor's veto message in the house of origin of the vetoed bill, item, section, or part of a bill to reconsider the vetoed legislation. If two-thirds of the members in each house vote upon reconsideration to pass the bill, item, section, or part, it shall become law.

d) Any appropriation bill, or any bill affecting spending authority, government financial management, or organization of the government, enacted in the period between a regular general election and the second Monday of January of the following year shall be void unless enacted by the affirmative vote of three-fourths of the members of each house of the legislature.

Section 7: Impeachment.

The governor, lieutenant governor, justices, judges and the resident representative to the United States are subject to impeachment by the legislature for treason, commission of a felony, corruption or neglect of duty. The house of representatives may initiate impeachment proceedings by the affirmative vote of two-thirds of its members and the senate may convict after hearing by the affirmative vote of two-thirds of its members.

Section 8: Vacancy.

A vacancy in the legislature shall be filled by special election if one-half or more of the term remains. If less than one-half of the term remains the governor shall, as soon as possible but not later than 20 days after the vacancy occurs, fill the vacancy by appointing the unsuccessful candidate for the office in the last election who received the largest number of votes and is willing to serve or, if no candidate is available, a person qualified for the office from the district represented. If the governor fails to fill the vacancy within the time specified, the unsuccessful candidate for the office in the last election who received the largest number of votes and is willing to serve shall be deemed appointed on the twenty-first day after the vacancy occurs and shall immediately take office.

Section 9: Compensation.

The salary of members shall be changed no more than once every four years and only upon the recommendation of an advisory commission established by law to make recommendations concerning the compensation of Commonwealth executive, legislative and judicial officers. No change in the salary may be made that exceeds the percentage change in the United States Department of Commerce composite price index for the period since the last change. An increase in salary may not apply to the legislature that enacted it.

Section 10: Other Government Employment.

A member of the legislature may not serve in any other Commonwealth government position including other elective office or independent board, agency, authority or commission established by this Constitution or by Commonwealth law. A person having been a member of the legislature, may not serve in any elective or appointive Commonwealth government position created by statute during the term for which he or she was elected, for a period of one year following the expiration of the term during which the position was created.

Section 11: Immunity.

A member of the legislature may not be questioned in any other place for any written or oral statement in the legislature and a member of the legislature may not be subject to arrest while going to or coming from a meeting of the legislature except for commission of treason, a felony or breach of the peace.

Section 12: Sessions.

The legislature shall meet for organizational purposes on the second Monday of January in the year following the regular general election at which members of the legislature are elected and shall be a continuous body for the two years between these organizational meetings. Each house shall meet in regular sessions for no more than ninety days each year, sixty days before April 1 and 30 days after July 31 of each calendar year, and may be convened at other times for not more than ten consecutive days upon request by its presiding officer or by the governor.

When meeting pursuant to a call by the governor, the legislature shall consider only those subjects described in the call.

Section 13: Organization and Procedures.

a) Each house of the legislature shall be the final judge of the election and qualifications of its members and the legislature may vest in the courts the jurisdiction to determine contested elections of members. Each house may compel the attendance of absent members, discipline its members and, by the affirmative vote of two-thirds of its members, expel a member for commission of treason, a felony, breach of the peace, or violation of the rules of that house. Any legislator convicted of an offense in the Commonwealth or in any area under the jurisdiction of the United States which carries a sentence of 30 days or more, whose conviction has become final, shall be automatically expelled from the legislature.

b) Each house of the legislature shall choose a presiding officer from among its members, establish the committees necessary for the conduct of its business, and promulgate rules of procedure. Each house may compel the attendance and testimony of witnesses and the production of books and papers before the house or its committees. The legislature shall keep a journal of its proceedings that shall be published from day to day.

c) The meetings of the legislature and its committees shall be public except that each house of the legislature or a legislative committee may meet in executive session if authorized by the affirmative vote of two-thirds of the members of the house. Final action on any legislative matter may not be taken in executive session.

Section 14: Conduct of Members.

A member of the legislature who has a financial or personal interest in a bill before the legislature shall disclose that interest and may not debate on or vote on the bill.

Section 15: Budget Ceiling.

There shall be a ceiling on the budget of the legislature.

a) All appropriations or obligations and expenditures for all operations and activities of the legislature, including the salaries and benefits of the members but excluding major equipment and capital improvement projects, may not exceed four and one half million dollars in any fiscal year.

b) Each member shall receive seventy thousand dollars annually within this ceiling for office expenses including the expense of travel outside the Commonwealth.

c) Within this ceiling the majority leader in each house shall receive an additional fifty thousand dollars a year and the minority leader in each house shall receive an additional thirty five thousand dollars a year for office expenses.

d) The balance of the legislature's budget shall be allocated to the legislative bureau for the purposes specified in Section 16.

e) The amount of the ceiling and all other dollar amounts stated in this section shall be adjusted every two years by the same percentage as the percentage change in the United States Department of Commerce composite price index using the beginning of fiscal year 1997 as the base.

f) No part of the legislature's budget other than a member's salary and benefits may be used for personal or political activities.

g) Obligations and expenditures for the operations and activities of the legislature for the period October 1 through the second Monday in January of a fiscal year in which there is a regular general election may not exceed twenty five percent of the annual spending authority provided by law. This ceiling shall apply to the various offices and activities in the same proportions as the annual spending authority provided by law.

Section 16: Legislative Bureau.

There shall be a legislative bureau in the Northern Marianas Commonwealth Legislature.

a) The bureau shall be headed by a director who shall be appointed to a four year renewable term, and may be removed only for cause, by a majority vote of the lieutenant governor, the speaker of the house and the presiding officer of the senate. The director shall have a college degree in a relevant field with at least five years of relevant experience or shall have at least ten years of relevant experience.

b) The bureau shall provide all necessary support services for the operation, administration and maintenance of the legislature and its committees within the budgetary allocation provided in section, subsection 15(d).

c) The bureau shall employ all staff necessary, other than personal staff of the members, to perform these functions as permitted by its budget. The staff shall include trained or otherwise qualified clerical, operational, administrative and professional personnel.

d) The bureau shall be politically independent and shall perform its duties in nonpartisan fashion. The bureau shall not be subject to any political harassment or pressure and shall not engage in any political activities.

Separate Provision for the Schedule on Transitional Matters

Section --: Continuity of the legislature and the legislative bureau

Upon the effective date of Article II, the existing legislature, its members, presiding officers and employees, and the legislative bureau, its director and employees, and all laws and regulations affecting the legislature and the legislative bureau shall continue to exist and operate as if established pursuant to Article II, and shall, unless clearly inconsistent, be read to be consistent with this Article II. Sections 2, 3, 15 and 16 shall be implemented in connection with the next general election. The terms of all senators shall expire on the second Monday of 1997. The term of the person serving as director when the proposed amendment to Section 16 becomes effective shall expire July 1, 1997.