

**TITLE 1: GOVERNMENT**  
**DIVISION 2: EXECUTIVE BRANCH**

**§ 2901. Appointments: General.**

Except as otherwise provided by law, the appointment of persons as department heads, board members or commission members is to be consistent with the following principles:

(a) No person may be appointed as a department head, or a member of a board or commission who is not a resident of the Commonwealth and who is not a citizen or a national of the United States and at least 18 years of age. The appointing authority may waive the requirement of Commonwealth residence when in its judgment the technical or professional expertise of a potential appointment is of critical importance. Notwithstanding any provision of law to the contrary, the appointing authority may waive any statutory employment restriction with the exception of those convicted of a felony, imposed on the appointment when such restriction, in the judgment of the appointing authority, would place an undue burden by limiting the pool of otherwise qualified potential appointees.

(b) A vacancy shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(c) No person may be appointed who has been convicted of a crime carrying a maximum sentence of imprisonment of more than six months unless a full pardon has been granted or unless a period of three years has elapsed since the time of the conviction or from completion of any sentence, whichever is later.

(d) The members of the boards, commissions, including public corporations, shall elect a chairman or vice-chairman by majority vote.

(e) Each board, commission or public corporation shall prepare a written annual report summarizing its activities and furnish a copy of the report to the President of the Senate, the Speaker of the House, and to the Governor.

(f) Unless otherwise provided by law, any person appointed to any board, agency, commission or position by the Governor shall serve at the pleasure of the Governor and may be removed by the Governor with or without cause. This subsection applies to all boards, agencies, commissions, or positions, including directors of the Marianas Public Land Corporation. This subsection does not apply to the Commonwealth Ports Authority.

(g) Every board or commission shall have at least one female member, at least one member who is of Carolinian descent, and at least one member from each senatorial district.

(h) Boards, agencies and commissions shall adopt rules and regulations to provide for proxy voting in the event that a member is unable to attend a meeting.

**Source:** PL 1-8, tit. 1a, § 1; amended by PL 3-27, § 1, modified; PL 4-42, § 10; subsection (a) amended by PL 13-9, § 2 (b).

**Commission Comment:** Subsection (f) has been implicitly repealed by 1985 Constitutional Amendment 20; see N.M.I. Const. art. III, § 21, concerning appointment and removal of members of boards and commissions.

As enacted, subsection (h) provided for the abolition of positions inconsistent with those established by PL 1-8 or the Commonwealth Constitution. As

**TITLE 1: GOVERNMENT**  
**DIVISION 2: EXECUTIVE BRANCH**

that subsection is now obsolete, the Commission deleted it and redesignated subsection (i) as subsection (h).

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, §§ 506, 508 and 509:

**Section 506. Interim Appointments.** Whenever an appointment of a member of a board, commission, or other collective head of an agency is pending before the Senate for confirmation, the Governor may appoint an individual as an interim or acting member to serve until the Senate acts on the permanent appointment. If an individual is confirmed as a permanent member while serving as an interim or acting member, the term of office of that member shall be deemed to have begun on the date of the interim or acting appointment.

. . . .

**Section 508. Independence of Board members.** Notwithstanding any other provision of this plan, the independence of any member of a board or commission to whom the provisions of [N.M.I. Const. art. III, § 21] apply, shall be preserved.

**Section 509. Governor's Appointments; Excepted Service.**

(a) In order to assure the accountability of government managers, all officials at or above the level of division director, or the equivalent by whatever title known, shall be appointed by and serve at the pleasure of the Governor, provided that such official shall report to and serve under the direction of the head of any supervisory official, such as a department head.

(b) In order further to ensure accountability, the executive director or other principal officer of any board, commission, or of any agency headed by a board or commission, shall be appointed by the Governor with the concurrence of a majority of the members of the relevant board or commission present and voting, a quorum thereof being present. Once appointed, such officer shall serve at the pleasure of the board or commission and shall also be subject to removal by the Governor for cause. Pursuant to [N.M.I. Const. art. XV], the provisions of this subsection shall not apply to the Commissioner of Education or the President of the Northern Marianas College.

(c) In order to assure consistency in government policies, and to ensure confidentiality in the formulation of policy, the following positions, if not subject to appointment by the Governor or otherwise exempt from the Civil Service system, shall be in the Excepted Service:

(1) Any position in the Office of the Governor (including the Office of the Lieutenant governor), except the administrative staff of the Office of Personnel Management.

(2) Any position the duties of which include direct involvement in the making of government policy.

**TITLE 1: GOVERNMENT**  
**DIVISION 2: EXECUTIVE BRANCH**

(3) Any position which requires a confidential relationship with an official appointed by the Governor or with a person appointed to a position described in paragraph (2) of this subsection.

(d) Any person appointed by the Governor, or appointed to a position described in subsection (c) of this section, who was a member of the classified Civil Service immediately before such appointment, shall, upon termination from such position, be reinstated in the classified Civil Service in a position for which such person is qualified at the grade and step previously held, except that, if the performance of such person has been sufficiently satisfactory, any within grade step increase that such person would have earned had that person remained in the classified Civil Service shall be awarded.

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

PL 13-9 contained findings, severability, and savings clauses and became effective June 17, 2002. According to PL 13-9:

Section 1. Findings. The Legislature finds that the qualification requirements for [sic] to become a member of the board of directors of the Commonwealth Utilities Corporation (CUC) or other public boards or commissions is unduly restrictive with respect to the members appointed from the islands of Tinian and Rota. Because the population of these two islands is quite small compared to Saipan and a large majority of residents on Tinian and Rota work for the government, the pool from which to appoint prospective board members is severely limited. Therefore, the purpose of this act is to give the Governor the discretion to appoint members to represent Tinian and Rota on the CUC board, respectively, who are otherwise qualified but for their employment with the government.