

AMENDMENT NO. 3

AMENDMENT OF ARTICLE 3: EXECUTIVE BRANCH

DESCRIPTION OF CHANGES
PROPOSED BY THE
CONSTITUTIONAL CONVENTION

AMENDED CONSTITUTION AS PROPOSED
BY THE CONSTITUTIONAL CONVENTION

ARTICLE III: EXECUTIVE BRANCH

Section 1: None

Section 1: Executive Power.

The executive power of the Commonwealth shall be vested in a governor who shall be responsible for the faithful execution of the laws.

Section 2: Adds the requirement of U.S. citizenship to run for governor; changes the residence requirement from 10 years to 7 years to comply with U.S. law; deletes the language on felony convictions (now covered uniformly in Article 7 as to all offices).

Section 2: Qualifications of the Governor.

The governor shall be a United States citizen qualified to vote in the Commonwealth, at least thirty-five years of age, and a resident and domiciliary of the Commonwealth for at least seven years immediately preceding the date on which the governor takes office. A different period of residence and domicile may be provided by law.

Section 3: Refers to the constitution (rather than this article) as to the duties assigned to the Lieutenant Governor .

Section 3: Lieutenant Governor.

The lieutenant governor shall have the same qualifications as required for the office of governor and shall perform those duties specified in this Constitution and those assigned by the governor or provided by law. Whenever the office of lieutenant governor is vacant, the governor shall appoint a successor with the advice and consent of the senate.

Section 4: None

Section 4: Joint Election of the Governor and Lieutenant Governor.

The governor and lieutenant governor shall be elected at large within the Commonwealth for a term of office of four years. The governor and lieutenant governor shall be elected jointly with each voter casting a single vote applicable to both offices. No person may be elected governor more than twice.

Section 5: Delete the reference to the salary amount specified in the 1976 Constitution, which had been increased over the years by the salary commission and was outdated. Changes the cross-reference because the numbering of sections has been changed.

Section 5: Compensation.

The governor and lieutenant governor shall each receive an annual salary and reasonable allowances for expenses as provided by law. Upon the recommendation of the advisory committee on compensation provided for by article II, section 9, the legislature may change the salary of the governor or lieutenant governor. Neither salary may be changed during a term of office.

Section 6: None

Section 6: Other Government Employment.

The governor or lieutenant governor may not serve in another Commonwealth position or receive compensation for performance of official duties or from any governmental body except as provided by section 5.

Section 7: Change the succession in case of vacancies in the offices of governor and lieutenant governor. If

Section 7: Succession to the Governorship and Lieutenant Governorship.

In case of the removal, death or resignation of the governor, the

4) All revenues in excess of the amount of the last appropriation shall remain in the general fund until appropriated by the legislature.

Section 9(b): Require the Governor to report annually to a joint session of the legislature in person. Delete the requirement for a comprehensive annual financial report by the Governor as this is done in connection with budget hearings in the legislature.

Section 9(c): Change the reference from "board of parole" to "parole authority" to provide flexibility for the future. No substantive change.

Section 10: Require the Governor to report to the legislature within 30 days after exercising emergency powers so that the legislature can act if necessary. Delete the reference to "as provided by law" which modified the term "calamity" so that this term will be defined in accordance with its customary meaning.

Section 11: Provide that, once appointed, the Attorney General can be removed only for cause during a four-year term. Delete the residency requirement.

Section 12: Provide that the public auditor ensures that proper audits have been conducted, but does not duplicate professionally acceptable audits performed by private or agency auditors.

Allow appointments in an "acting" capacity for only 90 days. Requires the Governor to submit a nomination within 30 days of a vacancy, and requires the legislature to act on the nomination within 60 days of receiving it.

Delete the guaranteed annual budget for the public auditor.

b) The governor shall report in person at least annually to the people through a joint session of the legislature regarding the affairs of the Commonwealth and new measures that are necessary or desirable.

c) The governor shall have the power to grant reprieves, commutations and pardons after conviction for offenses after consultation with a parole authority to be established by law. This power shall not apply to impeachment.

Section 10: Emergency Powers.

The governor may declare a state of emergency in the case of invasion, civil disturbance, natural disaster or other calamity and may mobilize available resources to respond to that emergency. Within thirty days after acting under this section the governor shall report to the legislature regarding the exercise of emergency powers and recommend appropriate legislation.

Section 11: Attorney General.

The governor shall appoint an attorney general who is a member of the Commonwealth bar with the advice and consent of the senate. The attorney general shall be responsible for providing legal advice to the governor and executive departments, representing the Commonwealth in all legal matters, and prosecuting violations of Commonwealth law. The attorney general may be removed during the governor's term only for cause.

Section 12: Public Auditor.

The governor shall appoint a public auditor with the advice and consent of each house of the legislature. The public auditor shall ensure that proper audits have been conducted of the receipt, possession and disbursement of public funds by the executive, legislative and judicial branches of the government, instrumentalities of the Commonwealth or agencies of local government and shall perform other duties provided by law. The public auditor shall not duplicate professionally acceptable audits performed by private auditing firms or other governmental auditors. The public auditor shall report to the legislature and the governor at least once every year and this report shall be made public promptly. The public auditor may be removed only for cause and by the affirmative vote of two-thirds of the members of each house of the legislature. In the event that there is a vacancy in the office of the public auditor, the governor shall appoint a temporary public auditor to serve for no more than ninety days. Within thirty days after the vacancy occurs in the office the governor shall submit an appointee for public auditor to the legislature. If the legislature does not act on the appointment within sixty days after receiving it, the appointee shall be deemed confirmed. An appointee rejected by the legislature may not be renominated by the governor for the office.

Section 13: Education.

[SEE AMENDMENT 13]

be provided through decentralized administrative arrangements. The governor shall make any necessary recommendations to the legislature in order to accomplish this objective.

Section 18: Executive Assistant for Carolinian Affairs.

Section 18(a): None

a) The governor shall appoint an executive assistant for Carolinian affairs who is acceptable to the Carolinian community within the Commonwealth.

Section 18(b): None

b) The executive assistant shall be a member of the governor's council created under article VI, section 6, and shall advise the governor on matters affecting persons of Carolinian descent within the Commonwealth.

Section 18(c): None

c) The executive assistant shall review the application of government policies to and the availability and quality of government services for persons of Carolinian descent and may report findings or recommendations on these matters to the governor.

Section 18(d): None

d) The executive assistant may investigate complaints and conduct public hearings regarding matters affecting persons of Carolinian descent. The executive assistant may report findings or recommendations on these matters to the governor.

Section 18(e): None

e) The executive assistant may recommend items for inclusion in the proposed annual budget, review the budget before its submission by the governor to the legislature, and recommend amendments to the budget relating to matters affecting persons of Carolinian descent.

Section 18(f): None

f) The executive assistant may at any time require information in writing or otherwise with respect to matters affecting persons of Carolinian descent from the officers of any administrative department, office or agency of the Commonwealth.

Section 18(g): Require Carolinian Assistant to make an annual report to the new Council for Indigenous Affairs. Delete the guaranteed salary at the level of a department head and leave the decision on salary level to the legislature.

g) The executive assistant shall submit an annual report to the council for indigenous affairs on matters affecting the Carolinian community within the Commonwealth.

Former Section 19 on impeachment is deleted entirely. All impeachment provisions are consolidated in Article 2, Section 7. Former Section 19 provided:

Section 19: Impeachment. The governor and lieutenant governor are subject to impeachment as provided in article II, section 8, of this Constitution for treason, commission of a felony, corruption or neglect of duty.

Section 19: Retirement System.

Section 19(a): None (This is former Section 20(a).)

a) Membership in an employee retirement system of the Commonwealth shall constitute a contractual relationship. Accrued benefits of this system shall be neither diminished nor impaired.

Section 19(b): Repeal or amendment of the Retirement Fund Act should be done by the legislature only after

b) The Northern Mariana Islands Retirement Fund Act may be amended or repealed by the legislature only after obtaining the views of the retirement fund's board of trustees regarding the cost and administrative impact on the fund of the proposed action.

director and deputy director appointed by the Council. The Chair of the Council serves on the Governor's Council.

Section 20(d): Provide mandate to develop programs.

Section 20(e): Funding from the interest earned by the Marianas Public Land Trust.

Former Section 22 on the Special Assistant for Women's Affairs is deleted entirely. Former Section 22 provided:

Section 22: Special Assistant for Women's Affairs.

a) There is hereby established an office of special assistant to the governor for women's affairs. The governor shall appoint a person, who is qualified by virtue of education and experience, to be the special assistant. The special assistant may be removed only for cause.

b) It is the responsibility and duty of the special assistant to formulate and implement a policy of affirmative action in the government and private sector to assist women achieve social, political and economic parity. The special assistant shall promote the interests of women, assist agencies of government and private organizations to plan and implement programs and services for women, monitor compliance of laws and regulations by government agencies and private organizations, organize community education strategies regarding the roles of women, and recommend to the governor and the legislature for consideration legislation of benefit to women.

c) The special assistant may be authorized to hire staff and shall promulgate rules and regulations in carrying out the responsibilities and duties of the office.

d) The governor shall include in the budget of the executive branch the funding necessary to fully implement the provisions of this section.

The Schedule on Transitional and Related Matters contains Section 2(e) on the transition from a constitutionally-mandated Special Assistant for Women's Affairs. It provides:

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 executive

director with background and capability in Chamorro or Carolinian language, customs and traditions. The chair of the council shall be a member of the governor's council created under article VI, section 6.

d) The council shall develop and promote educational and cultural programs to advance the knowledge and practice of Chamorro and Carolinian language, culture and traditions; coordinate the translation and distribution of official and historic documents; serve as an advocate for the indigenous population; and perform such other duties as may be provided by law or assigned by the governor.

e) The council shall be provided the funding necessary to implement these responsibilities from the interest revenue of the Marianas Public Land Trust. The annual budget of the council for the expenditure of these funds shall be submitted to the governor and the legislature for their information. To the extent funds are available from the trust the council may allocate such funds to existing scholarship, medical referral and housing programs for the benefit of the local population.

order or law.

Former Section 23 on the Resident Executive for Indigenous Affairs is deleted entirely. Former Section 23 provided:

Section 23: Resident Executive for Indigenous Affairs.

a) There is hereby established the office of resident executive to the governor for indigenous affairs. The governor shall appoint a person who is of Northern Marianas descent with the necessary and sufficient education and

experience to be resident executive, with the advice and consent of the senate. The term of office shall be four years. Nothing in this section shall preclude renewal of such appointment by the governor. The resident executive may be removed as provided in Article II, Section 8, of this Constitution for incompetence, neglect of duty, commission of a felony, treason, or corruption.

b) Responsibilities of resident executive. The duties and responsibilities of the resident executive for indigenous affairs shall include but not limited to:

--coordinate the development, distribution, adoption and translation of a comprehensive history of the Marianas.

--ensure local participation in executive managerial decision-making in the government and private sector.

--assist and promote local entrepreneurial development.

--establish a community foundation for the advancement of the indigenous people.

--coordinate the translation and distribution of such official documents as the Constitution of the Commonwealth of the Northern Mariana Islands and the Covenant and the analyses thereof.

--plan for the establishment of the Indigenous Cultural Center and the Indigenous Hall of Fame.

--coordinate an annual cultural festival.

--develop and implement a long-range plan to assist and promote the entry of the indigenous people into professional and technical institutions of higher education.

--serve as an advocate of positions taken by indigenous people on issues brought before them.

c) The office of resident executive for indigenous affairs shall commence immediately upon ratification of this section.

d) The resident executive is authorized to hire staff and promulgate rules and regulations in carrying out the duties and responsibilities of the office.

e) The governor shall include in the budget of the executive branch the funding necessary to fully implement the provisions of this section.

getting the views of the Retirement Fund trustees. (This is former Section 20(b).)

Section 19(c): This is new. Limits actions by the legislature and governor to the portion of the fund's assets that are declared excess by the trustees.

c) The board of trustees has the exclusive fiduciary responsibility to invest fund assets. The legislature and the executive branch can appropriate or reprogram only those fund assets declared excess by the board of trustees.

The Schedule on Transitional and Related Matters contains Section 2(c) which explains the transition with respect to the new provisions on retirement.

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

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 as of the expiration date.

Former Section 21 on boards and commissions is deleted entirely.
Former Section 21 provided:

Section 21: Boards and Commissions. In every case where the governor appoints a board or commission to perform a regulatory or administrative function or direct the activities of an agency, authority, or public or quasi-public corporation in the performance of a regulatory or administrative function, the members of such a board or commission shall be independent and may be removed only on grounds of gross neglect or dereliction of duty, breach of fiduciary duty, conviction of a felony, or mental or physical incapacity. Upon the expiration of the term of a member of a board or commission, such person shall cease to be a member unless reappointed in the manner prescribed by law. The governor shall make appointments within ninety days to fill any vacant seats on a board or commission. This section does not apply to boards and commissions that serve a purely advisory function or, except to the extent specifically required by federal law, to boards and commissions created in order to comply with federal law.

Section 20 is new.

Section 20: Council for Indigenous Affairs.

Section 20(a): Establish a Council on Indigenous Affairs within the Executive Branch.

a) There is hereby established the council for indigenous affairs with the duties and responsibilities set forth in this section and otherwise as provided by law.

Section 20(b): Provide for 5 members serving 4-year terms, with qualifications in Chamorro and Carolinian language and customs.

b) The governor shall appoint the five members of the council with the advice and consent of the senate for terms of four years. Each member shall be a United States citizen qualified to vote in the Commonwealth with background and capability in Chamorro or Carolinian language, customs and traditions.

Section 20(c): Provide for an executive

c) The council shall appoint an executive director and a deputy

Section 14: Allow appointments in an "acting" capacity for only 90 days. Requires the Governor to submit a nomination within 30 days of a vacancy, and requires the legislature to act on the nomination within 60 days of receiving it.

Section 15: None

Section 17: None

Section 14: Heads of Executive Departments.

Each principal department shall be under the supervision of the governor and, unless otherwise provided by law, shall be headed by a single executive. No person shall serve as acting head of an executive department for more than ninety days. The governor shall appoint the heads of executive departments with the advice and consent of the senate. If the senate fails to act within sixty days after receiving the governor's nomination, the nominee shall be deemed confirmed by the senate. A nominee rejected by the senate may not be renominated by the governor for the same office. The governor may remove the heads of executive departments. The governor may at any time require information in writing or otherwise from the head of any administrative department, office or agency of the Commonwealth.

Section 15: Executive Branch Departments.

Executive branch offices, agencies and instrumentalities of the Commonwealth government and their respective functions and duties shall be allocated by law among and within not more than fifteen principal departments so as to group them so far as practicable according to major purposes. Regulatory, quasi-judicial and temporary agencies need not be a part of a principal department. The functions and duties of the principal departments and of other agencies of the Commonwealth shall be provided by law. The legislature may reallocate offices, agencies and instrumentalities among the principal departments and may change their functions and duties. The governor may make changes in the allocation of offices, agencies and instrumentalities and in their functions and duties that are necessary for efficient administration. If these changes affect existing law, they shall be set forth in executive orders which shall be submitted to the legislature and shall become effective sixty days after submission, unless specifically modified or disapproved by a majority of the members of each house of the legislature.

Section 16: Civil Service.

[SEE AMENDMENT 16]

Section 17: Public Services.

a) The governor shall delegate to a mayor elected under the provisions of article VI, section 2, responsibility for the execution of Commonwealth laws as deemed appropriate, and the administration of public services in the island or islands in which the mayor has been elected. Services being provided on a decentralized basis in Rota, and Tinian and Aguiguan, on the effective date of this provision shall continue. In furtherance of this section, the mayor shall have the responsibility for ensuring that the resident department heads faithfully execute their duties under the law and in accordance with the policies of the Commonwealth government for the administration of public services, in the island or islands in which the mayor has been elected.

b) Public services on Rota, and Tinian and Aguiguan, shall be headed by a resident department head in the departments providing the services. A resident department head shall submit a budget to the mayor pursuant to the budget instructions. No resident department head may be appointed to serve in any commonwealth-wide board, commission, or authority. These arrangements shall apply to the islands north of Saipan when the population of these islands exceeds one thousand persons.

c) Public services shall be provided on an equitable basis to the citizens of the Commonwealth. The legislature may require that these services

the lieutenant governor becomes governor, he or she can pick the lieutenant governor. If both the governor and lieutenant governor offices are vacant, the top officers of the legislature serve as “acting”, but only for up to one year. If more than a year remains in the term, a special election is held.

Section 8(a): None

Section 8(b): Update the reference to the court handling petitions on vacancies to specify the Commonwealth Supreme Court.

Section 9(a): Change the way anticipated revenues are stated in the governor’s balanced budget so that only revenues under existing laws can be included. Change the way the government operates in the event there is no budget before the beginning of the fiscal year so that government operations are based on anticipated revenues for the current year, allocated proportionally among the agencies, rather than on the budget from the past year.

lieutenant governor shall become governor and shall appoint a successor with the advice and consent of the senate. If the offices of governor and lieutenant governor are both vacant, the presiding officer of the senate shall become acting governor and the speaker of the house shall become acting lieutenant governor until the offices are filled by a special election provided by law if more than one year of the term remains.

Section 8: Absence or Disability of the Governor.

a) When the governor is physically absent from the Commonwealth, the lieutenant governor shall be acting governor. If the lieutenant governor is also absent or is otherwise unavailable, the presiding officer of the senate shall be acting governor.

b) When the governor is unable to discharge the duties of the office by reason of physical or mental disability, the lieutenant governor shall be acting governor. If the lieutenant governor is unavailable, the presiding officer of the senate shall be acting governor. If the person next in succession to the governor has reason to believe that the governor is unable to discharge the duties of the office, that person shall file a petition to declare a vacancy with the Commonwealth supreme court. The supreme court has original and exclusive jurisdiction to determine all questions regarding the disability of the governor and the existence of a vacancy in the office of the governor.

Section 9: Executive Functions.

a) The governor shall submit to the legislature a proposed annual balanced budget for the following fiscal year no later than ninety days before the start of the fiscal year or earlier if provided by law. The proposed balanced budget shall describe anticipated revenues of the Commonwealth based on existing revenue generating laws and recommend expenditures not to exceed anticipated revenues. The anticipated revenues may not be increased by the legislature without the consent of the governor. In preparing the proposed balanced budget, the governor shall consider budgetary requests made by the members of the governor’s council created under article VI, section 6. The governor’s submission to the legislature with respect to the budget shall state the governor’s disposition of these budgetary requests and may include recommended legislation that affects the current budget submission. If a balanced budget is approved by the legislature, the governor may not reallocate appropriated funds except as provided by law. In the absence of a budget enacted by the legislature and approved by the governor, government operations will be funded as follows:

1) If the projected revenues for the new fiscal year are equal to or greater than the projected revenues for the fiscal year just ended, each agency receiving an appropriation during the past year shall receive the same appropriation for the new fiscal year.

2) If the projected revenues for the new fiscal year are less than the projected revenues for the fiscal year just ended, all extraordinary or non-recurring expenditures shall be subtracted from the appropriations for the past fiscal year and the remainder shall be proportionally allocated to each agency funded during the past fiscal year.

3) Each person authorized to expend public funds shall be responsible for operating within the level of funding authorized and shall be held personally liable if such person authorizes expenditures without the necessary and proper certification that funds are available for the specified purpose.