



The Senate
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. BOX 500129
SAIPAN, MP 96950

STANDING COMMITTEE REPORT NO. **21-33**
Date: July 23, 2019
RE: Senate Bill No. 21-18

Honorable Victor B. Hocog
President of the Senate
Twenty-First Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. President:

Your Committee on Judiciary, Government, Law and Federal Relations, to which was referred Senate Bill No. 21-18 entitled:

‘To present to the voters in the Commonwealth in the next general election the question: “Shall there be a constitutional convention to propose amendments to the Constitution?”’

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion and deliberation, your Committee recommends filing Senate Bill No. 21-18.

II. ANALYSIS:

A) Purpose:

The purpose of Senate Bill No. 21-18 is to present to the voters of the CNMI the question of whether the CNMI should convene another constitutional convention at the next general election.

B) Committee Findings:

Your Committee finds that Senate Bill No. 21-18 proposes to convene another constitutional convention by posing the question to the people of the Commonwealth on the ballot at the next general election.

Your Committee finds that constitutional amendments may be proposed through a constitutional convention, popular initiative, or legislative initiative. Additionally, Article XVIII, Section 2(a) of the Constitution of the Northern Mariana Islands (NMI) states that “the legislature, by the affirmative vote of a majority of the members of each house, may submit to the voters the question, ‘Shall there be a constitutional convention to propose amendments to the Constitution?’” Once passed by both houses of the legislature, the governor may not veto this Act and the legislature shall submit the question to the Commonwealth Election Commission to be placed on the ballot in the next general election.

Your Committee further finds that the NMI Constitution was adopted on December 5, 1976 by the diligent efforts of the First Constitutional Convention delegation which was later ratified by the voters of the Commonwealth on March 6, 1977 and became effective January 9, 1978. Historically, after the adoption of the NMI Constitution by the First Constitutional Convention in 1978, only two subsequent constitutional conventions have convened.

Your Committee finds that the Third CNMI Legislature presented the question of whether to hold a Second Constitutional Convention to the voters through the adoption of House Joint Resolution No. 44 in September 1983. *See* Attachment A. At least two-thirds of the people voted in the affirmative and the Second Constitutional Convention was convened. On November 3, 1985, the voters ratified all 44 amendments proposed by the Second Constitutional Convention that was held in the same year.

The question of whether to hold a Third Constitutional Convention was presented to the voters through a letter by former Governor Lorenzo I. Deleon Guerrero to the Commonwealth Election Commission requesting that the question be put on the ballot for the November 1993 election. *See* Attachment B. Although the Eighth House of Representatives adopted House Joint Resolution No. 8-22 in July 1993, the Senate did not act on the resolution before the election and the Governor intervened as authorized by the NMI Constitution. *See* Attachment C and D. At least two-thirds of the people voted yes to the question and the Third Constitutional Convention was convened. On November 7, 1995, all 19 amendments proposed by the Third Constitutional Convention held that same year failed to garner the requisite votes for ratification.

The last time the question whether to hold another constitutional convention was presented to the voters was initiated through a letter by former Governor Juan N. Babauta to the Commonwealth Election Commission in November 2004. *See* Attachment E. In November 2005, there were 7394 votes in favor of convening the constitutional convention and 5156

votes against it, which did not garner the requisite two-thirds affirmative vote to hold a convention.

Your Committee further finds that although the first and second constitutional conventions were approved by the Third CNMI Legislature and the Eighth House of Representatives through a house joint resolution, it appears that the question should be posed through a legislative initiative instead of a resolution or a bill as previously proposed in the Seventeenth-Twentieth CNMI Legislatures. Although Article XVIII, Section 2(a) does not specifically provide the legislative method to pose the question, the Analysis to the NMI Constitution, provides that “[a] constitutional convention may be convened to propose constitutional amendments. Under this section, a convention may be convened by two methods: *legislative initiative* and popular initiative. Both methods require that the question of convening a constitutional convention be approved by the voters.” *See* Analysis of the Constitution of the of the Northern Mariana Islands at 187-88 (1976) (*emphasis added*). The interpretation that the legislature must pose the question of holding a constitutional convention through the use of a legislative initiative is consistent with the provision in Section 2(a) that “[a]n act of the legislature under this subsection may not be vetoed by the governor.” Only legislative initiatives cannot be vetoed by the governor. Similarly, Article XVIII, Section 3 authorizes the legislature to propose constitutional amendments through enacting legislative initiatives which may not be vetoed by the governor but require ratification by the voters.

Your Committee finds that the Commonwealth Supreme Court “has previously recognized that the Analysis of the Constitution of the Northern Mariana Islands “is extremely persuasive authority when one is called upon to discern the intent of the framers when the language of the Constitution presents an ambiguity.” *See DPL v. CNMI*, 2010 MP 14 ¶ 7 citing *Rayphand v. Tenorio*, 2003 MP 12 ¶ 71. Based on the foregoing reasons, your Committee finds that the question of whether to hold another constitutional convention must be presented to the voters in a legislative initiative approved by a majority of the members of each house of the legislature as provided in Article XVIII, Section 2(a) of the NMI Constitution.

Your Committee further finds that although the Committee supports the intent and purpose of Senate Bill 20-18, the question set forth in Article XVIII, Section 2(a) may not be presented to the voters in the form of Senate Bill 20-18. Your Committee also finds that it is not legally sufficient to substitute a Senate bill with a Senate legislative initiative. It is for this reason that your Committee recommends filing Senate Bill 21-18 and that the author introduce a new Senate legislative initiative presenting to the voters the question of whether to hold another constitutional convention.

C) Legislative History:

Senator Sixto K. Igisomar introduced Senate Bill No. 21-18 on February 20, 2019 and was subsequently referred to the Senate Standing Committee on Judiciary, Government, Law, and Federal Relations for disposition.

D) Public Hearing and Comment:

No public hearing was scheduled for Senate Bill No. 21-18. However, a Committee Meeting was held on July 23, 2019 to deliberate on the provisions stated in the proposed legislation.

Your Committee received comment(s) by the following:

1. Honorable Debra T. Camacho, Chairperson, 15th Saipan and Northern Islands Municipal Council, letter dated March 18, 2019
2. Honorable Edward Manibusan, Attorney General, Office of the Attorney General, letter dated March 20, 2019

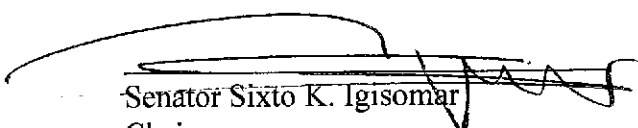
E) Estimated Fiscal Cost:

The filing of Senate Bill No. 21-18 will not result in additional costs to the CNMI government.

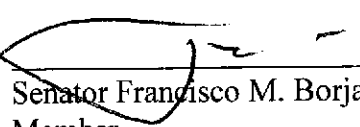
III. CONCLUSION:

Your Committee agrees that although it is necessary to pose the question to the voters of the Commonwealth whether to conduct another constitutional convention to deliberate proposing amendments to the NMI Constitution to address important and critical matters facing our islands, the question cannot be presented in the form of Senate Bill 21-18. It is for this reason that your Committee recommends filing Senate Bill No. 21-18 and for the author to introduce a new Senate legislative initiative posing the same question.

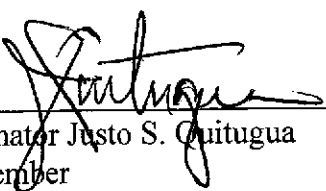
Respectfully submitted,




Senator Sixto K. Igisomar
Chairperson



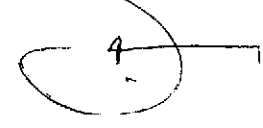
Senator Francisco M. Borja
Member



Senator Justo S. Quitugua
Member

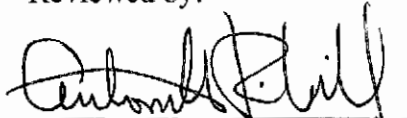


Senator Vinnie F. Sablan
Vice-Chairperson



Senator Francisco Q. Cruz
Member

Reviewed by:


Senate Legal Counsel

Attachment(s)

- A. *House Communication dated September 13, 1983, transmitting to the Senate, HJR No. 44, which was adopted by the House of Representatives on September 13, 1993; Senate Communication No. 309, transmitting to the House of Representatives, HJR No. 44, which the Senate adopted on October 4, 1983; Letter from the House of Representatives dated October 13, 1983, transmitting to the Governor HJR No. 44, which was adopted by the Third Legislature;*
- B. *Letter from Honorable Lorenzo I. Deleon Guerrero to the Board of Elections dated September 20, 1993 requesting the Board of Elections to submit to the voters at the upcoming election in November 1993 the question "shall there be a constitutional convention to propose amendments to the constitution?"*
- C. *House Communication dated July 12, 1993, transmitting to the Senate, HJR No. 8-22, which was adopted by the House of Representatives on July 9, 1993.*
- D. *Letter from Rep. Herman T. Guerrero to Governor Lorenzo I. Deleon Guerrero dated September 14, 1993, informing the Governor that the Senate will not act on HJR No. 8-22 and requesting that the Governor direct the Board of Elections to submit to the voters at the upcoming election the question "shall there be a constitutional convention to propose amendments to the constitution?"*
- E. *Letter from Honorable Juan N. Babauta to the Commonwealth Election Commission dated November 22, 2004 requesting the Commission to include on the ballot in the next election scheduled to be held on November 5, 2005 the question "shall there be a constitutional convention to propose amendments to the constitution?"*



The Senate
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

P. O. Box 129
Saipan Mariana Islands 96950

Phone: 6534/3539

October 4, 1983

The Honorable Benigno R. Fitial
Speaker
House of Representatives
Third Northern Marianas Commonwealth
Legislature
Saipan, CM 96950.

SENATE COMM. NO. 309

Dear Mr. Speaker:

I have the honor to return to you and the members of the House of Representatives House Joint Resolution No. 44 entitled, "A HOUSE JOINT RESOLUTION DIRECTING THE BOARD OF ELECTIONS TO SUBMIT TO THE VOTERS OF THE COMMONWEALTH THE QUESTION "SHALL THERE BE A CONSTITUTIONAL CONVENTION TO PROPOSE AMENDMENTS TO THE CONSTITUTION?" IN ACCORDANCE WITH ARTICLE 18 SECTION 2 (a) OF THE COMMONWEALTH CONSTITUTION.", which the Senate adopted by unanimous vote, a quorum being present, Third Northern Marianas Commonwealth Legislature, Four Regular Session, 1983.

Hafa Adai,

Manuel D. Muna
Senate Clerk

Attachment:

cc: President of the Senate

13 OCT 1983

The Honorable Pedro P. Tenorio
Governor
Office of the Governor
Commonwealth of the Northern
Mariana Islands
Saipan, CM 96950

Dear Governor Tenorio:

I transmit herewith a certified copy of House Joint Resolution No. 44, "A House Joint Resolution directing the Board of Elections to submit to the voters of the Commonwealth the question "Shall there be a Constitutional Convention to propose amendments to the Constitution?" in accordance with Article 18, Section 2(a) of the Commonwealth Constitution.", adopted by the Third Northern Marianas Commonwealth Legislature, Fourth Regular Session, 1983.

Hafa Adai,

Herbert S. Del Rosario
Chief Clerk
House of Representatives

Enclosure

ATTACHMENT B

Commonwealth of the Northern Mariana Islands

Office of the Governor

Capitol Hill, Saipan MP 96950



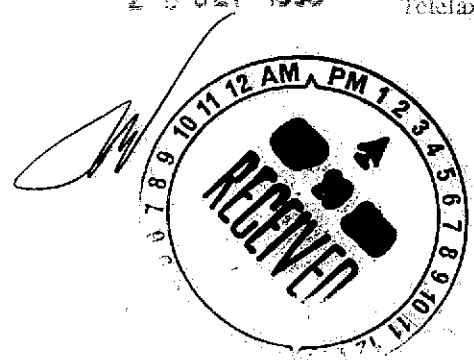
U. S.

20 SEP 1993

Phone: (670) 322-5091/2/3
Telefax: (670) 322-5096/99

BY 233-6880

Mano Diaz
Executive Director
Board of Elections
P.O. Box 470
Saipan, MP 96950



Dear Mr. Diaz:

Re: Vote on Constitution of Convention

At the regular general election in November 93, we respectfully request that the Board of Elections submit to Commonwealth voters the question: "Shall there be a constitutional convention to propose amendments to the Constitution?"

Article XVIII, Section 2 of the Constitution of the Northern Marianas mandates that this question be submitted to the voters at a regular general election no later than ten (10) years after the question was last submitted. The question was last submitted to the voters at the 1983 regular general election. The 1993 regular election will be the last general election before January 9, 1995.

Normally it is the legislative branch's responsibility to consider and pass legislation.

ATTACHMENT C



The House of Representatives
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. Box 586
Saipan, MP 96950

July 12, 1993

The Honorable Juan S. Demapan
President of the Senate
Eighth Northern Marianas Commonwealth
Legislature
Capitol Hill
Saipan, MP 96950

Dear President Demapan:

I have the honor to transmit herewith House Joint Resolution No. 8-22, entitled, "A House Joint Resolution directing the Board of Elections to submit to the voters of the Commonwealth of the Northern Mariana Islands the question 'Shall there be a constitutional convention to the propose amendments to the Constitution?' in accordance to Article XVIII, Section 2(a) of the Constitution of the Northern Marianas Islands.", which was adopted by the House of Representatives on July 9, 1993, by the majority vote of the members, a quorum being present, First Day, Sixth Special Session, 1993.

Sincerely,


Evelyn C. Fleming
House Clerk

Attachment

8-22

Special SESSION, 1993

Adopted 7-9-93
cy

A HOUSE JOINT RESOLUTION

Directing the Board of Elections to submit to the voters of the Commonwealth of the Northern Mariana Islands the question "Shall there be a constitutional convention to propose amendments to the Constitution?" in accordance to Article XVIII, Section 2(a) of the Constitution of the Northern Mariana Islands.

1 WHEREAS, Article XVIII, Section 2 of the Constitution of the Northern
2 Mariana Islands provides that the Legislature may submit to the voters the
3 question "Shall there be a constitutional convention to propose amendments to
4 the Constitution?"; and

5 WHEREAS, this question is required to be submitted to the voters at a
6 regular general election no later than ten (10) years after the question was
7 last submitted; and

8 WHEREAS, in the event the Legislature fails to act the Governor shall
9 submit this question to the voters at a regular general election no later than
10 ten (10) years after the question was last submitted; and

11 WHEREAS, the question was last submitted to the voters at the 1983
12 regular general election; and

13 WHEREAS, the 1993 regular general election is the last general
14 election before January 9, 1995; and

15 WHEREAS, an act of the Legislature providing for such a question may
16 not be vetoed by the Governor and shall be adopted by an affirmative vote of a
17 majority of the members of each house; and

1 WHEREAS, the members of the Legislature believe the voters should
2 have the right to express on whether or not they desire a constitutional
3 convention; and

4 WHEREAS, a convention would be convened promptly by the
5 Legislature if two-thirds (2/3) of the votes cast are affirmative on the question
6 of holding a convention; and

7 WHEREAS, the twenty-seven (27) delegates to the convention would be
8 elected on a nonpartisan basis and would serve and be compensated as
9 provided by the law; now, therefore,

10 BE IT RESOLVED by the House of Representatives of the Eighth
11 Northern Marianas Commonwealth Legislature, the Senate concurring, that
12 the Legislature directs the Board of Elections to submit to the voters of the
13 Commonwealth of the Northern Mariana Islands at the regular general
14 election in November 1993 the question "Shall there be a constitutional
15 convention to propose amendments to the Constitution?"; and

16 BE IT FURTHER RESOLVED that the Speaker of the House of
17 Representatives and the President of the Senate shall certify and the House
18 Clerk and the Senate Legislative Secretary shall attest to the adoption of this
19 joint resolution and thereafter transmit certified copies to the Board of
20 Elections and the Governor of the Commonwealth Northern Mariana Islands;

Date: 7/8/93
Refiled 7-8-93
Inj. 7-9-93

Introduced By: *Herman Guerrero*
Rep. Herman T. Guerrero
Co-sponsored By: *Heinz S. Hofschneider*
Rep. Heinz S. Hofschneider



Herman T. Guerrero

REPRESENTATIVE

Elghth Northern Marianas Commonwealth Legislature

P.O. Box 2051
Saipan, MP 96950

Tel: (670) 322-5638
322-7784
Fax: (670) 322-7055

September 14, 1993

The Honorable Lorenzo I. De Leon Guerrero
Governor
Commonwealth of the Northern
Mariana Islands
Saipan, MP 96950

Dear Governor De Leon Guerrero:

Article XVIII, Section 2(a) of the Constitution of the Northern Mariana Islands states that the Legislature, by the affirmative vote of the majority of the members of each house, may submit to the voters the question, "shall there be a constitutional convention to propose amendments to the Constitution?" Section 2(a) further provides that this question shall be submitted to the voters at a regular general election no later than ten years after the question was last submitted to the voters.

The Third Northern Marianas Commonwealth Legislature at its fourth regular session adopted House Joint Resolution No. 44 on October 4, 1983, directing the Board of Elections to submit to the voters of the Commonwealth the question of whether to hold a constitutional convention. A copy of H.J.R. 44 is enclosed. The question was posed to the voters of the Commonwealth on November 6, 1983 as Referendum No. 2. A copy of the specimen of the official ballot referendum is enclosed. About 76% of the voters of the Northern Marianas approved Referendum No. 2.

As you will note, the 1983 general election was the last time this question was submitted for approval by the voters. It is now ten years since that time and as a result, I introduced House Joint Resolution 8-22. The joint resolution was adopted by the House on July 9, 1993. However, during my talk this week with the Senate President regarding possible Senate action on the joint resolution, he informed me that the Senate will probably not act on the joint resolution. The President suggested that I request your action on this matter pursuant to Section 2(a) of Article XVIII of the Commonwealth Constitution which delegates this authority to the Governor in the event the Legislature fails to act.

Time is of the essence in posing the question of a constitutional convention to the voters of the Commonwealth at the upcoming general election to be held November 6, 1993. The Senate shows a lack of interest in carrying out its constitutional mandate and duty to adopt House Joint

The Honorable Lorenzo I. De Leon Guerrero
September 14, 1993
Page 2

Resolution 8-22. It is for this reason that I urge and request your assistance in directing the Board of Elections to submit to the voters at the upcoming general election the question, "shall there be a constitutional convention to propose amendments to the Constitution?"

Sincerely,



HERMAN T. GUERRERO

Enclosures

cc: Speaker of the House
President of the Senate
Members of the Legislature



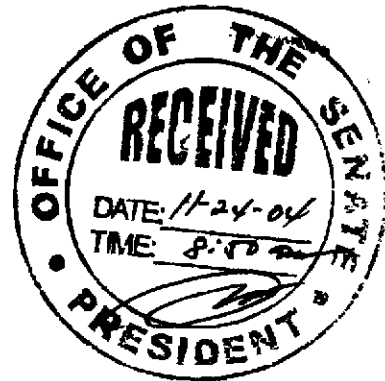
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

NOV 22 2004

Miguel Sablan
Chairman
Commonwealth Election Commission
Commonwealth of the Northern Mariana Islands
P.O. Box 50070
Saipan, MP 96950



Dear Chairman Sablan:

Re: Constitutional Convention Ballot Question

It has come to my attention that the Legislature has failed to request if the people of the Commonwealth wish to hold a constitutional convention. As a result and pursuant to Article 18(2)(a) of the N.M.I. Constitution, it is my honor and duty to ask that the Commonwealth Election Commission include this important question on the ballot in the next election.

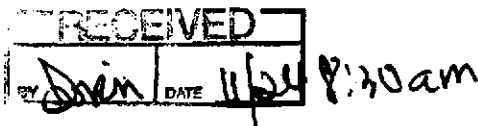
Article 18(2)(a) provides that:

The legislature, by the affirmative vote of a majority of the members of each house, may submit to the voters the question, "Shall there be a constitutional convention to propose amendments to the Constitution?" The legislature, or the *governor in the event the legislature fails to act*, shall submit this question to the voters at a regular general election no later than ten years after the question was last submitted and as provided by law. An act of the legislature under this subsection may not be vetoed by the governor.

(emphasis added).

The question of whether to hold a constitutional convention was last placed on the ballot in the regular general election held on November 6, 1993. More than ten years have passed since that election and the legislature has failed to act to place the question on the ballot. The language of the Article 18(2)(a) -- "the legislature . . . shall act" -- is mandatory, not permissive. Thus, because of the failure of the legislature, it is my honor and obligation to ask that this question be included on the ballot.

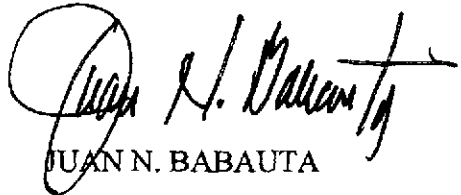
Accordingly, I am pleased to request that the Commission include the following question on the



ballot in the next election, which is scheduled to be held on November 5, 2005:

“Shall there be a constitutional convention to propose amendments to the Constitution?”

Thank you for your cooperation in this matter.



JUAN N. BABAUTA

cc: The Honorable Joaquin G. Adriano, Senate President
The Honorable Benigno R. Fitial, Speaker of the House
Benjamin Sachs, Acting Attorney General
Gregorio Sablan, Executive Director, Commonwealth Election Commission



House of Representatives
THIRD NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P. O. Box 586
Saipan, Mariana Islands 96950

Phone: 6195/6284/6618

SPEAKER

Benigno R. Fitial

VICE SPEAKER

Francisco T. Cabrera

FLOOR LEADER

Luis M. Cepeda

SAIPAN & ISLANDS NORTH

Juan B. Camacho

Luis M. Cepeda

Benigno R. Fitial

Vicente C. Guerrero

Jose R. Lifoifoi

Gregorio C. Sablan

Miguel M. Sablan

Vicente M. Sablan

Jesus A. Sonoda

Martin M. Taisacan

Jose M. Taitano

Juan B. Tudela

TINIAN & AGUIGUAN

Francisco T. Cabrera

ROTA

Misael H. Ogo

September 13, 1983

The Honorable Benjamin T. Manglona
Acting President of the Senate
Third Northern Marianas Commonwealth
Legislature
Saipan, CM 96950

Dear Mr. President:

I have the honor to transmit herewith H.J.Res. No. 44,
"A HOUSE JOINT RESOLUTION DIRECTING THE BOARD OF ELECTIONS
TO SUBMIT TO THE VOTERS OF THE COMMONWEALTH THE QUESTION
"SHALL THERE BE A CONSTITUTIONAL CONVENTION TO PROPOSE
AMENDMENTS TO THE CONSTITUTION?" IN ACCORDANCE WITH ARTICLE
18, SECTION 2(a) OF THE COMMONWEALTH CONSTITUTION.", which
the House of Representatives this day unanimously adopted,
a quorum being present, Third Northern Marianas Commonwealth
Legislature, Fourth Regular Session, 1983.

Hafa Adai,

A handwritten signature in dark ink, appearing to read "Herbert S. Del Rosario".

Herbert S. Del Rosario
Chief Clerk

attachments