

MEMO

To: Committee on Legislative Branch and Public Finance
From: Bernard Zimmerman
Subject: Schedule on Transition
Date: July 29, 1995

This memo contains a proposed agenda for the meeting at 8:30 a.m. Monday July 31, 1995 to consider the Schedule on Transition - the last matter assigned to this Committee.

1. Delegate proposals 9 and 404 were assigned to this Committee. Each has legal ramifications which counsel need to address.

2. Attached is a proposed Schedule on Transitional and Related Matters for the Committee's consideration.

3. Delegate Amendments 29, 30 and 32 relate to the Schedule and need to be discussed.



SCHEDULE ON TRANSITIONAL AND RELATED MATTERS

Section 1: Transition with Respect to Article II, Legislative Branch

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 and 3 shall be implemented in connection with the first general election following ratification of this amendment. Three senate seats, one from each district, will be contested in the 1995 general election. The three remaining senate seats, one from each district, shall be contested in the 1997 general election. Sections 15 and 16 shall be implemented in fiscal year 1997. The term of the person serving as director of the legislative bureau when the proposed amendment to section 16 becomes effective shall expire July 1, 1998.

Section 2: Transition with Respect to Article III, Executive Branch

a) Section 13: Education.

(1) Upon ratification of section 13, the governor shall have the power to appoint the secretary of education. The office of the commissioner of education appointed by the board of education shall terminate. The governor may appoint as secretary of education the current commissioner of education or any other qualified person. The statutory requirements applicable to the commissioner of education that are consistent with section 13 continue in force and are applicable to the secretary of education until changed by the legislature.

(2) The existing board of education shall remain in operation until the general election in 1997, at which time the local school board members shall be elected and the existing board of education shall terminate. Members of the current board of education may run for local school board office.

(3) The existing schools; their principals, teachers, and employees; all existing policies of the education system; and all laws, regulations and rules affecting the education system shall continue to exist and operate as if established pursuant to this section 13 insofar as consistent with it.

(4) The secretary of education appointed pursuant to section 13 shall provide for the transition of procurement, personnel and other administrative functions to the individual schools as the capability of the schools and local school boards permit.

b) Section 16: Civil Service Commission.

(1) The current terms of civil service commission members shall not be changed under the amendment to section 16. As these terms expire in due course, the provisions of section 16 shall come into force. The first and second terms to expire will create vacancies that shall not be filled. This will reduce the size of the commission from seven members to five members. As the remaining terms expire, the terms of the new appointees shall be five years as provided in section 16.

(2) The decreased size of the civil service commission shall not disturb the legislative requirements for representation from Rota, Tinian, Carolinian and other constituencies. As the commission moves from seven positions to five positions. those requirements shall continue to be enforced.

(3) Positions that have been specified by the legislature as outside the civil service system and that qualify as professional, managerial, educational, overseas, or elected officials' personal staff positions shall remain outside the civil service system after the effective date of this amendment. The civil service commission has no authority of any kind over these positions. Positions that have been formerly specified by the legislature as outside the civil service system but that under the amended section 16 are within the civil service system shall be incorporated into the system as provided by the civil service commission.

(4) Positions that have been specified by the legislature or the civil service commission as within the civil service system, but outside the classification system, shall remain in that status. After the effective date of this amendment, only the civil service commission may change the status of these positions or add new exempted positions.

(5) Contracts that specify excepted or exempt status as those terms were used prior to this amendment shall continue in force under the former use of these terms until expiration of the contracts. Employment contracts are subject to the jurisdiction of the civil service commission to the extent of setting policies and standards governing any contract that does not fall within an excepted class. However, rights under current contracts shall not be impaired in any way by these amendments.

c) Section 19: Retirement System.

(1) All additional benefits currently awarded to former elected officials and judges and not awarded to other participants in the retirement fund shall not be paid out of retirement fund assets.

(2) The additional five year credit for retirement eligibility given fund members with twenty years service shall expire on December 31, 1996. except for those fund members who have accumulated at least three years of vested service credit.

d) Section 20: Council for Indigenous Affairs.

(1) Two of the first five members of the council for indigenous affairs provided under section 20 shall be selected by lot to serve terms of two years.

(2) Within ninety days of the effective date of this provision the duties and responsibilities of the resident executive for indigenous affairs, the language commission and the council for arts and culture shall be transferred to the council for indigenous affairs as well as their personnel, office space, furniture and fixtures, and funding.

e) Former Section 22: Special Assistant for Women's Affairs

The Office of the Special Assistant for Women's Affairs shall continue its present operations for twelve months after the effective date of the amendment deleting section 22 and beyond that as provided by law.

Section 3: Transition with Respect to Article IV, Judicial Branch

Upon the effective date of article IV, as amended, the existing supreme court, its justices and employees; the existing superior court, its judges and employees; all existing administrative policies of the judicial branch; all existing rules of the courts; all cases pending in either court; and all laws, regulations, and rules affecting the judiciary shall continue to exist and operate as if established pursuant to this article IV, and shall, unless clearly inconsistent, be read to be consistent with this article IV. The supreme court may exercise its rule-making authority in any area granted by this article IV now occupied by statute. When the supreme court acts within its rule-making authority, any statute covering the same subject matter is no longer in effect. The appointments of all special judges shall end on the effective date of this amendment.

Section 4: Transition with Respect to Article VI, Local Government

The Mayor of the Northern Islands shall continue in office until the end of the term and the employees of that office shall be transferred to the offices of the mayor and municipal council of Saipan and the northern islands.

Section 5: Transition with Respect to Article X, Taxation and Public Finance

In the event there exists a deficit on the date section 5 becomes effective, the hiring and salary restrictions in this section shall not become effective until the start of the next fiscal year. Within five years of the effective date of this article, the legislature shall consider whether to enact legislation limiting the amount of damages that are recoverable in litigation against a private party. Any taxpayer's action filed under section 9 pending on the day section 9 becomes effective shall proceed under the former section 9 as if it had not been amended.

Section 6: Transition with Respect to Article XI, Public Lands

a) Nothing in these amendments shall impair rights under existing contracts.

b) Leases of public lands after August 4, 1995 shall be in accordance with all of the requirements of this article XI. Such leases not in compliance with this article XI are void.

c) Upon the effective date of these amendments, the existing departments and agencies with responsibilities for land matters covered by article XI and all their employees; all existing administrative policies, rules, and regulations; all pending matters; and all laws with respect to these departments and agencies shall continue to exist, remain in effect, and continue to operate as if established pursuant to this article XI if consistent with this article XI.

d) Upon the effective date of these amendments, all rules and regulations pertaining to the homestead program, land exchanges, and other land programs, if consistent with this article XI, shall remain in effect until such time as they are inconsistent with a rule or regulation adopted by the Marianas Land Bureau. Rules and regulations adopted by the bureau within its jurisdiction supersede existing legislation.

e) Determinations to exempt lands from the permanent preserves shall be made as to individual parcels; such determinations may not be made generally.

f) The governor shall specify, in appointing directors of the Marianas Land Bureau, which directors have terms expiring each year.

Section 7: Transition with Respect to Article XII, Restrictions on Alienation of Land

[To be inserted.]

Section 10: General Transitional Provisions

a) The amendments shall take effect immediately after approval by the voters.

b) Laws in force in the Northern Mariana Islands on the day preceding the effective date of any constitutional amendment that are consistent with the Constitution as amended shall continue in force until they expire or are amended or repealed.

c) Any amendment proposed by this Convention that relates to the same subject as an amendment proposed by the legislature and that is submitted to the people for ratification at the same election as the amendment proposed by the legislature, shall, if approved, supersede the amendment proposed by the legislature. The legislature shall make no law inconsistent with this provision

d) These transitional provisions shall remain in effect until their terms have been executed. Once each year the attorney general shall review the following provisions and certify to the governor which have been executed. Any provisions so certified shall be removed from this Schedule and no longer published as an attachment to the Constitution.