

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

§ 2051. Office of the Governor.

There is in the Commonwealth government the office of the Governor, composed of the Governor, the Governor's Council, and offices and functions as set forth within Part 2 of Executive Order 94-3 as amended, the provisions of which are incorporated by reference, including resident office of Special Assistants to the Governor. All such positions are exempt from civil service.

Source: PL 1-8, tit. 1, ch. 1, § 1, modified; repealed and reenacted by PL 13-1, § 4(a).

Commission Comment: The "Governor's Council" consists of mayors and the Governor's Executive Assistant for Carolinian Affairs; its purpose is to advise the Governor on local matters. See N.M.I. Const. art. VI, § 5.

As enacted, this section purported to require advice and consent of the Senate for the Governor's appointments to the positions described in subsections (a), (b), (c) and (e). That portion of PL 1-8, tit. 1, ch. 1, § 1 was ruled unconstitutional in *Mafnas v. Camacho*, Civ. No. 80-0012 (D.N.M.I. Oct. 21, 1980). The Commission omitted the unconstitutional language in this codification.

Executive Order 94-3, the "Second Reorganization Plan of 1994" (effective August 23, 1994), reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3, §§ 101, 102, 201-204, 210, 211, 213-216:

Section 101. Special Assistant for Management and Budget. The Special Assistant for Planning and Budgeting is re-designated the Special Assistant for Management and Budget and shall head the Office of Management and Budget.

Section 102. Special Assistant for Public Liaison. The Special Assistant for Political Affairs is re-designated the Special Assistant to the Governor for Public Liaison and shall head the Office of Public Liaison.

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PART 2. OFFICE OF THE GOVERNOR

Transfers, abolishments, creations, and changes in functions and duties, not otherwise provided for, relating to the Office of the Governor are hereby effected as set forth in this part.

Section 201. Passports and Certificates of Identity. The functions of the Attorney General and the Immigration and Naturalization Officer (including those as Chief of Immigration) relating to Certificates of Identity or United States passports are transferred to the Governor and delegated to the Special Assistant for Administration. The Special Assistant for Administration may designate any qualified officer or employee of the Commonwealth Government to serve as an examining officer pursuant to 3 CMC § 4126.

Section 202. Planning and Management Functions.

(a) There is hereby established a Planning Office in the Office of the Governor, which shall have at its head a Special Assistant for

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

Planning, who shall be appointed by and serve at the pleasure of the Governor.

(b) The planning functions of the Special Assistant for Management and Budget, other than those relating to land use planning, are transferred to the Special Assistant for Planning.

(c) The functions of the Special Assistant for Management and Budget relating to land use planning are transferred to the Secretary of Lands and Natural Resources.

(d) The Special Assistant for Management and Budget shall, in addition to any other duties, be responsible for improving and coordinating the management of the Commonwealth Government. In this regard, the Special Assistant shall ensure discipline in government programs and activities for consistency with the Governor's policies and budget, improve government efficiency by reducing duplication and overlaps between and among agencies, and assist department and activity heads in internal organization and management to achieve maximum effectiveness at minimum cost to the taxpayers.

Section 203. Special Assistant for Youth. [Section 203 VACATED by PL 11-47, § 2; REPEALED in entirety by PL 12-67, § 14]

(a) There is established the Office of Youth Affairs, which shall have at its head a Special Assistant for Youth, who shall be appointed by and serve at the pleasure of the Governor.

(b) The Special Assistant for Youth shall coordinate all Commonwealth Government programs and activities for youth. The Special Assistant may also conduct programs and activities for youth that are not being conducted by other agencies and, in particular, may develop and implement innovative programs and activities for youth.

(c) As used in this section, the term "programs and activities for youth" means programs and activities with substantial participation by, or designed for the benefit of, non-delinquent and non-criminal individuals under the age of twenty-three years, except primarily academic programs of the Public School System or the Northern Marianas College, and except primarily medical programs of the Department of Public Health.

Section 204. Constitutional Officers.

(a) The following officers and their respective offices are transferred to the Department of Community and Cultural Affairs:

- (1) Executive Assistant for Carolinian Affairs;
- (2) Special Assistant for Women's affairs; and
- (3) Resident Executive for Indigenous Affairs.

(b) Except as provided in subsection (c) of this section, the Secretary of Community and Cultural Affairs shall coordinate the activities of the officers and offices transferred pursuant to this section to reduce or eliminate conflict and overlaps and to promote productivity and efficiency.

(c) Notwithstanding the provisions of subsection (b) of this section, all rights, powers, and responsibilities of the officers transferred pursuant to this section shall be preserved as set forth in the Constitution and shall not be derogated by the Secretary of Community and Cultural Affairs. For example, pursuant to the Constitution, the

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

Executive Assistant for Carolinian Affairs, without the permission of the Secretary, may require information in writing (even from the Secretary), conduct investigations, report findings, and make recommendations to the Governor.

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Section 210. Public Liaison. The Special Assistant for Public Liaison shall coordinate the government's participation in community events and celebrations and provide outreach to various organizations, association, and other groups.

Section 211. Scholarships.

(a) All functions of the Northern Marianas College Board of Regents relating to student scholarships, except those donated, bequeathed, or granted to the College by parties outside the Commonwealth Government, are transferred to the Office of the Governor.

(b) There is hereby established in the Office of the Governor a Scholarship Advisory Board consisting of nine members who shall be appointed by and serve at the pleasure of the Governor. At least two of the members shall be from Tinian, and at least two from Rota. Not more than five of the board members shall be associated with a single political party. The Board shall review applications for scholarships and make recommendations to the Governor with respect thereto. The Board shall also recommend objective standards for the award of scholarships. The provisions of [PL 8-41] shall not apply to the Board.

(c) As used in this section, the term "scholarships" includes student grants, student loans, and other programs of student financial assistance.

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Section 213. Board of Parole. [REPEALED by PL 11-8, § 6]

(a) The Board of Parole is allocated to the Office of the Special Assistant for Administration for purposes of administration and coordination. After the effective date of this section, appointments to the Board shall be made by the Governor with the advice and consent of the Senate.

(b) Subsection (a) of 6 CMC § 4205, relative to probation, is repealed and succeeding subsections re-designated accordingly.

(c) [1 CMC § 4207] is revised to read as follows:

"§ 4207. Board of Parole: Staff.

The Special Assistant for Administration shall provide staff support to the Board, including a Probation Officer who shall have the power of arrest of persons under the jurisdiction of the Board."

(d) Any existing staff of the Board of Parole is transferred to the Office of the Special Assistant for Administration.

Section 214. Personnel Management. [REPEALED & REENACTED by PL 12-54; REINSTATED in entirety by PL 13-1 § 3; REPEALED by PL 17-80 (Section 214 and PL 12-54 not revived by repealer)]

Section 215. Special Assistant for Drugs & Substance Abuse.

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

(a) There is established in the Office of the Governor the Office of Drugs and Substance Abuse, which shall be headed by a Special Assistant for Drugs and Substance Abuse, who shall be appointed by and shall serve at the pleasure of the Governor.

(b) The Special Assistant for Drugs and Substance Abuse shall coordinate all activities of the Commonwealth Government relating to drugs and substance abuse, including education, prevention, interdiction, enforcement, treatment, and rehabilitation.

(c) The heads of Public Health and Environmental Safety, Finance, Community and Cultural Affairs, Public Safety, and all other relevant agencies shall advise the Special Assistant regarding programs and activities of their respective offices and departments relating to drug control and substance abuse and shall coordinate such programs and activities with each other and with the Special Assistant; provided, that nothing in this subsection shall be taken to require advice or coordination where such action would compromise a pending investigation or legal proceeding or would violate any law.

The Special Assistant shall also coordinate with private and voluntary organizations, religious groups, businesses, health care practitioners (including practitioners of traditional medicine) and other persons or groups in the Commonwealth expressing an interest in controlling drugs and combating substance abuse.

(d) The Special Assistant may stimulate or supplement programs and activities conducted by other agencies, or may initiate new programs and activities, subject to the availability of funding.

(e) All applications for grants or grant renewals from the Federal Government or other sources in the areas of drug control and substance abuse shall be coordinated by and require the approval of the Special Assistant.

(f) The Special Assistant shall utilize funds appropriated or otherwise available to the Office of the Governor and designated for such purpose by the Governor and may, with the approval of the Governor, employ staff or procure the services of independent contractors.

(g) The position of Special Assistant for Drugs and Substance Abuse shall continue in existence for four years from the effective date of this order. If still needed, it may be renewed thereafter by a subsequent Executive Order.

Section 216. Emergency Operations. The Disaster Control Office and the Office of Civil Defense are consolidated in a Division of Emergency Operations within the Office of the Governor, which shall have at its head a Director of Emergency Operations.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Section 1 of PL 11-47 that vacated section 203 above, stated the following findings and Section 3 of PL 11-47 effectuated further changes in the Office of the Governor. The text of sections 1 and 3 are as follows:

Section 1. Findings. The Legislature finds that the re-organization of the government pursuant to Executive Order 94-3, § 204 (“E.O. 94-3”)

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

unnecessarily and unconstitutionally removed constitutional officers from the Office of the Governor. The Legislature further finds that E.O. 94-3, § 303(a) placement of the Criminal Justice Planning Agency (CJPA), Youth Advisory Council and the Council for the Improvement of the Criminal Justice System within the Department of Public Safety does not advance realization of, and is inconsistent with, their respective mission and duties. of these entities and thus, it is in the public interest for them to be placed within the Office of the Governor. The Legislature intends that this Act shall repeal each and every section of E.O. 94-3 which affect in any manner whatsoever the functions, locations, and duties of the Executive Assistant for Carolinian Affairs, Special Assistant for Women's Affairs; and Resident Executive for Indigenous Affairs as well as CJPA, Youth Advisory Council and the Council for the Improvement of the Criminal Justice System.

Therefore, it is the purpose of this Act that these agencies, officers, and councils shall be considered as part of the Office of the Governor.

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Section 3. Placement in the Office of the Governor. The following officers, offices, agencies and councils shall be considered as part of the Office of the Governor and any funds, records, property and personnel transferred pursuant to §§ 503, 504, and 505 shall revert to the respective officer, council, and agency which retained control prior to the enactment of E.O. 94-3:

Executive Assistant for Carolinian Affairs;
Special Assistant for Women's Affairs;
Resident Executive for Indigenous Affairs;
Criminal Justice Planning Agency;
Youth Advisory Council; and
Council for the Improvement of the Criminal Justice System.

PL 13-1 took effect February 13, 2002. The full text of EO 94-3 is set forth in the comment to 1 CMC § 2001. Contained in PL 13-1 were the following findings and purpose, repealer, reenactment, transfer, and severability clauses:

Section 1. Findings and Purpose. The Legislature finds that staff positions under the Office of the Governor, Office of the Lieutenant Governor, Office of the Resident Representative to the United States, and the Municipal Councils for each Senatorial District rightfully should be exempt from the civil service. For obvious policy reasons, each administration should be allowed the discretion and flexibility to determine its own staffing requirements to more efficiently and effectively meet its goals and objectives. Along with this, the term "executive position" should be defined to clarify the positions that are intended to be exempt from civil service under 1 CMC 8131 (a)(6). The Legislature finds that the Office of Personnel Management should be returned to the control of the Office of the Governor for purposes of administrative efficiency.

Section 2. Repealer. Pl 12-54 is hereby repealed in its entirety.

Section 3. Re-enactment. Executive Order 94-3, Section 214 is hereby reinstated in its entirety.

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

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Section 5. Transition. Any Commonwealth government employee who loses civil service status as a result of this Act shall, for a period of three years, have reemployment rights for any civil service position for which he or she is qualified, and shall be entitled to transfer into such employment pursuant to applicable rules, regulations and procedure.

Section 6. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.