

NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FOURTH SPECIAL SESSION, 1994

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 amendmentss shall be ratified; and for other purposes.

BE IT ENACTED BY THE NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

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

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

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

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

- (1) Nineteen (19) delegates from the island of Saipan and the islands north of Saipan;
- (2) Four (4) delegates from the island of Rota;
- (3) Four (4) delegates from the islands of Tinian and Aguiguan.

Section 5. Qualification of Delegates. A person shall be eligible for election as a delegate

45 and the Board of Elections shall certify as a candidate for delegate representing a given senatorial
46 district and cause to have the candidate's name printed on the election ballot any person who:

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

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

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

56 (d) Remits to the Board of Elections a filing fee of One Hundred Dollars
57 (\$100.00); provided, that requirements (c) and (d) above shall not apply to write-in
58 candidates;

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

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

66
67 Section 6. Election. Election of delegates shall take place on a day designated by the Board
68 of Elections, which shall in any case not be more than sixty (60) days after the effective date of this
69 Act.

70
71 Section 7. Eligibility to Vote; Conduct of Election; Determination of Results.

72 (a) Except as otherwise provided by this Act, the conduct of the election of
73 delegates, eligibility to vote in said election, the determination of the results of said election,
74 and related matters shall be in accordance with and as prescribed by Title 1, Division 6,
75 Chapters 1, 2, and 4 of the Commonwealth Code.

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

79 (c) Eligible voters in each senatorial district may cast votes for up to but not
80 more than the number of delegates to be elected from that senatorial district. No more than
81 one vote may be cast for a single candidate by an individual voter. Those candidates in each
82 senatorial district receiving the highest number of votes cast in that senatorial district shall
83 be declared elected, in descending order of votes received, until delegates shall have been
84 declared elected to fill all the delegate seats prescribed by Section 4 of this Act for each
85 senatorial district; provided, that in the event of a tie for the final delegate seat in a
86 senatorial district, the candidates so tied shall draw lots to determine which shall be
87 declared elected.

88 (d) If any voter contests the election:

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

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

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

99 (B) the Board finds a winning candidate to have been ineligible
100 or to have violated the election laws of the Commonwealth or the
101 provisions of this Act.

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

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

107 (g) The Board of Elections shall promulgate such additional regulations as are
108 consistent with this Act and existing law, as necessary to govern the election of delegates
109 to the Constitutional Convention.
110

111 Section 8. Disqualification for Partisan Activity. Any person who, having declared intent
112 to be a candidate for delegate to the Constitutional Convention, publicly proclaims his political
113 party affiliation, permits his political party affiliation to be used in connection with his name in
114 campaign materials or campaigning, or who in any way makes an issue of the political party
115 affiliation of another candidate, shall be disqualified as a candidate for delegate and, if elected, may
116 not be seated.
117

118 Section 9. Vacancies. Vacancies for any elected delegate shall be filled by the unsuccessful
119 candidate from the same senatorial district who received the highest number of votes of the
120 unsuccessful candidates in that district; provided, that in the event of a tie, the candidate to fill the
121 vacancy shall be determined by the drawing of lots. If the next delegate in line refuses or is not
122 available to serve and there are no remaining candidates available in that senatorial district, the
123 Mayor of Saipan, Tinian, or Rota, as appropriate, shall appoint a person to fill the vacancy.
124

125 Section 10. Pre-Convention Committee.

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

127 (1) Five (5) delegates from the Third Senatorial District including the
128 delegation chairperson;

129 (2) Two (2) delegates from the Second Senatorial District including the
130 delegation chairperson; and

131 (3) Two (2) delegates from the First Senatorial District including the
132 delegation chairperson.

133 The members of the Pre-Convention Committee from each Senatorial District shall be
134 chosen by the delegates from that district. In the event that the delegates from any district have not
135 chosen Committee members by thirty (30) days after the election of delegates, the Governor shall
136 appoint Committee members from among the delegates of that district.

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

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

142 (d) The Pre-Convention Committee shall:

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

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

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

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

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

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

157
158 Section 11. Convening the Convention.

159 (a) The Third Constitutional Convention to Propose Amendments to the
160 Commonwealth of the Northern Mariana Islands Constitution shall convene in Saipan,
161 Northern Mariana Islands and shall continue in session for not more than sixty (60) calendar
162 days. The Pre-Convention Committee shall specify the actual date for the convening of the
163 Convention, which shall not be earlier than 120 days after the effective date of this Act. If
164 the President deems that the work of the convention cannot be accomplished within sixty
165 (60) calendar days, then an extension of not more than fifteen (15) calendar days may be
166 made by resolution approved by three-fourths (3/4) of the delegates. If the Legislature fails
167 to appropriate the necessary funds within five (5) days, the governor shall reprogram such
168 funds as are available and necessary to implement this section. The governor's
169 reprogramming authority in this matter shall not be limited by 1 CMC Section 7402(b).

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

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

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

177 (e) Plenary sessions of the Convention shall be open to the public. Committee
178 meetings, including meetings of the committee of the whole may be closed, at the discretion
179 of the committee chairman and in accordance with the rules of procedure of the
180 Convention. Public Law 8-41 shall not be applicable to the Convention or its committees.
181

182 Section 12. Duties of the Convention. It shall be the duty of the Convention to propose
183 such amendments to the Constitution of the Commonwealth of the Northern Mariana Islands as it
184 believes to be in the best interests of the people of the Commonwealth. Such amendments shall
185 require ratification by popular referendum as provided by Article XVIII, Section 5 of the
186 Constitution, and this Act. Proposed amendments adopted by the Convention are to be translated
187 accurately into the Chamorro and Carolinian languages. Upon completion of its work, the
188 Convention shall transmit copies of all proposed amendments adopted by the Convention to the
189 Governor, and President of the Senate, and the Speaker of the House of Representatives.
190

191 Section 13. Form of Proposed Amendments. The Convention may adopt any number of
192 proposed amendments. A proposed amendment adopted by the Convention may encompass one
193 or more sections, subsections, or articles of the Constitution or may propose the addition of new
194 sections, subsections, or articles of the Constitution, but each proposed amendment shall be limited
195 to a single subject or topic. Each proposed amendment shall be confined to constitutional or
196 related issues. Each proposed amendment adopted by the Convention shall be subject to the
197 ratification process independent of the others.
198

199 Section 14. Quorum. No business may be transacted by the Convention in the absence of
200 a quorum. Presence of a majority of the delegates shall constitute a quorum; provided, that at least
201 one delegate is present from each of the three senatorial districts.
202

203 Section 15. Voting; Acts of the Convention. No voting shall be permitted except in person.
204 Except as otherwise provided by the Rules of Procedure adopted by the Convention, which may
205 provide for a greater voting requirement, any question before the Convention or a committee
206 thereof shall be decided by the vote of a majority of those delegates present and voting, a quorum
207 being present. Voting requirements for the adoption by the Convention of proposed amendments
208 to the Constitution shall be determined by the Rules of Procedure adopted by the Convention. A
209 roll call vote shall be required on any motion for the final adoption of a proposed amendment to
210 the Constitution, and, on such votes, the prevailing side of the vote shall have the abstentions, for
211 the purpose of determining the success or failure of the motion.
212

213 Section 16. Powers of the Convention.

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

218 (1) Any subpoena or other process issued under the authority of the
219 Convention shall run in the name of the Government of the Commonwealth of the
220 Northern Mariana Islands. The subpoena or other process shall be signed by the

221 President or Chairman, as the case may be, shall contain a reference to this section,
222 and shall set forth in general terms the matter or questions with reference to which
223 the testimony or other evidence is to be taken.

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

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

231 (c) Any person who:

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

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

236 (3) exhibits disrespect of the Convention or a committee thereof by
237 knowingly and willfully interfering with the operation and function of the
238 Convention or the committee by open defiance of an order in or near the meeting
239 place of the Convention or the committee, by disturbing the peace in or near the
240 meeting place, by interfering with an officer of the Convention or the committee in
241 the lawful performance of his official duties, or by unlawfully detaining or
242 threatening any witness of the Convention or the committee because of that person's
243 duty as a witness;

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

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

254 Section 17. Support.

255 (a) The Governor, the President of the Senate, and the Speaker of the House
256 of Representatives shall cooperate and make available, to the greatest extent practicable,
257 the resources of the executive and legislative branches to support the tasks and activities
258 of the Convention and the Pre-Convention Committee, at the lowest possible cost to the
259 Government, and this provision shall apply to all the factors of accommodations, facilities,
260 equipment, and staff support.

261 (b) The Pre-Convention Committee or the Convention may make such other
262 necessary arrangements, engage such other staff or professional services, and procure such
263 supplies as may be deemed necessary in the performance of their tasks, within the limits of
264 the funds made available to it by this Act and other acts, but shall utilize the resources of

the executive and legislative branches to the greatest extent practicable.

Section 18. Compensation of Delegates.

(a) Delegates shall be paid at the rate of One Hundred Dollars (\$100.00) per day for every day or part of a day the delegate is actually present at a session of the Convention or a meeting of a committee thereof; provided, that delegates who are employees of the Government of the Commonwealth of the Northern Mariana Islands, its subdivisions, instrumentalities, or independent agencies or authorities, shall be granted administrative leave with pay and be paid out of the funds of the Convention only the difference between their pro-rated daily salary and One Hundred Dollars (\$100.00) per day if their salary is less than the latter amount; and provided further, that the employers of delegates who are employees of the private sector or governments other than the Government of the Northern Marianas, its subdivisions, instrumentalities, or independent agencies or authorities, are requested to grant leave with pay to those delegates in their employ, in the public interest, and in the event such leave with pay is granted, those delegates shall be paid out of the funds of the Convention only the difference between their pro-rated daily salary and One Hundred Dollars (\$100.00) per day if their salary is less than the latter amount.

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

Section 19. Ratification of Proposed Amendments.

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

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

(1) Each proposed amendment shall be treated separately;

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

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

"Constitutional Amendment Referendum

Do you approve the following amendment to the Constitution of the

Commonwealth of the Northern Mariana Islands, as proposed by the 1994
Constitutional Convention?

YES _____ NO _____."

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

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

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

Section 23. Post Convention Committee: Duties.

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

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

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

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

Section 24. Authorization for Appropriation. There is hereby authorized the appropriation
of such funds as are deemed necessary to carry out the duties and responsibilities of the Pre-
Convention Committee, the Constitutional Convention and the Post Convention Committee, and
the Board of Elections with respect to the election of delegates to the Convention. If the
Legislature fails to appropriate the necessary funds within thirty (30) days after the effective date
of this Act, the Governor shall reprogram such funds as are available and necessary to implement

353 this Act. The Governor's reprogramming authority in this matter shall not be limited by 1 CMC
354 Section 7402(b). Expenditure authority for the expenses of the Pre Convention Committee shall
355 be vested in the Chairman of the Pre Convention Committee; the expenditure authority for the
356 expenses of the Convention shall be vested in the President of the Convention; and the expenditure
357 authority for the expenses of the Post Convention Committee shall be vested in the Chairman of
358 the Post Convention Committee.
359

360 Section 25. Sunset Clause. This Act constitutes a temporary law and all authority
361 delegated or created pursuant to it shall cease upon the completion of the duties and responsibilities
362 of the Post Convention Committee, and in any event, not later than one year after the closing of the
363 Constitutional Convention. Provided, however, that this clause shall not apply to the authority
364 vested in the custodian of records under Section 20.
365

366 Section 26. Severability. If any provision of this Act or the application of any such
367 provision to any person or circumstance should be held invalid by a court of competent jurisdiction,
368 the remainder of this Act or the application of its provisions to persons or circumstances other than
369 those to which it is held invalid shall not be affected thereby.
370

371 Section 27. Effective Date. This Act shall take effect upon its approval by the Governor,
372 or upon its becoming law without such approval.
373

374 **CERTIFIED BY:**

375 /s/ Jesus P. Mafnas
376 JESUS P. MAFNAS
377 Acting Speaker
378 House of Representatives
379

374 **ATTESTED BY:**

375 /s/ Evelyn C. Fleming
376 EVELYN C. FLEMING
377 House Clerk
378

380
381 APPROVED this 6th day of JANUARY, 1995
382

383 /s/ Froilan C. Tenorio
384 FROILAN C. TENORIO
385 Governor
386 Commonwealth of the Northern Mariana Islands
387