

A BILL FOR AN ACT

To establish a constitutional convention to propose amendments to the Constitution of the Northern Mariana Islands; to prescribe its powers, duties, functions, and procedures; to provide for the election of delegates; to specify the method by which proposed amendments shall be ratified; to establish a post constitutional convention committee; and for other purposes.

BE IT ENACTED BY THE EIGHTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. **Short Title.** This act may be cited as the "Third Constitutional Convention of
2 the Northern Mariana Islands Act of 1994".

3 Section 2. **Findings.** The Eighth Northern Marianas Commonwealth Legislature finds
4 that at least seventy five (75) percent of the votes cast in the last general election called for the
5 holding of a constitutional convention, thereby requiring that the Legislature convene such a
6 convention promptly, pursuant to Section 2(a) and 2(c) of Article XVIII of the Constitution of the
7 Northern Mariana Islands.

8 Section 3. **Constitutional Convention Established.** There is hereby established in
9 accordance with Sections 1 and 2 of Article XVIII of the Constitution of the Northern Mariana
10 Islands a constitutional convention in and for the Commonwealth of the Northern Mariana Islands,
11 to propose amendments to the Constitution of the Northern Mariana Islands. The convention
12 shall be known as the Third Constitutional Convention of 1994 to the Constitution of the Northern
13 Mariana Islands

1 Section 4. Delegates.

2 (a) The Convention shall consist of twenty-seven (27) delegates, elected at-large
3 on a nonpartisan basis in each of the three senatorial districts as defined in Section 2 of
4 Article II of the Constitution of the Northern Mariana Islands as follows:

5 (1) Nineteen (19) delegates from the island of Saipan and the islands
6 North of Saipan;

7 (2) Four (4) delegates from the island of Rota; and

8 (3) Four (4) delegates from the islands of Tinian and Aguiguan.

9 (b) A chairperson for each of the three Senatorial Districts shall be selected by
10 and from the delegates elected from each senatorial district. Designation of the
11 delegation chairpersons shall be made in writing by each delegation to the Governor and
12 the Presiding Officers of the Legislature not later than August 15, 1994.

13 Section 5. Qualification of Delegates. A person shall be eligible for election as a
14 delegate and the Board of Elections shall certify him or her as a qualified candidate for delegate
15 representing a given senatorial district and cause to have the candidate's name printed on the
16 election ballot any person who:

17 (a) Is qualified to be a senator as prescribed by Section 2(c) of Article II of the
18 Constitution of the Northern Mariana Islands;

19 (b) Is registered to vote in the senatorial district concerned;

20 (c) Files with the Board of Elections not later than June 17, 1994 a verified
21 statement of intent to be a candidate for delegate and a petition (which may not contain
22 any reference to or designate any political party) setting forth the name of the candidate
23 and containing the genuine signatures, printed names, residences, and mailing

1 addresses of not less than five (5) percent or 100, whichever is less, of the registered
2 voters of the senatorial district concerned; and

3 (d) Remits to the Board of Elections a filing fee of fifty dollars (\$50.00); Provided,
4 that requirements (c) and (d) above shall not apply to write-in candidates.

5 (e) Provided however that no person holding an elected or judicial office in the
6 Commonwealth is eligible for election as a delegate.

7 The Board of Elections may refuse to accept for filing any petition that, on its face, fails to
8 comply with the requirements of this Act. If the Board of Elections does not affirmatively take
9 action to deny certification of qualification to a candidate within ten (10) days after the nominating
10 petition is filed, the candidate shall be deemed certified for the election ballot. The Convention
11 shall be the sole judge of the qualifications of delegates.

12 Section 6. **Election.** Election of delegates shall take place on Saturday, July 16, 1994.

13 Section 7. **Eligibility to Vote; Conduct of Election; Determination of Results.**

14 (a) Except as otherwise provided by this Act, the conduct of the election of
15 delegates, eligibility to vote in said election, the determination of the results of said
16 election, and related matters shall be in accordance with and as prescribed by 1 CMC
17 Division 6, Chapters 1, 2, 4, and 5.

18 (b) The names of the candidates shall appear on the ballot in alphabetical order
19 without any reference to political party affiliation.

20 (c) Eligible voters in each senatorial district may cast votes for up to but not more
21 than the number of delegates to be elected from that senatorial district. No more than
22 one vote may be cast for a single candidate by an individual voter. Those candidates in
23 each senatorial district receiving the highest number of votes cast in that senatorial
24 district shall be declared elected, in descending order of votes received, until delegates

1 shall have been declared elected to fill all the delegate seats prescribed by Section 4 of
2 this Act for each senatorial district; Provided, that in the event of a tie for the final
3 delegate seat in a senatorial district, the candidates so tied shall draw lots to determine
4 which shall be declared elected.

5 (d) If any voter contests the election:

6 (1) The terms "reverse", "reversing", or "reversed" as used in 1 CMC,
7 Division 6, Chapter 4, Article 2, shall be construed to mean "change", "changing",
8 or "changed" with respect to the result of the election; and

9 (2) Notwithstanding the provisions of 1 CMC Section 6426, the defendant
10 shall relinquish the office and the candidate having the highest number of votes
11 among those not elected from the senatorial district concerned shall be declared
12 to have been elected if:

13 (A) The defendant is found to have fewer legal votes than an
14 unsuccessful candidate in the same senatorial district; or

15 (B) The Board finds a winning candidate to have been ineligible
16 or to have violated the election laws of the Northern Mariana Islands or
17 the provisions of this Act.

18 (e) The provisions of 1 CMC Division 6, Chapter 3, Article 4, (Campaign
19 Financing and Disclosure), shall apply to candidates for delegate.

20 (f) The provisions of 1 CMC Division 6, Chapter 5, (Criminal Penalties), shall also
21 apply to the conduct of all persons with respect to the election of delegates for the
22 constitutional convention

1 (g) The Board of Elections shall promulgate such additional regulations as are
2 consistent with this Act and existing law, as necessary to govern the election of delegates
3 to the constitutional convention.

4 Section 8. **Disqualification for Partisan Activity.** Any person who, having declared
5 intent to be a candidate for delegate to the constitutional convention, publicly proclaims his
6 political party affiliation, permits his political party affiliation to be used in connection with his
7 name in campaign materials or campaigning, or who in any way makes an issue of the political
8 party affiliation of another candidate, shall be disqualified as a candidate for delegate and, if
9 elected, shall not be seated.

10 Section 9. **Vacancies.** Vacancies for any elected delegate shall be filled by the
11 unsuccessful candidate from the same senatorial district who received the highest number of
12 votes of the unsuccessful candidates in that district; Provided, that in the event of a tie, the
13 candidate to fill the vacancy shall be determined by the drawing of lots. If the next delegate in line
14 refuses or is not available to serve and there are no remaining candidates available in that
15 senatorial district, the Mayor of Saipan, Tinian, or Rota, as appropriate, shall appoint a person to
16 fill the vacancy.

17 Section 10. **Pre-Convention Committee.**

18 (a) There shall be a Pre-convention Committee composed of seven (7) persons:

19 (1) Five delegates from Saipan including the delegation chairperson;

20 (2) The delegation chairperson from Rota; and

21 (3) The delegation chairperson from Tinian.

22 (b) The Governor shall call the Pre-Convention Committee to order not later than
23 August 22, 1994, for the purpose of electing from its membership a chairman and such
24 other officers as the committee may deem appropriate.

1 (c) No matter may be decided by the Pre-Convention Committee except by the
2 affirmative vote of at least four (4) of its members.

3 (d) The Pre-Convention Committee shall:

4 (1) Specify the actual date for the convening of the convention, which
5 shall not be later than October 10, 1994;

6 (2) Draft proposed Rules of Procedure for consideration by the delegates
7 on the opening date of the constitutional convention;

8 (3) Ensure that accommodations, facilities, equipment, and staff support
9 for the constitutional convention are arranged and in proper order; and

10 (4) Do such other things as are necessary and appropriate to prepare for
11 and facilitate the work of the constitutional convention.

12 (e) Members of the Pre-Constitutional Convention Committee shall not receive
13 any compensation for their services on the Committee but shall be entitled to per diem
14 and travel expenses, at standard government of the Commonwealth of the Northern
15 Mariana Islands rates, while away from their home island on the business of the
16 Committee.

17 (f) The Pre-Constitutional Convention Committee shall cease its existence upon
18 the convening of the constitutional convention and its powers shall devolve upon the
19 constitutional convention.

20 Section 11. **Convening the Constitutional Convention.**

21 (a) The Third Constitutional Convention of 1994 to Propose Amendments to the
22 Constitution of the Northern Mariana Islands shall convene in Saipan, Northern Mariana
23 Islands and shall continue in session for not more than sixty (60) calendar days. the Pre-
24 Convention Constitutional Convention Committee shall specify the actual date for the

1 convening of the constitutional convention, which shall not be later than October 10,
2 1994. If the President deems that the work of the Convention cannot be accomplished
3 within sixty calendar days, then an extension of not more than thirty (30) calendar days
4 may be had by resolution approved by three-fourths (3/4) of the delegates. Any
5 additional funding must be approved by the Legislature.

6 (b) The first order of business of the constitutional convention shall be the
7 election of a President. The Chairman of the Pre-Constitutional Convention Committee
8 shall act as President Pro Tempore of the Convention until the delegates shall select a
9 President from among their number.

10 (c) The constitutional convention may also select from among its membership,
11 such additional officers as it may deem necessary and appropriate.

12 (d) The constitutional convention may adopt such Rules of Procedure as it sees
13 fit; provided, that such Rules of Procedure may not be inconsistent with this Act.

14 Section 12. **Duties of the Constitutional Convention.** It shall be the duty of the
15 Convention to propose such amendments to the Constitution of the Northern Mariana Islands as it
16 believes to be in the best interests of the people of the Northern Mariana Islands. Such
17 amendments shall require ratification by popular referendum as provided by Article XVIII, Section
18 5 of the Constitution of the Northern Mariana Islands, and this Act. Proposed amendments
19 adopted by the constitutional convention are to be translated accurately into the Chamorro and
20 Carolinian languages. Upon completion of its work, the constitutional convention shall transmit
21 copies of all proposed amendments adopted by the constitutional convention to the Governor, the
22 presiding officers of the Legislature and the Commonwealth Archives

23 Section 13 **Form of Proposed Amendments.** The constitutional convention may adopt
24 any number of proposed amendments. A proposed amendment adopted by the constitutional

1 convention may encompass one or more sections, subsections, or articles of the Constitution of
2 the Northern Mariana Islands, but the constitutional convention may not adopt more than one
3 proposed amendment embracing or affecting the same section, subsection or article of the
4 Constitution of the Northern Mariana Islands or the same subject matter. Each proposed
5 amendment adopted by the Convention shall be subject to the ratification process independent of
6 the others.

7 Section 14. **Quorum.** No business may be transacted by the constitutional convention in
8 the absence of a quorum. Presence of a majority of the delegates shall constitute a quorum,
9 provided, that at least one delegate is present from each of two senatorial districts.

10 Section 15. **Voting: Acts of the Constitutional Convention.** No voting shall be
11 permitted except in person. Except as otherwise provided by this Act or in cases where the Rules
12 of Procedures adopted by the constitutional convention may provide for a greater voting
13 requirement, any question before the constitutional convention or a committee thereof may be
14 decided by the vote of a majority of those delegates present and voting, a quorum being present.
15 Adoption by the constitutional convention of proposed amendments to the Constitution of the
16 Northern Mariana Islands shall require the affirmative vote of at least three-fourths (3/4) of the
17 delegates present, a quorum being present. In the event three-fourths (3/4) of the delegates
18 present is arithmetically a fractional number, the required vote is rounded to the next highest
19 number. A roll call vote shall be required on any motion for the final adoption of a proposed
20 amendment to the Constitution of the Northern Mariana Islands, and, on such votes, the
21 prevailing side of the vote shall have the abstentions, for the purpose of determining the success
22 or failure of the motion.

1 Section 16. Powers of the Constitutional Convention.

2 (a) The President of the Convention or the Chairman of any duly established
3 Committee thereof, may issue subpoenas requiring the attendance of witnesses and
4 subpoenas duces tecum requiring the production of books, documents, or other
5 evidence, in any matter related to the work and duties of the Convention.

6 (1) Any subpoena or other process issued under the authority of the
7 Convention shall run in the name of the Government of the Commonwealth of the
8 Northern Mariana Islands. The subpoena or other process shall be signed by the
9 President or Chairman, as the case may be, shall contain a reference to this
10 section, and shall set forth general terms the matter or questions with reference
11 to which the testimony or other evidence is to be taken.

12 (2) Any officer to whom such process is directed, shall forthwith serve or
13 execute the same upon delivery to him without charge or compensation; law
14 enforcement officers of the Commonwealth, upon request by the President of the
15 Convention, shall lend necessary assistance to the service and execution of
16 process; provided, that any officer serving or executing such subpoena or other
17 process shall be compensated for actual expenses, if any.

18 (b) The President of the Convention or the Chairman of any duly established
19 committee thereof, may administer an oath or affirmation to a witness in any matter under
20 examination by the Convention.

21 (c) Any person who

22 (1) Fails or refuses to appear in compliance with a subpoena or, having
23 appeared, fails or refuses to testify under oath or affirmation; or

1 (2) Fails or refuses to answer any relevant question or fails or refuses to
2 furnish any relevant book, paper, or other document subpoenaed; or

3 (3) Exhibits disrespect of the Convention or a committee thereof by
4 knowingly and willfully interfering with the operation and function of the
5 Convention or the committee by open defiance of an order in or near the meeting
6 place of the Convention or the committee, by disturbing the peace in or near the
7 meeting place, by interfering with an officer of the Convention or the committee in
8 the lawful performance of his official duties, or by unlawfully detaining or
9 threatening any witness of the Convention or the committee because of that
10 person's duty as a witness; shall be in contempt, and upon conviction thereof
11 shall be fined not more than two thousand dollars (\$2,000) or imprisoned for not
12 more than one year, or both. In any instance of alleged contempt, the President
13 of the Convention shall certify a statement of the contempt to the Attorney
14 General of the Commonwealth of the Northern Mariana Islands who shall
15 prosecute the offender in the Superior Court of the Northern Mariana Islands.

16 (d) The officers and employees of the Government of the Commonwealth of the
17 Northern Mariana Islands shall cooperate with the Convention or any committee thereof
18 and furnish to it or to its representatives such information as may be called for in
19 connection with the activities of the Convention or its committees.

20 Section 17. Support

21 (a) The Governor, the President of the Senate, and the Speaker of the House of
22 Representatives shall cooperate and make available, to the greatest extent practicable,
23 the resources of the executive and legislative branches to support the tasks and activities
24 of the Convention and the Pre-Convention Committee, at the lowest possible cost to the

1 Government, and this provision shall apply to all the factors of accommodations, facilities,
2 equipment, and staff support.

3 (b) The Pre-Convention Committee or the Convention may make such other
4 necessary arrangements, engage such other staff or professional services, and procure
5 such supplies as may be deemed necessary in the performance of their tasks, within the
6 limits of the funds made available to its by this Act and other acts, but shall utilize the
7 resources of the executive and legislative branches to the greatest extend practicable.

8 Section 18. **Compensation of Delegates.**

9 (a) Delegates shall be paid at the rate of one hundred dollars (\$100.00) per day
10 for every day or part of a day the delegate is actually present at a session of the
11 Convention or a meeting of a committee thereof; Provided, that delegates who are
12 employees of the Government of the Commonwealth of the Northern Mariana Islands, its
13 subdivisions, instrumentalities, or independent agencies or authorities, shall be granted
14 administrative leave with pay and be paid out of the funds of the Convention only the
15 difference between their prorated daily salary and one hundred dollars (\$100.00) per day
16 if their salary is less than the latter amount; and provided further, that the employers of
17 delegates who are employees of the private sector or governments other than the
18 Government of the Commonwealth of the Northern Mariana Islands, its subdivisions,
19 instrumentalities, or independent agencies or authorities, are requested to grant leave
20 with pay to those delegates in their employ, in the public interest, and in the event such
21 leave with pay is granted, those delegates shall be paid out of the funds of the
22 Convention only the difference between their pro-rated daily salary and one hundred
23 dollars (\$100 00) per day if their salary is less than the latter amount

1 (b) Delegates shall also be entitled to all necessary travel expenses, and to per
2 diem at standard Government of the Commonwealth of the Northern Mariana Islands
3 rates, while away from their home island on the business of the Convention or any
4 committee thereof.

5 Section 19. **Ratification of Proposed Amendments.**

6 (a) All proposed amendments to the Constitution of the Northern Mariana Islands
7 adopted by the Convention shall be submitted to the voters for ratification at the next
8 regular general election, pursuant to Article XVIII, Section 5 of the Constitution of the
9 Northern Mariana Islands or special election as authorized by law. Authority to conduct
10 the referendum is hereby granted to the Board of Elections, in accordance with the
11 provisions of this Act and existing election law. The Board of Elections shall certify the
12 results of the referendum to the Governor and the Legislature.

13 (b) After receipt of a proposed amendment to the Constitution of the Northern
14 Mariana Islands as adopted by the Convention, the Legislature may, at any time prior to
15 the final sixty (60) days before the next regular general election or special election as
16 authorized by law, adopt a joint resolution concurring with the proposed amendment,
17 which, if receiving the affirmative vote of three-fourths (3/4) of the members of each
18 house present and voting, shall have the effect of making the proposed amendment a
19 "legislative initiative" within the meaning of Section 3 and Section 5(b) of Article XVIII of
20 the Constitution of the Northern Mariana Islands, for ratification purposes.

21 (c) The form of the referendum ballot or ballots shall be governed substantially by
22 the following.

23 (1) Each proposed amendment shall be treated separately.

1 (2) The full text of each proposed amendment shall be presented in the
2 Chamorro, Carolinian, and English languages, in this order, as translated in
3 accordance with Section 12 of this Act;

4 (3) The text of each proposed amendment shall be preceded with a
5 question, in the Chamorro, Carolinian, or English language as appropriate, posed
6 substantially as follows:

7 **"Constitutional Amendment Referendum**

8 Do you approve the following amendment to the Constitution of the
9 Northern Mariana Islands, as proposed by the Third Constitutional
10 Convention of 1994?

11 YES _____ NO _____;" and

12 (4) In the event the proposed amendment has been made a legislative
13 initiative in accordance with Subsection (b) above, the question outlined in
14 numbered paragraph (3) above shall also contain the words "and the Legislature"
15 following the word "1994".

16 Section 20. **Custodian of Documents.** Within thirty days of the conclusion of the
17 Constitutional Convention, official records and other records and all original documents of the
18 Constitutional Convention shall be turned over to the Commonwealth Archives located at the
19 Northern Marianas College for permanent storage.

20 Section 21. **Post Convention Committee: Establishment.** There is hereby
21 established a Post Constitutional Convention Committee, which shall consist of seven (7)
22 members. At least one member shall be a person representing Rota, at least one member shall
23 be a person representing Tinian, and at least one member shall be a person of Carolinian

1 descent. The members of the Post Constitutional Convention Committee shall be appointed by
2 the President of the Constitutional Convention prior to the sine die of the Convention.

3 Section 22. **Post Convention Committee: Compensation of Committee Members.**

4 The members of the Post Constitutional Convention Committee shall receive no compensation for
5 their participation on the committee. Off-island members shall receive a travel allowance, at
6 government established rates, to attend to committee business.

7 Section 23. **Post Convention Committee: Duties.**

8 (a) The Post Constitutional Convention Committee shall assist and coordinate
9 with government officials, who may be designated by the Governor, to provide public
10 education regarding the meaning and effect of the proposed amendments to the
11 Constitution.

12 (b) The Post Constitutional Convention Committee shall assist with the drafting of
13 an analysis of those proposed amendments which are ratified by the voters.

14 (c) The Post Constitutional Convention Committee shall obtain such copies of the
15 records of the Convention which it deems will assist in the process of public education or
16 the drafting of the analysis mentioned above.

17 (d) The Post Constitutional Convention Committee shall supervise the gathering
18 and transmittal of the adopted proposed constitutional amendments to each of the two
19 houses of the Legislature for their ratification pursuant to this Act.

20 (e) The Chairman of the Post Constitutional Convention Committee shall
21 evaluate any unliquidated fiscal liabilities of the Third Constitutional Convention in an
22 effort to liquidate them within the limitations of the funds appropriated to the Post
23 Constitutional Convention Committee by the Legislature

1 Section 24. **Authorization for Appropriation.** There is hereby authorized the
2 appropriation of such funds as are deemed necessary to carry out the duties and responsibilities
3 of the Pre Convention Committee, the Constitutional Convention and the Post Convention
4 Committee. If the Legislature fails to appropriate the necessary funds by July 22, 1994, the
5 governor shall reprogram such funds as are available and necessary to implement this Act. The
6 governor's reprogramming authority in this matter shall not be limited by 1 CMC Section 7402(b).

7 Section 25. **Sunset Clause.** This Act constitutes a temporary law and all authority
8 delegated or created pursuant to it shall cease upon the completion of the duties and
9 responsibilities of the Post Convention Committee, and in any event, not later than one year after
10 the convening of the Constitutional Convention. Provided, however, that this clause shall not
11 apply to the authority vested in the custodian of records under Section 20.

12 Section 26. **Severability.** If any provision of this Act or the application of any such
13 provision to any person or circumstance should be held invalid by a court of competent
14 jurisdiction, the remainder of this Act or the application of its provisions to persons or
15 circumstances other than those to which it is held invalid shall not be affected thereby.

16 Section 27. **Savings Clause.** This Act and any repealer contained herein shall not be
17 construed as affecting any existing right acquired under contract or acquired under statutes
18 repealed or under any rule, regulation or order adopted under the statutes. Repealers contained
19 in this Act shall not affect any proceeding instituted under or pursuant to prior law. The
20 enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability
21 civil or criminal, which shall already be in existence at the date of this Act becomes effective.

1 Section 28. Effective Date. This Act shall take effect upon its approval by the Governor
2 or upon its becoming law without such approval.

Date: 11/17/93
refiled 1/8/93

Introduced By: Herman T. Guerrero
Rep. Herman T. Guerrero

Co-sponsored By: _____
Rep. Heinz S. Hofschneider

Reviewed for Legal Sufficiency: Maya B. Kara

John T. Torres