


I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN
2014 (SECOND) Regular Session

Bill No. 289-32 (COR)

Introduced by:

B.J.F. Cruz 

AN ACT TO AMEND SUBSECTION 5121(E) OF PART C, ARTICLE 2, CHAPTER 5, TITLE 5 OF THE GUAM CODE ANNOTATED RELATIVE TO PERMITTING ALTERNATIVE DISPUTE RESOLUTION IN CONTRACTS APPROVED BY THE GOVERNMENT OF GUAM RETIREMENT FUND

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings. *I Liheslaturan Guahan* finds

that Public Law No. 28-188 added a new Subsection 5121(e) to Guam's Procurement Statute to permit the Board of Trustees of the Retirement Fund to retain a certain level of autonomy with respect to procurement matters involving its retention of professional service providers. *I Liheslaturan Guahan* further finds that it also is in the best interests of the Retirement Fund to ensure an orderly and efficient process for the prompt resolution of disputes and controversies that may occur between the Retirement Fund and its personal service providers. *I Liheslaturan Guahan* further finds that alternative dispute resolution provides opportunities (a) for the parties to resolve controversies before experienced fact-finders knowledgeable in the subject matter of the dispute; (b) to reduce some of the litigation costs

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1 typically arising from protracted administrative and judicial proceedings; (c)
2 to reduce duplicative review, decision, and appeal; and (d) to provide the
3 parties with greater certainty as to jurisdiction, venue, finality, and
4 procedural timeframes; all of which are more likely to enhance competition
5 and potentially reduce fees and costs in connection with the solicitation and
6 retention of professional services.

7 **Section 2. Legislative Intent.** *I Liheslaturan Guahan* intends to
8 authorize the Board of Trustees of the Government of Guam Retirement
9 Fund to determine if it is in the best interests of the Retirement Fund to
10 solicit and enter into contracts for professional services under which
11 controversies may be resolved by mediation, arbitration, or other alternative
12 dispute resolution.

13 **Section 3.** Subsection 5121(e) of Part C, Article 2, Chapter 5, Title 5
14 of the Guam Code Annotated, added by Public Law No. 28-188, is hereby
15 further *amended* to read:

16 **(e) Approval of Contracts by Government of Guam**
17 **Retirement Fund.** Notwithstanding any other provision
18 of law, the Board of Trustees of the Government of
19 Guam Retirement Fund shall have exclusive authority to
20 approve and execute all contracts for the procurement of
21 professional services associated with the operation of the
22 Fund. The Board may enter into contracts providing for
23 alternative dispute resolution (including mediation and
24 arbitration) of controversies arising between the
25 Retirement Fund and its professional service contractors,

1 if, in the Board's discretion, alternative dispute resolution
2 is determined to be in the best interests of the Retirement
3 Fund.

4 **Section 4. Effective Date.** This Act shall be effective upon
5 enactment.

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