

NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FOURTH SPECIAL SESSION, 1994

PUBLIC LAW NO. 9-18

HOUSE BILL NO. 9-217, S.D.1

AN ACT

To provide for 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; and for other purposes.

BE IT ENACTED BY THE NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This Act may be cited as the "Northern Marianas Third
2 Constitutional Convention Enabling Act of 1994."

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

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

15 Section 4. Delegates. The convention shall consist of twenty-seven (27)
16 delegates, elected at-large on a nonpartisan basis from each of the three senatorial
17 districts as defined in Article II, Section 2 of the Constitution of the Commonwealth
18 of the Northern Mariana Islands as follows:

19 (1) Nineteen (19) delegates from the island of Saipan and the
20 islands north of Saipan;

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

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

1 Section 5. Qualification of Delegates. A person shall be eligible for election
2 as a delegate and the Board of Elections shall certify as a candidate for delegate
3 representing a given senatorial district and cause to have the candidate's name
4 printed on the election ballot any person who:

5 (a) Is at least twenty-one (21) years of age, and a resident and
6 domiciliary of the Commonwealth for at least one year preceding the
7 enactment of this Act;

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

9 (c) Files with the Board of Elections not later than 30 days after the
10 effective date of this Act, a verified statement of intent to be a candidate for
11 delegate and a petition (which may not contain any reference to or
12 designate any political party) setting forth the name of the candidate and
13 containing the genuine signatures, printed names, residences, and mailing
14 addresses of not less than five percent or 100, whichever is less, of the
15 registered voters of the senatorial district concerned; and

16 (d) Remits to the Board of Elections a filing fee of One Hundred
17 Dollars (\$100.00); provided, that requirements (c) and (d) above shall not
18 apply to write-in candidates;

19 (e) Provided, however, that no member of the legislature or the
20 judiciary is eligible for election as a delegate.

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

27 Section 6. Election. Election of delegates shall take place on a day designated
28 by the Board of Elections, which shall in any case not be more than sixty (60) days
29 after the effective date of this Act.

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

31 (a) Except as otherwise provided by this Act, the conduct of the
32 election of delegates, eligibility to vote in said election, the determination of
33 the results of said election, and related matters shall be in accordance with

1 and as prescribed by Title 1, Division 6, Chapters 1, 2, and 4 of the
2 Commonwealth Code.

3 (b) The names of the candidates shall appear on the ballot without
4 any reference to political party affiliation and in a sequence to be
5 established by the drawing of lots to be administered by the Board of
6 Elections.

7 (c) Eligible voters in each senatorial district may cast votes for up
8 to but not more than the number of delegates to be elected from that
9 senatorial district. No more than one vote may be cast for a single candidate
10 by an individual voter. Those candidates in each senatorial district
11 receiving the highest number of votes cast in that senatorial district shall be
12 declared elected, in descending order of votes received, until delegates shall
13 have been declared elected to fill all the delegate seats prescribed by Section
14 4 of this Act for each senatorial district; provided, that in the event of a tie
15 for the final delegate seat in a senatorial district, the candidates so tied shall
16 draw lots to determine which shall be declared elected.

17 (d) If any voter contests the election:

18 (1) the terms "reverse", "reversing", or "reversed" as used in
19 Article 2 of Chapter 4 of the Division 6 of Title 1 of the Commonwealth
20 Code shall be construed to mean "change", "changing", or "changed"
21 with respect to the result of the election; and

22 (2) notwithstanding the provisions of 1 CMC Section 6426,
23 the defendant shall relinquish the office and the candidate having
24 the highest number of votes among those not elected from the
25 senatorial district concerned shall be declared to have been elected if:

26 (A) the defendant is found to have fewer legal
27 votes than an unsuccessful candidate in the same senatorial
28 district; or

29 (B) the Board finds a winning candidate to have
30 been ineligible or to have violated the election laws of the
31 Commonwealth or the provisions of this Act.

32 (e) The provisions of Article 4 of Chapter 3 of Division 6 of Title 1 of
33 the Commonwealth Code shall apply to candidates for delegate.

1 (f) The provisions of Chapter 5 of Division 6 of Title 1 of the
2 Commonwealth Code shall also apply to the conduct of all persons with
3 respect to the election of delegates for the Constitutional Convention.

4 (g) The Board of Elections shall promulgate such additional
5 regulations as are consistent with this Act and existing law, as necessary to
6 govern the election of delegates to the Constitutional Convention.

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

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

22 Section 10. Pre-Convention Committee.

23 (a) There shall be a Pre-Convention Committee composed of nine
24 (9) members:

25 (1) Five (5) delegates from the Third Senatorial District
26 including the delegation chairperson;

27 (2) Two (2) delegates from the Second Senatorial District
28 including the delegation chairperson; and

29 (3) Two (2) delegates from the First Senatorial District
30 including the delegation chairperson.

31 The members of the Pre-Convention Committee from each Senatorial
32 District shall be chosen by the delegates from that district. In the event that
33 the delegates from any district have not chosen Committee members by

1 thirty (30) days after the election of delegates, the Governor shall appoint
2 Committee members from among the delegates of that district.

3 (b) The Governor shall call the Pre-Convention Committee to order
4 not later than 90 days after the effective date of this Act, for the purpose of
5 electing from its membership a chairman and such other officers as the
6 committee may deem appropriate.

7 (c) No matter may be decided by the Pre-Convention Committee
8 except by the affirmative vote of at least five (5) of its members.

9 (d) The Pre-Convention Committee shall:

10 (1) specify the actual date for the convening of the
11 convention, which shall not be later than 150 days after the effective
12 date of this Act;

13 (2) draft proposed Rules of Procedure for consideration by
14 the delegates on the opening date of the Convention;

15 (3) ensure that accommodations, facilities, equipment, and
16 staff support for the Convention are arranged and in proper order;
17 and

18 (4) do such other things as are necessary and appropriate to
19 prepare for and facilitate the work of the Convention.

20 (e) Members of the Pre-Convention Committee shall not receive
21 any compensation for their services on the Committee but shall be entitled to
22 per diem and travel expenses, at standard Government of the Commonwealth
23 of the Northern Mariana Islands rates, while away from their home island
24 on the business of the Committee.

25 (f) The Pre-Convention Committee shall cease its existence upon
26 the convening of the Constitutional Convention and its powers shall devolve
27 upon the Convention.

28 **Section 11. Convening the Convention.**

29 (a) The Third Constitutional Convention to Propose Amendments to
30 the Commonwealth of the Northern Mariana Islands Constitution shall
31 convene in Saipan, Northern Mariana Islands and shall continue in session
32 for not more than sixty (60) calendar days. The Pre-Convention Committee
33 shall specify the actual date for the convening of the Convention, which
34 shall not be earlier than 120 days after the effective date of this Act. If the

1 President deems that the work of the convention cannot be accomplished
2 within sixty (60) calendar days, then an extension of not more than fifteen
3 (15) calendar days may be made by resolution approved by three-fourths
4 (3/4) of the delegates. If the Legislature fails to appropriate the necessary
5 funds within five (5) days, the governor shall reprogram such funds as are
6 available and necessary to implement this section. The governor's
7 reprogramming authority in this matter shall not be limited by 1 CMC
8 Section 7402(b).

9 (b) The first order of business of the Convention shall be the
10 election of a President. The Chairman of the Pre-Convention Committee shall
11 act as President of the Convention until the delegates shall select a president
12 from among their number.

13 (c) The Convention may also select from among its membership,
14 such additional officers as it may deem necessary and appropriate.

15 (d) The Convention may adopt such Rules of Procedure as it sees fit;
16 provided, that such Rules of Procedure may not be inconsistent with this Act.

17 (e) Plenary sessions of the Convention shall be open to the public.
18 Committee meetings, including meetings of the committee of the whole may
19 be closed, at the discretion of the committee chairman and in accordance
20 with the rules of procedure of the Convention. Public Law 8-41 shall not be
21 applicable to the Convention or its committees.

22 Section 12. Duties of the Convention. It shall be the duty of the Convention
23 to propose such amendments to the Constitution of the Commonwealth of the
24 Northern Mariana Islands as it believes to be in the best interests of the people of
25 the Commonwealth. Such amendments shall require ratification by popular
26 referendum as provided by Article XVIII, Section 5 of the Constitution, and this Act.
27 Proposed amendments adopted by the Convention are to be translated accurately
28 into the Chamorro and Carolinian languages. Upon completion of its work, the
29 Convention shall transmit copies of all proposed amendments adopted by the
30 Convention to the Governor, and President of the Senate, and the Speaker of the
31 House of Representatives.

32 Section 13. Form of Proposed Amendments. The Convention may adopt any
33 number of proposed amendments. A proposed amendment adopted by the
34 Convention may encompass one or more sections, subsections, or articles of the

1 Constitution or may propose the addition of new sections, subsections, or articles of
2 the Constitution, but each proposed amendment shall be limited to a single subject
3 or topic. Each proposed amendment shall be confined to constitutional or related
4 issues. Each proposed amendment adopted by the Convention shall be subject to the
5 ratification process independent of the others.

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

10 Section 15. Voting; Acts of the Convention. No voting shall be permitted
11 except in person. Except as otherwise provided by the Rules of Procedure adopted
12 by the Convention, which may provide for a greater voting requirement, any
13 question before the Convention or a committee thereof shall be decided by the vote
14 of a majority of those delegates present and voting, a quorum being present.
15 Voting requirements for the adoption by the Convention of proposed amendments
16 to the Constitution shall be determined by the Rules of Procedure adopted by the
17 Convention. A roll call vote shall be required on any motion for the final adoption
18 of a proposed amendment to the Constitution, and, on such votes, the prevailing side
19 of the vote shall have the abstentions, for the purpose of determining the success
20 or failure of the motion.

21 Section 16. Powers of the Convention.

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

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

1 (2) Any officer to whom such process is directed, shall
2 forthwith serve or execute the same upon delivery to him, without
3 charge or compensation; provided, that any officer serving or
4 executing such subpoena or other process shall be compensated for
5 actual expenses, if any.

6 (b) The President of the Convention or the Chairman of any duly
7 established Committee thereof, may administer an oath or affirmation to a
8 witness in any matter under examination by the Convention.

9 (c) Any person who:

10 (1) fails or refuses to appear in compliance with a subpoena
11 or, having appeared, fails or refuses to testify under oath or
12 affirmation; or

13 (2) fails or refuses to answer any relevant question or fails
14 or refuses to furnish any relevant book, paper, or other document
15 subpoenaed; or

16 (3) exhibits disrespect of the Convention or a committee
17 thereof by knowingly and willfully interfering with the operation
18 and function of the Convention or the committee by open defiance of
19 an order in or near the meeting place of the Convention or the
20 committee, by disturbing the peace in or near the meeting place, by
21 interfering with an officer of the Convention or the committee in the
22 lawful performance of his official duties, or by unlawfully detaining
23 or threatening any witness of the Convention or the committee
24 because of that person's duty as a witness;

25 shall be in contempt, and upon conviction thereof shall be fined not more
26 than One Thousand Dollars (\$1,000.00) or imprisoned for not more than one
27 year, or both. In any instance of the alleged contempt, the President of the
28 Convention shall certify a statement of the contempt to the Attorney General
29 of the Commonwealth of the Northern Mariana Islands who shall prosecute
30 the offender in the Commonwealth Trial Court.

31 (d) The officers and employees of the Government of the
32 Commonwealth of the Northern Mariana Islands shall cooperate with the
33 Convention or any committee thereof and furnish to it or to its

1 representatives such information as may be called for in connection with
2 the activities of the Convention or its committees.

3 Section 17. Support.

4 (a) The Governor, the President of the Senate, and the Speaker of
5 the House of Representatives shall cooperate and make available, to the
6 greatest extent practicable, the resources of the executive and legislative
7 branches to support the tasks and activities of the Convention and the Pre-
8 Convention Committee, at the lowest possible cost to the Government, and this
9 provision shall apply to all the factors of accommodations, facilities,
10 equipment, and staff support.

11 (b) The Pre-Convention Committee or the Convention may make
12 such other necessary arrangements, engage such other staff or professional
13 services, and procure such supplies as may be deemed necessary in the
14 performance of their tasks, within the limits of the funds made available to it
15 by this Act and other acts, but shall utilize the resources of the executive and
16 legislative branches to the greatest extent practicable.

17 Section 18. Compensation of Delegates.

18 (a) Delegates shall be paid at the rate of One Hundred Dollars
19 (\$100.00) per day for every day or part of a day the delegate is actually
20 present at a session of the Convention or a meeting of a committee thereof;
21 provided, that delegates who are employees of the Government of the
22 Commonwealth of the Northern Mariana Islands, its subdivisions,
23 instrumentalities, or independent agencies or authorities, shall be granted
24 administrative leave with pay and be paid out of the funds of the Convention
25 only the difference between their pro-rated daily salary and One Hundred
26 Dollars (\$100.00) per day if their salary is less than the latter amount; and
27 provided further, that the employers of delegates who are employees of the
28 private sector or governments other than the Government of the Northern
29 Marianas, its subdivisions, instrumentalities, or independent agencies or
30 authorities, are requested to grant leave with pay to those delegates in their
31 employ, in the public interest, and in the event such leave with pay is
32 granted, those delegates shall be paid out of the funds of the Convention only
33 the difference between their pro-rated daily salary and One Hundred Dollars
34 (\$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,
2 and to per diem at standard Government of the Commonwealth of the
3 Northern Mariana Islands rates, while away from their home island on the
4 business of the Convention or any committee thereof.

5 Section 19. Ratification of Proposed Amendments.

6 (a) All proposed amendments to the Constitution of the
7 Commonwealth of the Northern Mariana Islands adopted by the Convention
8 shall be submitted to the voters for ratification at the November 1995 regular
9 general election, pursuant to Article XVIII, Section 5, of the Constitution of
10 the Commonwealth of the Northern Mariana Islands. Authority to conduct
11 the referendum is hereby granted to the Board of Elections, in accordance
12 with the provisions of this Act and existing election law. The Board of
13 Elections shall certify the results of the referendum to the Governor and the
14 Legislature.

15 (b) The form of the referendum ballot or ballots shall be governed
16 substantially by the following:

17 (1) Each proposed amendment shall be treated separately;

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

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

24 "Constitutional Amendment Referendum

25 Do you approve the following amendment to the
26 Constitution of the Commonwealth of the Northern
27 Mariana Islands, as proposed by the 1994 Constitutional
28 Convention?

29 YES _____ NO _____."

30 Section 20. Custodian of Documents. Within thirty days of the conclusion of
31 the Constitutional Convention, official records and other records and all original
32 documents of the Constitutional Convention shall be turned over to the
33 Commonwealth Archives located at the Northern Marianas College for permanent
34 storage.

1 Section 21. Post Constitutional Convention Committee: Establishment. There is hereby
2 established a Post Constitutional Convention Committee, which shall consist of
3 seven (7) members. At least one member shall be a person representing Rota, at
4 least one member shall be a person representing Tinian, and at least one person
5 shall be of Carolinian descent. The members of the Post Constitutional Convention
6 Committee shall be appointed by the President of the Constitutional Convention
7 prior to the sine die of the Convention.

8 Section 22. Post Constitutional Convention Committee: Compensation of Committee
9 Members. The members of the Post Constitutional Convention Committee shall
10 receive no compensation for their participation on the committee. Off-island
11 members shall receive a travel allowance, at government established rates, to
12 attend to committee business.

13 Section 23. Post Constitutional Convention Committee: Duties.

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

18 (b) If an analysis of the proposed amendments has not been
19 completed prior to the close of the Convention, the Post Constitutional
20 Convention Committee shall assist with the drafting of an analysis of those
21 proposed amendments which are ratified by the voters.

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

25 (d) The Chairman of the Post Constitutional Convention Committee
26 shall evaluate any unliquidated fiscal liabilities of the Third Constitutional
27 Convention in an effort to liquidate them within the limitations of the funds
28 appropriated to the Post Constitutional Convention Committee by the
29 Legislature.

30 Section 24. Authorization for Appropriation. There is hereby authorized the
31 appropriation of such funds as are deemed necessary to carry out the duties and
32 responsibilities of the Pre-Convention Committee, the Constitutional Convention
33 and the Post Convention Committee, and the Board of Elections with respect to the
34 election of delegates to the Convention. If the Legislature fails to appropriate the

1 necessary funds within thirty (30) days after the effective date of this Act, the
 2 Governor shall reprogram such funds as are available and necessary to implement
 3 this Act. The Governor's reprogramming authority in this matter shall not be
 4 limited by 1 CMC Section 7402(b). Expenditure authority for the expenses of the Pre
 5 Convention Committee shall be vested in the Chairman of the Pre Convention
 6 Committee; the expenditure authority for the expenses of the Convention shall be
 7 vested in the President of the Convention; and the expenditure authority for the
 8 expenses of the Post Convention Committee shall be vested in the Chairman of the
 9 Post Convention Committee.

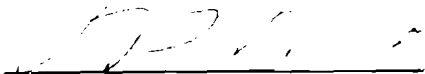
10 Section 25. Sunset Clause. This Act constitutes a temporary law and all
 11 authority delegated or created pursuant to it shall cease upon the completion of the
 12 duties and responsibilities of the Post Convention Committee, and in any event, not
 13 later than one year after the closing of the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

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

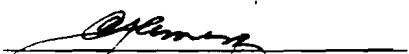
21 Section 27. Effective Date. This Act shall take effect upon its approval by the
 22 Governor, or upon its becoming law without such approval.

CERTIFIED BY:

ATTESTED BY:



 JESUS P. MAFNAS
 Acting Speaker
 House of Representatives



 EVELYN C. FLEMING
 House Clerk

Approved this *6th* day of *January*, 199*5*



 FROILAN C. TENORIO
 Governor

Commonwealth of the Northern Mariana Islands