



Third Northern Mariana Islands Constitutional Convention

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SEP 21 1995

Honorable Juan S. Demapan
President of the Senate
Ninth Northern Marianas
Commonwealth Legislature
P. O. Box 129
Saipan, MP 96950

and

Honorable Diego T. Benavente
Speaker of the House of Representatives
Ninth Northern Marianas
Commonwealth Legislature
P. O. Box 586
Saipan, MP 96950

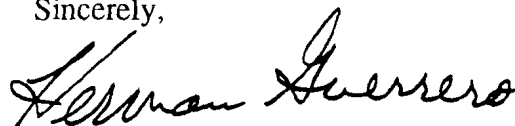
Dear President Demapan and Speaker Benavente:

On behalf of the Post Convention Committee, I wish to inform you that the Committee has decided that the proposed amendments to the Constitution of the Northern Mariana Islands should go on the ballot at the general election scheduled for November 4, 1995.

We appreciate the consideration that both houses of the Legislature have given to the many requests for deferral that the Pre-Convention Committee, the Convention and the Post Convention Committee have make over the past five months. Because no action has been taken to date by the Legislature, the Post Convention Committee must proceed to implement the mandate of the Constitution that the voters have an opportunity to consider the proposed amendments at the next general election.

The Committee is in the midst of a comprehensive public education program. Discussions with the Board of Elections indicate that the necessary arrangements can be made on this timetable. The press will begin distributing materials next week explaining each of the 19 proposed amendments. In addition, village meetings have been scheduled as well as discussions with government employees. The Northern Marianas College has offered its assistance on a public service basis to help the Committee prepare tapes for radio and TV. We are confident that this will result in a public education program that will ensure the voters are well informed about the proposed amendments when they vote in November.

Sincerely,


HERMAN T. GUERRERO
Chair, Post Convention Committee

*Passed Senate
2nd & Final
9/25/95*

NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

S. B. NO. 9-209

Fourth Reg. SESSION, 1995

A BILL FOR AN ACT

To provide for a special election to consider proposed amendments to the Constitution submitted by the Third Northern Mariana Islands Constitutional Convention.

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 a special election to consider constitutional amendments,
6 instead of placing the amendments on the ballot of the general election of
7 November 1995.

8 There are two compelling reasons for holding a special election. First,
9 the Convention completed its work on August 3, 1995. This allows only three
10 months for public education, discussion and debate. These important issues
11 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, the Legislature finds that amendments should be
16 considered separately, in a special election to be held at least six months after
17 the end of the Convention.

18 Section 3. Special Election

19 (a) Authority. Pursuant to Article XVIII, Section 5(a) of the
20 Constitution of the Commonwealth of the Northern Mariana Islands, the
21 Commonwealth Legislature hereby provides for a special election to
22 consider those amendments to the Constitution which may be proposed
23 by the Third Northern Mariana Islands Constitutional Convention.

year.

1 (b) Date of Election. The special election shall be held on the
2 first Saturday of March 1996.

3 (c) Scope of Election. The election shall only consider those
4 constitutional amendments proposed by the Third Constitutional
5 Convention.

6 Section 4. Severability. If any provision of this Act or the application
7 of any such provision to any person or circumstance should be held invalid by
8 a court of competent jurisdiction, the remainder of this Act or the application
9 of its provisions to persons or circumstances other than those to which it is
10 held invalid shall not be affected thereby.

11 Section 5. Savings Clause. This Act and any repealer contained herein
12 shall not be construed as affecting any existing right acquired under contract
13 or acquired under statutes repealed or under any rule, regulation or order
14 adopted under the statutes. Repealers contained in this Act shall not affect any
15 proceeding instituted under or pursuant to prior law. The enactment of this
16 Act shall not have the effect of terminating, or in any way modifying, any
17 liability, civil or criminal, which shall already be in existence at the date this
18 Act becomes effective.

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

Intro:

Date: 9/20/95

Introduced By: [Signature]
Sen. Thomas J. Villagomez

[Signature]
Sen. Jesus R. Sablan

[Signature]
Sen. Henry D.L. San Nicolas
[Signature]

Approved for introduction on _____

Chairman, Rules and Procedure

SUMMARY

AMENDMENT 1: PERSONAL RIGHTS

Objective: Protect against dumping of nuclear waste.

. Prohibit any dumping of nuclear waste in the Commonwealth; delete the power of the Legislature to approve such dumping for a fee.

Objective: Take care of possible legal problem under the United States Constitution with the ban on abortion. (The Attorney General has opined that the current provision is unconstitutional.)

. Delete the former prohibition on abortion.

. Substitute a new provision that establishes a Commonwealth policy to respect and honor life from conception to old age.

Objective: Delete legislative language that does not belong in a constitution.

. The 1985 amendments added a provision on noise pollution. This merely referred to the power of the legislature to control noise pollution and did not belong in the Constitution. It was deleted.

. The 1985 amendments added a provision on victims' rights. This subject has been covered by the legislature in detail and is not needed in the Constitution. It was deleted.

SUMMARY
AMENDMENT 2: LEGISLATIVE BRANCH

OBJECTIVES

- Reduce the size and cost of the Legislature
- Improve the quality of legislation enacted by the Legislature
- Reduce conflicts between the Governor and the Legislature
- Prohibit the misuse of public money by legislators

CON-CON ACTIONS

To Reduce the Size and Cost of the Legislature

Decrease the size of the Senate from 9 to 6 and the House from 18 to 13

Establish a new budget ceiling of \$4.5 million dollars - about half of what the Legislature proposes for itself in House Initiative 9-1 that is going before the voters in November

To Improve the Quality of Legislation

Require joint public hearings on all appropriations and money-related bills

Require that no law can be passed requiring the expenditure of public funds without also appropriating the funds

Require two separate readings on two separate days so that the public is informed and can participate before a bill is passed

Provide increased funding for the Legislative Bureau so that the Legislature has more professional assistance in drafting legislation and overseeing the Executive Branch

To Reduce Conflicts Between the Governor and the Legislature

Require the Governor to transmit a vetoed bill to the Legislature within 5 days

Require that vacancies in the Legislature be filled promptly by the Governor

Give the Lieutenant Governor a limited role in breaking tie votes in the Senate

To Prohibit the Misuse of Public Funds

Prohibit the use of public funds by a legislator for personal or political activities

SUMMARY
AMENDMENT 3: EXECUTIVE BRANCH

OBJECTIVES

- To improve coordination between the Governor and the Legislature
- To strengthen the Executive Branch
- To preserve Chamorro and Carolinian languages, customs and traditions

CON-CON ACTIONS

To Improve Coordination Between the Governor and the Legislature

Require the Governor to propose an annual budget with anticipated revenues based on existing laws and change the continuing resolution procedure in the event that a budget is not passed before the new fiscal year begins

Require the Governor to report to the Legislature within 30 days after using his emergency powers

Require the Governor to submit an annual report in person before the Legislature

To Strengthen the Executive Branch

Clarify the succession rules so that the Governor and the Lieutenant Governor always share the same political objectives

Eliminate special offices established by the 1985 Convention (Women's Affairs and the Resident Executive for Indigenous Affairs)

Provide that the Attorney General can be removed only for cause by the Governor appointing him or her

Bring back under the Governor responsibility for education and civil service

To Protect Indigenous Cultures

Establish a new Council for Indigenous Affairs, with funding from the Marianas Public Land Trust, to promote the teaching and preservation of Chamorro and Carolinian languages, cultures and traditions

SUMMARY

AMENDMENT 4: JUDICIAL BRANCH

Objective: Give the current courts a constitutional basis in order to ensure their independence.

- . Create new provisions covering the establishment and jurisdiction of the Supreme Court and Superior Court.
- . Provide the courts' with rule-making power to govern the judicial branch, lawyers, judges, fees, procedures and other matters without oversight by the legislature.
- . The courts submit a budget directly to the legislature.
- . Only the chief justice may designate fill-in judges to sit for a particular case; and those judges must be full-time or part-time judges from another jurisdiction in the U.S. or Micronesia.

Objective: Allow the people a vote on whether judges should be retained.

- . Allow the Governor to appoint and the Senate to confirm for an initial term (12 years in the Supreme Court and 6 years in the Superior Court)
- . After the first term, the question whether to retain the judge is put on the ballot. If a majority vote in favor of retaining the judge, then he or she stays.

Objective: Avoid lengthy vacancies in chief justice and presiding judge positions

- . If there is a vacancy, the governor and legislature have 90 days to act, otherwise the next senior judge moves up and takes the chief justice or presiding judge position automatically.

Objective: Avoid lengthy lawsuits between government entities.

- . A new advisory opinion power has been given to the Supreme Court.
- . Government officials and departments cannot sue each other. They must go to the Supreme Court for an advisory opinion that is binding.

SUMMARY
AMENDMENT 5: REPRESENTATION IN THE UNITED STATES

OBJECTIVES

- To emphasize the Commonwealth's priorities in Washington
- To update the Constitution

CON-CON ACTIONS

To Emphasize the Commonwealth's Priorities

States the priority of obtaining member or delegate status for the Commonwealth in the U.S. Congress and provides for automatic transition to that status if Congress acts

To Update the Constitution

Consolidates the current provisions regarding the Resident Representative to the United States

Deletes provisions covered in other articles of the Constitution

SUMMARY
AMENDMENT 6: LOCAL GOVERNMENT

OBJECTIVES

- To provide for meaningful local government for the separate Senatorial districts
- To limit the dependence of local governments on Commonwealth funding

CON-CON ACTIONS

To Provide for Meaningful Local Government

To eliminate the authority of the Commonwealth Legislature to enact local laws and give this power to the local governments

To provide for enlarged municipal councils to enact local ordinances on matters affecting on the island or islands served by the council

To authorize the mayors and councils to establish their own local government agencies, raise their own revenues

To provide procedures for the operation of local governments similar to those governing the Commonwealth government

To Reduce the Dependence on Commonwealth Funds

To eliminate the position of Mayor for the Northern Islands until such time as the Northern Islands have sufficient population to support their own government, but to provide for an Executive Assistant for the Northern Islands in the office of the Mayor of Saipan and the Northern Islands

To put a cap on Commonwealth funding for local government personnel and services and to provide that future Commonwealth funding will depend on the extent to which the local governments raise local revenues and reduce the number of employees paid out of Commonwealth funds

To limit the number of local employees paid from Commonwealth funds to those employed as of June 5, 1995

SUMMARY
AMENDMENT 7: ELIGIBILITY TO VOTE AND TO HOLD OFFICE

OBJECTIVES

- To update the Constitution
- To deal with felony convictions in a uniform fashion

CON-CON ACTIONS

To Update the Constitution

Eliminate Section 3 because the Legislature has already acted to define domicile and residence

To Deal With Felony Convictions

To provide that a felony conviction is a bar to the holding of any elected office in the Commonwealth or any appointed office subject to legislative confirmation

SUMMARY
AMENDMENT 8: ELECTIONS

OBJECTIVES

- To update the Constitution

CON-CON ACTIONS

To delete Section 3 relating to election procedures because the Legislature had already acted to provide for such procedures

SUMMARY
AMENDMENT 9: INITIATIVE, REFERENDUM AND RECALL

OBJECTIVES

- To make the recall of public officials easier

CON-CON ACTIONS

To decrease the number of signatures required on a recall petition from 40% to 20% of the qualified voters

To decrease the number of votes required to approve a recall petition from 2/3 of the qualified voters to a majority of the votes cast

SUMMARY
AMENDMENT 10: TAXATION AND PUBLIC FINANCE

OBJECTIVES

- To reduce the deficit
- To protect public funds
- To update the Constitution

CON-CON ACTIONS

To Reduce the Deficit

Require the elimination of a deficit within two or three years after it is incurred

Require the Governor to submit a deficit reduction plan to the Legislature

Enforce a hiring and salary freeze so long as there is a deficit except for the hiring of needed public health and safety personnel - with all savings in personnel costs going to reduction of the deficit

To Protect Public Funds

Prohibit the incurring of public debt in order to reduce a deficit

Provide that the Secretary of Finance cannot be removed except for cause

Require taxes collected that will be rebated to be maintained in a separate trust fund used only for tax rebates

Expand the availability of taxpayer suits to cover all expenditure of public funds in violation of the Constitution

To Update the Constitution

Decrease the number of votes required to approve real property taxes from 3/4 to a majority of the votes cast

Add a definition of "public purpose"

SUMMARY

AMENDMENT 11: COMMONWEALTH LANDS

Objective: Restore the governance of public lands to a board of qualified directors.

. The Marianas Land Bureau is created.

. 5 directors serve 5-year terms with one term expiring each year; a limit of 1 term is imposed; and persons who hold other government positions or employment are not eligible. The chair makes an annual report to the people in person at a joint session of the legislature.

Objective: Revamp the homestead program.

. Allow housing homesteads (ownership interests in multi-family units) as well as land homesteads to take the pressure off the remaining land.

. Require homesteaders to retain their freehold interests for 25 years before they can sell or make a commercial lease.. Delete all other constitutional restrictions and allow the Bureau flexibility to regulate.

Objective: Revamp the land exchange program.

. Allow transfers of freehold interests (other than for homesteads) only to government agencies. This means the government agencies who want to do land exchanges will have to first get the necessary land from the Bureau and then complete the exchange with the landowner. The Bureau will not deal directly with landowners.

. Require notice and public hearing before transfers for land exchanges are made.

. Require the Bureau to act on requests for land exchanges within 2 years. This means the current backlog will be cleaned up in 2 years or all pending requests will automatically be denied.

Objective: Revamp the commercial lease program.

. When the government decides it may lease public land, it must provide notice and an opportunity to bid so that all interested parties can participate. When the legislature considers leases, it may approve or reject but not change the terms of the lease, and if no action is taken in 60 days, the lease is deemed approved.

Objective: Create permanent preserves of public land for public use that cannot be sold.

. 8 categories of land put in permanent preserves.

SUMMARY

AMENDMENT 12: RESTRICTIONS ON ALIENATION OF LAND

Objective: Make sure family lands may go to children even if the children do not qualify under the 25% Northern Marianas descent rule.

. There is a new exception in Article 12 for gifts and inheritance for children and grandchildren.

Objective: Limit the availability of land to adopted children and spouses who are not of Northern Marianas descent.

. Adopted children no longer become persons of Northern Marianas descent by virtue of adoption. They are not eligible for public land. They can inherit and receive gifts of family land if they were adopted before 6 years of age.

. Spouses are not eligible for public land. They can inherit family land only to the extent permitted by the legislature.

Objective: Remedy the situation where a person of Northern Marianas descent might lose their land because of a defect in the title due to an earlier sale to a person who was not eligible.

. Change the “void ab initio” standard to “voidable” so the courts will have discretion in deciding whether persons of Northern Marianas descent should be able to keep land they purchased even if there is a defect in the title due to a prior sale.

. Provide for an office in the Attorney General’s office to advise landowners and monitor land sales to be sure land does not fall into the hands of persons who are not of Northern Marianas descent.

Objective: Get rid of means by which lease holders might get beyond the maximum 55 years.

. Add language covering all efforts to get beyond 55 years (such as buy-back clauses on improvements) and make them inoperative.

Objective: Allow locally-owned corporations to raise capital from outside sources while still remaining eligible to own land.

. Change the ownership requirement from 100% down to 51%

. Change the director requirement from 100% down to 51%

. Require that the 51% Northern Marianas descent persons “actually, completely, and directly” control the corporation.

SUMMARY

AMENDMENT 13: EDUCATION

Objective: Decentralize the school system and provide more local support for schools.

- . Current school board deleted.
- . Locally-elected school boards in each senatorial district; local board members serve 4-year terms.
- . Local boards make decisions on local school matters, consistent with Commonwealth policy and standards.
- . The portion of the annual appropriation for instruction is distributed on a per-enrolled student basis.

Objective: Provide a strong central department of education to upgrade quality and efficiency.

- . Secretary of Education is appointed by the Governor and confirmed by the Senate.
- . Secretary makes policy and enforces standards.
- . Secretary has power of purse; controls the flow of Commonwealth funds to local schools.

Objective: Give constitutional support to higher education.

- . Higher education is available in the Commonwealth as provided by the Legislature.
- . Higher education institutions are governed by boards of regents; and the current independence of the College preserved.
- . The Legislature has the flexibility to decide how best to deliver higher education in the Commonwealth.

Objective: Get rid of constitutionally guaranteed budgets.

- . The 15% guarantee to the public school system is deleted.
- . The 1% guarantee to the College is deleted.
- . The \$500,000 guarantee to the Public Auditor is deleted.

SUMMARY

AMENDMENT 14: NATURAL RESOURCES

Objective: Extend the Commonwealth's claim to marine resources.

. Commonwealth's claim to off-shore waters is extended to the maximum allowed under any interpretation of international law.

Objective: Recognize the potential of natural resources on or under public lands.

. Provide same direction on managing natural resources on or under public lands as applies to managing marine resources. The government should get royalties or fees if these resources are exploited by private enterprise.

Objective: Share royalties and fees with municipalities.

. Municipalities get 5% of the royalties and fees collected from licenses for marine resources or natural resources on or under public lands.

SUMMARY

AMENDMENT 15: GAMBLING

Objective: Limit gambling.

. Casino gambling allowed only after approval by a popular initiative in an individual senatorial district.

. Other gambling activities limited to those authorized before the start of the Convention on June 5, 1995.

SUMMARY

AMENDMENT 16: CIVIL SERVICE

Objective: Put the Civil Service Commission back into Article III on the Executive Branch where it had been in the 1976 Constitution. All government agencies are part of one of three branches of government required by the Covenant: legislative, executive, or judicial. Putting the Civil Service Commission in a separate article does not increase its independence.

. Article 20 is deleted and the civil service provisions are put back in Article 3, Section 16.

Objective: Make all government employees a part of the civil service and limit exceptions.

. The civil service to include everyone paid by the Commonwealth.

. The only permitted exceptions (1) elected officials; (2) officials appointed under the Constitution; and (3) exceptions created by the legislature.

. The power of the legislature to make exceptions is limited to the categories of professional, managerial, educational, overseas, and elected officials' personal staff positions.

Objective: Downsize the Civil Service Commission and make it more independent.

. The Commission is reduced from 7 to 5 members.

. The members must be appointed from the private sector.

Objective: Control the upward pressure on government salaries.

. The Commission is in charge of recommending government salary increases.

. The Legislature can only accept, decrease, or reject the Commission's recommendations; the Legislature cannot increase government salaries.

SUMMARY

AMENDMENT 17: ETHICAL STANDARDS

Objective: Put some teeth into ethical standards that apply to Commonwealth officials and employees.

CON-CON ACTIONS:

- . Scrap the constitutional amendment added in 1985 that called on the Legislature to formulate an ethical code.
- . Provide specifics: Commonwealth employees shall not use their public office for private gain.

SUMMARY

AMENDMENT 18: CONSTITUTIONAL AMENDMENT AND MUTUAL CONSENT

Objective: Take care of a possible legal problem under the United States Constitution with the formula for approving constitutional amendments. (The Attorney General has opined that the requirement for 2/3 on each of 2 islands is unconstitutional.)

. The formula for approving constitutional amendments is changed from a majority Commonwealth-wide plus 2/3 on each of 2 islands to 60% Commonwealth-wide.

Objective: Provide a role for the people in any changes to the Covenant. The Covenant was originally approved in a ballot by the people and should not be changed except by such a ballot.

. The approval of the Legislature, the Governor, and the people is required before the Covenant can be changed.

Objective: Limit constitutional amendments in the future except those proposed by popular initiative

. The Legislature's power to propose constitutional amendments by legislative initiative is deleted.

. The Legislature's power to call a Constitutional Convention is deleted.

. It is more difficult to propose a constitutional convention by popular initiative -- the signature requirement is increased from 25% to 30% of the qualified voters.

. No constitutional conventions are allowed for the next 25 years.

. It is easier to propose single constitutional amendments by popular initiative -- the signature requirement is decreased from 50% to 30%.

Objective: Allow future constitutional conventions to operate without interference by the legislature.

. The rules for the convention are set by the delegates themselves.

. No person holding elected office may be a delegate.

. Delegates elected on a non-partisan basis.

. The convention can specify a super-majority for approving amendments; otherwise amendments proposed by the convention are approved by a majority vote.

SUMMARY

ARTICLE 19: COMMONWEALTH UNITY

Objective: Put into the Constitution a declaration of the unity of common interests among the three islands and emphasize its importance for the future of the Commonwealth.

- . The provision on oath of office was in a separate article. The oath expresses the fundamental idea of Commonwealth unity.
- . The provisions on the seal, flag, and official languages were in a separate article. The seal and flag represent Commonwealth unity.
- . These two articles (Article 17 and Article 22) were put together so that the Constitution could end on the unity theme.