

NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FOURTH SPECIAL SESSION, 1994

HOUSE BILL NO. 9 - 217

A BILL FOR 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 Constitutional
2 Convention Enabling Act of 1994."

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

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

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

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

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

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

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

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

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

1 (c) Files with the Board of Elections not later than 30 days after the effective date of this
2 Act, a verified statement of intent to be a candidate for delegate and a petition (which may not contain
3 any reference to or designate any political party) setting forth the name of the candidate and containing
4 the genuine signatures, printed names, residences, and mailing addresses of not less than five percent or
5 100, whichever is less, of the registered voters of the senatorial district concerned; and

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

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

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

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

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

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

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

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

32 (d) If any voter contests the election:

33 (1) the terms "reverse", "reversing", or "reversed" as used in Article 2 of Chapter
34 4 of the Division 6 of Title 1 of the Commonwealth Code shall be construed to mean "change",
35 "changing", or "changed" with respect to the result of the election; and

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

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

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

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

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

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

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

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

27 Section 10. Pre-Convention Committee.

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

29 (1) Five (5) delegates from the Third Senatorial District including the delegation
30 chairperson;

31 (2) Two (2) delegates from the Second Senatorial District including the
32 delegation chairperson; and

33 (3) Two (2) delegates from the First Senatorial District including the delegation
34 chairperson.

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

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

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

10 (d) The Pre-Convention Committee shall:

11 (1) specify the actual date for the convening of the convention, which shall not be
12 later than 120 days after the effective date of this Act;

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

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

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

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

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

25 Section 11. Convening the Convention.

26 (a) The Third Constitutional Convention to Propose Amendments to the Commonwealth
27 of the Northern Mariana Islands Constitution shall convene in Saipan, Northern Mariana Islands and
28 shall continue in session for not more than sixty (60) calendar days. The Pre-Convention Committee
29 shall specify the actual date for the convening of the Convention, which shall not be earlier than 120
30 days after the effective date of this Act, but shall not be later than February 1, 1995. If the President
31 deems that the work of the convention cannot be accomplished within sixty (60) calendar days, then an
32 extension of not more than fifteen (15) calendar days may be made by resolution approved by three-
33 fourths (3/4) of the delegates. Any additional funding must be approved by the Legislature.

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

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

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

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

15 Section 13. Form of Proposed Amendments. The Convention may adopt any number of proposed
16 amendments. A proposed amendment adopted by the Convention may encompass one or more sections,
17 subsections, or articles of the Constitution or may propose the addition of new sections, subsections, or articles of
18 the Constitution, but each proposed amendment shall be limited to a single subject or topic. Each proposed
19 amendment adopted by the Convention shall be subject to the ratification process independent of the others.

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

23 Section 15. Voting: Acts of the Convention. No voting shall be permitted except in person. Except as
24 otherwise provided by the Rules of Procedure adopted by the Convention, which may provide for a greater voting
25 requirement, any question before the Convention or a committee thereof shall be decided by the vote of a majority
26 of those delegates present and voting, a quorum being present. Voting requirements for the adoption by the
27 Convention of proposed amendments to the Constitution shall be determined by the Rules of Procedure adopted
28 by the Convention. A roll call vote shall be required on any motion for the final adoption of a proposed
29 amendment to the Constitution, and, on such votes, the prevailing side of the vote shall have the abstentions, for
30 the purpose of determining the success or failure of the motion.

31 Section 16. Powers of the Convention.

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

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

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

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

13 (c) Any person who:

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

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

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

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

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

34 Section 17. Support.

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

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

11 Section 18. Compensation of Delegates.

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

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

28 Section 19. Ratification of Proposed Amendments.

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

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

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

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

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

9 "Constitutional Amendment Referendum

10 Do you approve the following amendment to the Constitution of the
11 Commonwealth of the Northern Mariana Islands, as proposed by the 1994
12 Constitutional Convention?

13 YES _____ NO _____."

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

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

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

26 Section 23. Post Convention Committee: Duties.

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

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

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

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

5 Section 24. Authorization for Appropriation. There is hereby authorized the appropriation of such
 6 funds as are deemed necessary to carry out the duties and responsibilities of the Pre-Convention Committee, the
 7 Constitutional Convention and the Post Convention Committee, and the Board of Elections with respect to the
 8 election of delegates to the Convention. If the Legislature fails to appropriate the necessary funds within thirty
 9 (30) days after the effective date of this Act, the Governor shall reprogram such funds as are available and
 10 necessary to implement this Act. The Governor's reprogramming authority in this matter shall not be limited by 1
 11 CMC Section 7402(b).

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

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

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

Date: 06/28/94 Introduced By: /s/ Oscar M. Babauta

REP. OSCAR M. BABAUTA

/s/ Rep. Diego T. Benavente

/s/ Rep. Vicente T. Attao

/s/ Rep. Maria T. Peter

/s/ Rep. Manuel A. Tenorio

/s/ Rep. Jesus T. Attao

/s/ Rep. Pete P. Reyes

/s/ Rep. Joaquin G. Adriano

/s/ Rep. Benjamin A. Sablan

Reviewed for Legal Sufficiency:

/s/ Rep. Ana S. Teregeyo

/s/ Maya B. Kara