

On My Mind
10/30/09

With elections only eight days away, and no additional information available about the three proposed Constitutional amendments that will be on the ballot, except the one notice that has appeared in the papers, I would urge the Election Commission to withdraw all three, and resubmit them either at a special election or the next general election. The fourth question on the ballot - re Open Government - does not propose an amendment to the Constitution, but an amendment to a law, and has been under review and discussion for more than two years, so is already "ripe," as they say, for action without the need for further information.

As it stands now, it is sheer madness to ask or expect anyone to vote on the proposed amendments with no more information than has been provided so far. Changes to the CNMI Constitution, which serves as the backbone to the government structure, should not be made so carelessly, with so little information.

The full text of the proposed amendments has not appeared in the newspaper, nor does it appear on the Election Commission web-page. Its web-page < www.votecnmi.gov.mp/ > does include brief - but very simplistic - pro and con statements for three of the initiatives, but this information is not available to those without access to the web page. Nor is there any way to compare what is in the Constitution now with what would be in it if the amendments pass. There has been no discussion, no debate, no in-depth pro- and con- information available to the voting public.

House Legislative Initiative 16-11, for example, would amend Article III, Section 9 (a) to prohibit withdrawal of funds from the General Fund except by legislative appropriation. While the Commission web page provides information on the three other questions to be on the ballot, this one is not listed. This seems to be due to the confusion created by the fact that there are two legislative initiatives numbered 16-11 - one from the House and one from the Senate.

So here is a Constitutional amendment regarding the General Fund, and the only information is what was printed in the paper. No statement of pros and cons - however weak - and no text of the proposed amendment.

What's more, what the actual amendment says would appear unrealistic. (I managed to get a copy of two of the proposed Constitutional amendments.) It would suspend the Governor's salary if s/he does not submit a budget by April 1 of each year, until a detailed and balanced budget is submitted. If the legislators don't pass the budget by October 1st, it would suspend the legislators' salary until they pass a balanced budget. Those hardly seem enforceable, nor does it seem likely that either one would actually be enforced.

The actual text of the amendment also provides that if a balanced budget has not passed before the beginning of the new fiscal year, no money shall be drawn from the General Fund - except that services essential to health, safety and welfare of the people will be continued. However, it provides absolutely no guidance as to how that is sup-

posed to happen, making it just as unrealistic as the other parts of this proposed amendment.

House Legislative Initiative 15-3, which amends the Constitutional provision (Article XV, Section 1(c)) regarding the composition of the Board of Education, includes a section about funding for PSS that appears to be identical to what is already in the Constitution. The Constitution provides that PSS be guaranteed an annual budget of not less than 15% of the general revenues of the CNMI. What's been added are the words "through an annual appropriation." The amendment would also limit elected board members to two terms.

This initiative would also provide that the non-voting student representative to the Board be a high school student. The present Constitution requires only that the student be from the public schools but does not specify that it be a high school student. It does not seem to address the existing requirement that one non-voting member of the Board represent non-public schools. But without the full text available, one can't be certain. (In fact, the actual amendment does not address this issue.)

This initiative, in addition, would provide that the non-voting Department of Education representative be a teacher, as opposed to an administrator or a principal. The existing requirement is that it be a teacher elected by an "exclusive bargaining representative of the teachers," which apparently is done away with in the proposed initiative. Is any process provided for determining who the teacher would be? Without the full text, there is no way of knowing. And not to muddy the waters, but what about principals? Don't they get any representation?

In fact, the actual amendment states that "The selection process of a public school teacher representative shall be established by law."

One might question why it is necessary to spell out, in the Constitution, the requirements for non-voting members of the Board at all. Why not just leave this to the legislature as well?

Senate Legislative Initiative 16-11 would amend Article VII, Section 1, to require that regular general elections be held only on even-numbered years, in order to coincide with Federal elections, now that the CNMI has a non-voting delegate in the U.S. Congress. According to its provisions, all officials elected in the '09 election would get to serve an extra year, and the '11 elections would not be held. However, the explanation of the amendment issued by the Election Commission states that the amendment would affect the "length of terms of the individuals that are voted into office in this 2009 election and *during the next midterm election.*" (emphasis added) What that means is totally unclear, and again, without the full text of the proposed amendment, there is no way to know.

Moreover, there is another alternative that could have been proposed, and that should have been far more widely discussed: shortening, rather than lengthening, everyone's term by a year. As was mentioned in the discussion in the legislature, if the incumbent was doing a good job, s/he would have no worries about getting re-elected, and if s/he wasn't, the CNMI would be saved from a full additional year of his/her incompe-

tency.

But the Constitutional amendment does not offer this alternative. Instead, the legislature has self-servingly picked the option of extending terms of office without providing the public with the opportunity to voice its opinion on the matter. As it stands, the public has no choice but to approve the extended terms, or vote the amendment down, and have elections again in 2011 for the CNMI and in 2012 for the non-voting delegate. Better to withdraw this amendment, and send it back out to the public for more discussion.

Unfortunately, the ballots have already been printed. And the initiative questions thus are already on the ballot. So they can hardly be withdrawn. However, the Election Commission could issue a ruling that only the votes on the popular initiative would be counted, and that the votes on the three legislative initiatives would not. That might preserve the initiatives so that they could be proposed again in the 2011 mid-term election.

If the Constitutional amendments are all voted down, the legislature would be required to go through the process all over again, from the beginning, and get the required approval from three-fourths of the members of both houses. Of course, that might be just as well, since the amendments do seem to require some re-writing in any case.

And if the amendments are passed, who knows what the unintended consequences might be.

Short takes:

You have to give the man credit for pulling off what will probably be the biggest coup of his entire life - providing those "umbrella" permits to guest workers and their immediate relatives just two weeks before election - a permit, moreover, that would seem, at first glance, mostly acceptable to all involved parties. After the harsh treatment guest workers have received under his administration, the turn-around borders on the unbelievable. The question is whether one "right" is enough to compensate for all the "wrongs."

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It's sad to see how poorly the Election Commission has performed since the departure of its former director. The appalling failure to provide an effective education program on the election initiatives is but the latest example. The staff do not seem nearly so helpful or informed, and solid answers to seemingly simple questions have been hard to come by.

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Politics is, it has been said, the main sport of the people of the CNMI. But learning how to play is not so easy. For example, some advise voting for only one Senator, instead of two so as to heighten the chance of one's favorite winning. Others say if two votes are cast, that gives one's favorite a chance in addition to someone else's choice for number one. Then there's the theory that if one votes for the Hofschneider/Palacios

team - instead of any other gubernatorial team - that will guarantee a run-off. But how, then, does one show that one really would like neither of the alleged top two to win? Decisions, decisions!

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