

MEMORANDUM

TO : Acting Attorney General

DATE: MAR 29 1995

FROM : Governor

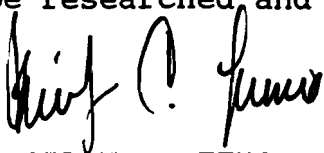
SUBJECT: Constitutionality of the Ratification Requirements for
an Amendment Proposed by Constitutional Convention

It has been brought to my attention that Article XVIII, Section 5(b) of the CNMI Constitution may violate Amendment 14, Section 1 of the U.S. Constitution. Although Section 5(b) only requires a majority of Commonwealth voters to ratify an amendment, its additional requirement (that at least 2/3 of the votes cast in each of two senatorial districts) appears to be unconstitutional with respect to the equal protection clause of the 14th Amendment.

To illustrate the possible inequities under Section 5(b), the overwhelming number of voters from Saipan could vote in favor of an amendment, thus assuring that a majority of the votes cast in the Commonwealth favored its ratification. However, under the additional requirement set forth in Section 5(b), the amendment will not be ratified unless at least 2/3 of the voters on either Tinian or Rota voted in favor of the amendment. Given the relative numbers of registered voters in the three senatorial districts, a proposed amendment could receive a 90% favorable majority and still be defeated as follows: 95% in favor from Saipan, 66% in favor from Tinian, and 66% in favor from Rota. Under such a voting pattern, the negative votes cast by a few people on either Rota or Tinian would carry far more weight than the same number of negative votes cast on Saipan. In that an amendment to the CNMI Constitution is clearly a Commonwealth concern, each vote, regardless of its origination, should carry equal weight.

I also note that the briefing papers for the First CNMI Constitutional Convention recommended that Section 5(b) be worded to include the following language: "An amendment proposed by constitutional convention or any amendment proposed by popular initiative shall be approved if it receives an affirmative vote of two thirds of the votes cast." No reference was made to voting percentage requirements from two of the senatorial districts. If the recommended language had been adopted, even though it required a greater percentage of votes for amendment ratification, all votes would have been equally weighted thereby satisfying what I believe to be a fundamental requirement of democratic law.

Given the fact that the Third Constitutional Convention will be convening within the next two months, it is imperative that this issue be researched and a legal opinion prepared as soon as possible.



FROILAN C. TENORIO

March 29, 1995

**SAIPAN DELEGATION
PRE-CONVENTION COMMITTEE
THIRD CNMI CONSTITUTIONAL CONVENTION**

**NOTIFICATION OF PROPOSED ACTION
WITH RESPECT TO RETAINING LEGAL CONSULTANTS**

Pursuant to the authority vested in the Pre-Convention Committee as described in Public Law 9-18, the Pre-Convention Committee seeks to retain legal consultants for the Third Constitutional Convention. The review and selection process will occur after consultation and input from the delegations from Saipan, Tinian, and Rota through their representatives to the Pre-Convention Committee.

The Saipan Delegation anticipates that the Pre-Convention Committee will take this action as soon as possible after April 6, 1995 in order to permit effective planning for and organization of the Convention.

For purposes of efficient consideration of the various proposals, formal and informal, that the Saipan Delegation has received to date, any interested persons are requested to submit information in a uniform format, as outlined below. This information may be the same as that already submitted to the Committee or may be different but it should be organized under the six topics for ready comparison.

1. Name of the lawyer or lawyers responsible for directing the legal services to be provided to the Pre-Convention Committee and the Convention.
2. Statement as to how the requirements of the Convention would be staffed during:
 - a) the Pre-Convention period from April 6, 1995 possibly through June 5, 1995, which is the last date for convening the Convention; and
 - b) the Convention period from June 5, 1995 possibly through August 19, 1995, which is the last date authorized for Convention proceedings.
3. The total dollar amount to be paid in compensation for lawyer services for:
 - a) the Pre-Convention period
 - b) the Convention period
4. Description of possible requirements for experts to augment the legal team from time to time during the Convention and estimate of cost for these options.
5. Description of possible requirements for non-lawyer staff (researchers, paralegals, secretaries, clerks, messengers) to support the legal team during the Convention

and estimate of cost if this staff support is not available through government or volunteer sources arranged by the Pre-Convention Committee.

6. Description of equipment required to support the legal team during the Convention and estimate of cost if this equipment is not available through government or volunteer sources arranged by the Pre-Convention Committee.

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Please send this information by fax no later than Monday, April 3, 1995 to the Pre-Convention Committee, attention of:

**Chairman, Pre-Convention Committee
Third CNMI Constitutional Convention
Second Floor, Joeten Dandan Commercial Center
Saipan, MP 96950**

Fax No. (670) 664-4759

**Contact Person: Herman T. Guerrero
Tel No. (670) 322-7784 or 322-5091-95**

Thank you.


Herman T. Guerrero, Member
Saipan Delegation & Pre-Convention Committee

DRAFT
March 26, 1995

SAIPAN DELEGATION
PRE-CONVENTION COMMITTEE
THIRD CNMI CONSTITUTIONAL CONVENTION

NOTIFICATION OF PROPOSED ACTION
WITH RESPECT TO RETAINING LEGAL CONSULTANTS

Pursuant to the authority vested in the Pre-Convention Committee by Public Law 9-18, the Pre-Convention Committee will retain legal consultants for the Third Constitutional Convention, after consultation with the delegations from Saipan, Tinian, and Rota by their representatives to the Pre-Convention Committee.

The Saipan Delegation anticipates that the Pre-Convention Committee will take this action as soon as possible after April 6, 1995 in order to permit effective planning for and organization of the Convention.

For purposes of efficient consideration of the various proposals, formal and informal, that the Saipan Delegation has received to date, any interested persons are requested to submit information in a uniform format, as outlined below. This information may be the same as that already submitted to the Committee or may be different but it should be organized under the six topics for ready comparison.

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3. The total dollar amount to be paid in compensation for lawyer services for:

a) the Pre-Convention period

b) the Convention period

4. Description of possible requirements for experts to augment the legal team from time to time during the Convention

and estimate of cost for these options.

5. Description of possible requirements for non-lawyer staff (secretaries, clerks, messengers) to support the legal team during the Convention and estimate of cost if this staff support is not available through government or volunteer sources arranged by the Pre-Convention Committee.

6. Description of possible requirements for equipment to support the legal team during the Convention and estimate of cost if this equipment is not available through government or volunteer sources arranged by the Pre-Convention Committee.

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Please send this information by fax as soon as possible to the Pre-Convention Committee, attention of:

Tel No.: _____

Fax No.: _____

Thank you.

[SIGNATURES OF DELEGATES
DESIGNATED TO DEAL WITH THIS
MATTER]

THIRD CONSTITUTIONAL CONVENTION
OUTLINE OF SUPPORT REQUIREMENTS

A. Election of delegates

1. Support costs for election
2. Certification of delegates

B. Pre-Convention Committee

1. Per diem and travel payments for delegates' work on Pre-Convention Committee matters
2. Services from legal consultant team for assistance with preparation of draft rules and other duties of Pre-Convention Committee
3. Secretarial and administrative services for arrangements for meetings, distribution of materials to delegates, requests for proposals for services for the convention, and other pre-convention administrative matters

Options

- . office and meeting space for Pre-Convention Committee and subsequently the Convention leadership and staff
- . expert consultants to assist in preparation of materials for delegates to be available at outset of Convention
- . meetings of delegates before Convention begins

C. Individual Delegates

1. Compensation, per diem, and travel payments for delegates' work at Convention
2. 40 sets of basic documents:
 - . copy of 1976 Constitution as amended by 1985 Convention and by legislative initiatives
 - . Public Law 9-18 authorizing the Convention,
 - . Convention rules
3. Services from legal consultant team to help put

proposals and amendments into constitutional language

4. 40 copies of schedules, daily journal transcripts, committee reports, delegate proposals, drafts to be considered by the convention

Options:

- . pagers so that delegates can be located for meetings and votes
- . answering machine at specified number so delegates can call in for schedule information

D. Substantive Committees

1. Chair and Vice Chair to conduct committee meetings
2. Room for committee meetings
3. Services from legal consultant team to help prepare committee reports and draft constitutional language

Options:

- . substantive experts to advise on specialty areas
- . public hearings by committees on specific issues

E. Committee of the Whole and Convention Plenary Sessions

1. Location for meetings
2. System to record presence of delegates at sessions
3. System to record votes of delegates at sessions
4. Sound amplification system for delegate debates
5. Stenographic services to make a permanent journal of plenary sessions that can be approved by the Convention as it proceeds (and associated typist, proofreading, and copying costs)
6. Services from legal consultant team for assistance at sessions

Options:

- . sergeant at arms and pages to provide delegate services
- . computer steno service so transcript is produced at same time as steno notes are entered
- . computer voting equipment so votes are recorded quickly and displayed accurately
- . public hearings on proposed amendments
- . stenographic record of Committee of Whole sessions
- . costs of various options for opening and closing ceremonies

F. Convention Leadership

1. President and Vice Presidents to chair meetings of plenary sessions, plan schedules, make decisions on administrative matters
2. Public relations officer to handle distribution of convention materials to the press and public
3. Secretary of the Convention to be responsible for certifying and maintaining convention records, disbursements to delegates, roll calls and quorum calls
4. Floor Leader to be responsible for parliamentary procedure in sessions of the Committee of the Whole and Convention plenary sessions
5. Office space for convention leadership
6. Room for meetings of convention leadership
7. Secretarial services to answer phones, handle incoming and outgoing fax and mail, prepare schedules and announcements, make room assignments for meetings, and handle other administrative matters
8. Secretarial services for legal consultants
9. Administrative assistant for the Secretary of the Convention to maintain records of votes and delegate attendance, payment of per diems, and other administrative matters
10. Computer equipment for the legal, secretarial and

administrative staff

11. Telephone and fax equipment for the secretarial and administrative staff

Options

- . public information officers for island delegations
- . administrative assistants for island delegations
- . copying supervisor
- . librarian

G. Archival record

1. Committee reports
2. Recordings of proceedings of the Committee of the Whole
3. Transcript of proceedings of Convention plenary sessions
4. Delegate proposals and amendments
5. Constitutional language approved by substantive committees, Committee of the Whole, and Convention plenary sessions

H. Post Convention Committee, Referendum

1. Per diem and travel payments for delegate services on Post-Convention Committee
2. Translation of constitutional amendments
3. Assistance in preparation of materials for public education campaign, including an analysis of proposed amendments