

May 30, 1995

Memo for the Administrative Subcommittee

From: Howard Willens and Deanne Siemer

Re: Arrangements for creating a record of the Convention's proceedings

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Several decisions need to be made by the Administrative Subcommittee with respect to creating the official record of the Convention proceedings. We have made the following tentative arrangements for the Subcommittee's consideration.

1. Convention Plenary Sessions

Records of the Convention's plenary sessions are the most important among the several sets of records that will be generated by the Convention. The record of the plenary session contains all delegate proposals, referrals to substantive committees, reports from Committees, roll call votes, resolutions, and other decisions made by the Convention.

The rules provide that the records of the plenary sessions are the verbatim Daily Journal and the Summary Journal. We recommend that the proceedings of the Convention's plenary sessions be transcribed by a qualified professional court reporter who has the special computer capability to produce real-time drafts.

We have made tentative arrangements with two court reporters. Mr. Les Martin, who is from San Francisco, is available from June 3 through June 17, 1995. Ms. Sonia Blake, who is from Guam, is available from June 18 through August 4, 1995. The real-time capability provided by these reporters means that a computer immediately translates the keystrokes on the reporter's stenograph machine into English words. At the end of a session (or at intervals during a session), a rough draft transcript can be printed out or put up on the screen of a proofreader's computer so that any errors can be corrected very quickly. Using this capability, we will be able to produce an accurate transcript each evening which can be distributed to the delegates the next day for any further corrections. If the Daily Journal transcripts are approved by the Convention promptly as they are produced, the complete record of the plenary sessions will be available when the Convention closes.

Bernie Zimmerman has had extensive negotiations with a number of reporters to obtain a relatively low, fixed-cost arrangement. Real-time capability is normally quite expensive. Each of the reporters, Mr. Martin and Ms. Blake, whom we are recommending has agreed to work for a fixed fee of \$1,500 per week, which is well below their normal rates, plus housing. We would also provide shared transportation (with one of the cars being used by the legal team) so the reporter could get to and from work. The total cost for 10 weeks of Convention work would be about \$20,000.

We have also arranged for a backup reporter in case our main reporter gets ill or is overwhelmed with the volume of work. A good reporter can work at the steno machine only six or seven hours a day because of the intense concentration needed to produce an accurate transcript. During the last two weeks of the Convention, it is possible that the Convention plenary sessions will last longer than seven hours per day. In that event, we will need to split the work between two reporters, and we have a contingency arrangement with another reporter if that happens. The backup reporter might add \$5,000 to the overall cost.

Daily Journal: For their fixed fee, the reporters would provide Daily Journal transcripts of all Convention plenary sessions, no matter how long they run or how many days per week such sessions are scheduled. Every transcript would be available on a next-day basis, so the delegates will have fresh in their minds the proceedings that have been transcribed and can offer any necessary corrections. The legal team would provide support for proof-reading through the CNMI law students and administrative staff. Each session would be taped using the equipment installed in the House chamber and these tapes would be available as backup for the proof-reading process. Once the transcripts are approved by the Convention, however, the tapes would no longer be maintained.

Summary Journal: The Summary Journal would be prepared in a standard format by the secretarial staff each evening from the Daily Journal. The Summary Journal would also be available to the delegates on a next-day basis and would be used by the Public Information Officer for briefing the press. We recommend that the responsibility for the Summary Journal be lodged with Alicia Guerrero, who will be serving as Journal Clerk. The Summary Journal is not a responsibility of the court reporter. The legal team will be available to help the secretarial staff with proof reading and content checks.

We recommend that the Administrative Subcommittee authorize contracts with the reporters so that this capability can be in place on the first day of the Convention, and authorize the necessary funding of \$25,000 to be devoted to this purpose.

## 2. Committee of the Whole

The proceedings of the Committee of the Whole are less formal than the plenary sessions. After the reports of the substantive committees are formally submitted to the Convention, the initial debate and straw votes occur in the Committee of the Whole. In this more informal setting, the delegates can determine if they have the necessary majority to support the committee's recommendations or if amendments are necessary. After the debate and informal votes, any proposed amendments that have the necessary majority are reported back to the Convention plenary session where the formal vote is taken and recorded. A summary of the discussion in the Committee of the Whole, and each of the reasons supporting the proposed amendment, is reported in the analysis, prepared by the legal team, that accompanies any amendment approved in final form by the Convention.

It is not necessary to have a transcript of these proceedings available immediately after the session because all the official actions take place in the plenary sessions, and because the official analysis of each amendment, approved by the delegates, will contain a summary of the discussion. But, because much of the substantive debate on constitutional amendments occurs in the sessions of the Committee of the Whole, it is sometimes important in subsequent litigation or legislative drafting, to have an accurate record of what is said.

In the first Constitutional Convention, the proceedings of the Committee of the Whole were tape recorded but were not transcribed. At some point after the Convention, the only copy of those tapes was lost. In the second Constitutional Convention, some transcripts were prepared, generally after the Convention was over, but some of those tapes were lost as well before they were transcribed. Given these problems, we recommend that the tapes be transcribed during the Convention. If that is done, the delegates will have the opportunity to ensure that their remarks have been reported accurately.

Taping: We recommend that the responsibility for taping the sessions be lodged with the regular employee of the Legislature who tapes the sessions of the House of Representatives and who is familiar with the equipment installed in the House chamber. It will be important to ensure the availability of this employee for both day and night sessions.

The proceedings of the Committee of the Whole would not be the responsibility of the court reporter although, if the workload with with plenary sessions is light on some days, we may be able to use the reporter for some sessions of the Committee of the Whole as well.

Transcription: We recommend that the responsibility for supervising the personnel who will be transcribing the tapes be lodged with Alicia Guerrero, who will serve as the Journal Clerk. She would assign Convention secretarial personnel or outside resources to transcribe each tape, and keep track of the transcription process process. As with the Daily Journal and the Summary Journal, the legal team would be available to assist with proof-reading.

The tape transcripts would be produced with a three to four day lag until the very end of the Convention when a catch-up process would be utilized to get all the transcription done before the Convention concludes its work. The transcripts would be delivered to the delegates for their corrections as they were completed, and all the transcripts would be approved by the Convention before adjournment. After the transcripts are approved, the tapes would no longer be maintained.

A tape recording of one hour of debate in the Committee of the Whole will require four to five hours to transcribe. If the secretarial personnel work at transcription duties for six hours a day (which is about the limit for this kind of work), then each secretary can transcribe 1 1/2 hours of debate each day. That means it will require three full-time transcribers to stay reasonably current, with a three to four-day lag in producing the transcripts. In addition, there will be a need for outside resources to supplement these full time personnel for surges in the work load and for the catch-up period at the end of the Convention.

If secretarial time for transcription work can be obtained for \$15 per hour (which is in the low range), and the Committee of the Whole produces about 120 hours of debate over the course of the Convention (an average of four hours a day, five days a week, for six weeks), then the 600 hours of transcription time will cost about \$10,000.

We are exploring the option of contracting out this work, either in Saipan or the Philippines, for a lower overall price.

We recommend that the Subcommittee authorize sufficient secretarial capability, either within the Convention's staff or with outside contractors, to keep up with these transcripts.

### 3. Substantive committees

The proceedings of the substantive committees are much less formal than those of the Committee of the Whole. At this stage, the delegates should be free to explore ideas, exchange frank views, consider alternatives, and discuss seemingly unrelated subjects.

For that reason, we recommend that the deliberations of the substantive committees not be tape recorded or transcribed in any way.

Committee reports: The legal team will produce a report on every proposed constitutional amendment that is sent by the Committee to the floor. At least one member of the legal team will attend all committee sessions and will take extensive notes. Those notes will be written up as the Committee's report. That report will set out the actual constitutional language being offered by the committee and will summarize the pros and cons with respect to the amendment. All views will be set out fairly, and the report will be approved by the committee (and signed by the members) before it goes to the floor. The report will serve as a summary of the committee's relevant discussions on each topic.

The expenses of producing committee reports are included in the legal budget, and the staff budget for Mary Andress (one of the secretarial staff) and Pamela Carlson (the legal team's administrative assistant).