

# ConCon product under fire

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## *Legal opinion: Proposals violate rules*

THERE IS a need for Legislature to define the constitutional amendments proposed by the Third Constitutional Convention owing to the vagueness, in form and content, of such amendments.

This was the statement made by Sen. Paul A. Manglona who said the failure of the Third Constitutional Convention to clearly delineate what was amended in the constitution made it virtually impossible for the Legislature to tell what the ConCon really did.

He said without this knowledge, it would be difficult to for legislature to decide on whether it would enact a law to provide for a special election to ratify the proposed constitutional amendments.

Manglona's statement was contained in a Sept. 7 letter he sent Third ConCon President Herman T. Guerrero airing his concerns over the overall product of the ConCon.

Although the Convention

did provide the Legislature with a rewritten Commonwealth Constitution, he said no amendments for submission to the voters were specified, unless the new draft constitution is the sole proposed amendment.

According to the Rota senator, the constitution clearly vests discretion in the legislature to determine when the proposed amendments will go to the voters for ratification in the next general elections or in a special elections proposed by the Third ConCon.

"The Legislature is placed in a predicament by the fact that it does not know exactly what are the specific amendments that are supposed to go before the people," said Manglona.

Manglona took issue with an opinion written by Senate Legal Counsel Steve Woodruff which casts legal doubts

on the validity of the product of the Third ConCon and on his observation that the single amendment that it produced is the entire draft Constitution.

"If what the Convention did was attempt to propose a new Constitution, it is doubtful whether it had the power to do so," said Woodruff in his eight-page opinion.

Although he said the ConCon can propose entirely new constitutions, Public Law 9-18, specifically required that each proposed amendment be confined to a single subject or topic.

"An entire new constitution can hardly be said to be 'confined to a single subject or topic,'" said Woodruff.

In another part of his legal opinion, Woodruff also observed that it is also possible that the ConCon may have proposed 19 amendments, each consisting of a single article.

If that was the case, he said

there may still be some doubts over the legality of the move.

"For one thing, none of these votes (on the amendments) was designated as a vote on a proposed amendment. The Convention produced 19 articles, but the current constitution contains 22 articles. None of the 19 new articles specifically states that it repeals or amends designated parts of the current constitution," said Woodruff.

He added, "To treat the 19 new articles as proposed amendments require reliance on principles of implied repeal and amendment."

But supposing that the ConCon adopted 19 proposed amendments, Woodruff said this also violates the single subject requirement.

"Thus many, if not all, of such supposed proposed amendments may be invalid as violating the single subject requirement," the Senate legal counsel said.

According to Woodruff, if such proposed amendments were what the Convention proposed and they violate the single subject rule, it is not possible for them to be broken down now as the Convention, now non-existent, was the only one empowered to propose amendments.

"Determining exactly what is incorporated in a single proposed amendment is an integral part of proposing an



*Herman T. Guerrero*

amendment. It is a task that could only be performed by the Convention," said Woodruff.

At present, added Woodruff, the question of what, if any, amendments were proposed by the ConCon, is wide open to court action and judicial determination, with the possible finding that the Convention failed to propose any amendments," he said.

However, if the Legislature defines the amendments by law, Woodruff said the courts will probably respect that determination.

Currently, Sen. Manglona is coming up with a bill to effectively address the said amendments.

"If the Post Convention Committee supplies the Senate with specific proposed amendments in a timely manner we may be able to incorporate this listing into legislation dealing with the ratification election," said the Rota senator.