

On the Popular Initiative to Apply the Open Government Act to the CNMI Legislature

This November 7, 2009, thanks to the efforts of thousands of concerned and caring citizens, voters will be deciding on a popular initiative to apply the Open Government Act to the Legislature.

The initiative requires two-thirds of the votes cast in order to be made a general law.

Citizens who desire a more open and transparent legislature are urged to vote YES on this initiative.

About the Open Government Act

The Open Government Act (Public Law 8-41) is one of the most powerful tools we have for holding our government accountable for its actions and for keeping informed about the decisions that our public officials make in our names and with our taxpayer dollars. The Act requires government agencies to conduct their meetings openly, to make public records available for inspection, and to respond to requests for information within 10 days. No ordinance, resolution, rule, regulation, order, or directive may be adopted except at a meeting that is open to the public, and for which notice has been given and an agenda established. Exceptions are made for emergency meetings and executive sessions that are reasonably and publicly justified, and there are provisions in place to protect whistleblowers, certain personal records, and certain privileged records not subject to public inspection.

The Legislative Declaration of the Open Government Act

From 1 CMC § 9901: “The people of this Commonwealth do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

The Open Government Act Used to Apply to the CNMI Legislature

Section 14 of the original Open Government Act (Public Law 8-41) specifically applied the Open Government Act to the CNMI Legislature. Almost immediately after the Open Government Act was signed into law in 1994, however, it was the members of the 9th Legislature who made the first move to erode it: they passed another law that exempted the Legislature from the Open Government Act’s provisions. In a single sentence, Public Law 9-2 repealed Section 14 of the Open Government Act. The Legislature has been exempt from the provisions of the Open Government Act ever since. Today, sessions and meetings are often held without adequate public notice; agendas change quickly and dramatically on the floor; bills can be passed quickly with little public review; and legislators can refuse or ignore citizen requests for information without being subject to penalties for violations of the Open Government Act.

What Applying the Open Government Act Would Mean for the Legislature

- **The Legislature would be required to give at least seventy-two hours public notice**, with agendas, for official sessions and meetings. Citizens who are interested in attending sessions and submitting comments on bills would have the opportunity to prepare and participate in the legislative process.
- **Legislative action may only be taken during open meetings** for which there has been sufficient public notice. Actions taken during meetings that have not been properly noticed may be declared null and void.
- **The Legislature would be obligated to respond to citizen requests for public records** within 10 days, and would be subject to penalties for refusing or ignoring these requests.
- **More transparency and public participation in the legislative process** could significantly encourage more careful deliberation of public policies and promote the passage of thoughtful, well-researched legislation that would benefit the public good.