

**MINA' TRENTAI TRES NA LIHESLATURAN GUÅHAN**  
**2016 (SECOND) Regular Session**

Bill No. 310 -33 (LS)

Introduced by:

D.G. RODRIGUEZ, JR. 

**AN ACT TO AMEND 4 GCA § 6221.1 RELATIVE TO  
ESTABLISHING A PROMISED COMPENSATION POLICY  
FOR GOVERNMENT OF GUAM EMPLOYEES.**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that numerous employees of the government of Guam are being detailed to positions of higher responsibility and/or technical expertise, but without actually being paid the difference in promised compensation pursuant to the commensurate higher salary rates of the position and responsibilities they are fulfilling.

*I Liheslaturan Guåhan* further finds that this detailing practice continues notwithstanding clear statutory directives to the contrary. There are no Promised Compensation Policy established for the Government of Guam to date.

It is the intent of *I Liheslaturan Guåhan* to facilitate the payment of salaries due to the government employees detailed to a position with higher responsibilities and pay grade, by mandating the establishment and implementation of a uniform promised compensation pay policy.

**Section 2.** § 6221.1 of Chapter 6, Title 4, Guam Code Annotated, is amended to read:

**“§ 6221.1. Policy on Promised Compensation and Cause of Action for Overtime.**

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1           (a) Policy on “Promised Compensation.” It is the policy of the government  
2 of Guam to promptly pay its employees their due compensation as a result of work  
3 performed. In the event that the government of Guam is unable to properly and  
4 promptly pay its employees in a timely manner, the government of Guam shall pay  
5 it employees under the promised compensation policy.

6           The Director of Administration (DOA) shall establish and implement a  
7 uniform promised compensation pay policy for the non-autonomous departments  
8 and agencies under the jurisdiction of the Department of Administration and for  
9 other autonomous agencies pursuant to Title 4 GCA § 4105. For purposes of this  
10 Section, promised compensation will be authorized only after a review is conducted  
11 by the Department of Administration for all non-autonomous departments and  
12 agencies under its jurisdiction and for other autonomous agencies, agencies, and  
13 public corporations pursuant to Title 4 GCA § 4105.

14           The policy shall allow employees to submit written verified requests with  
15 supporting documents for review, and for the government to pay claims as far back  
16 as six (6) years from the date of enactment. For claims beyond six (6) years, the  
17 employee must seek judicial remedy with the courts having the right to award  
18 attorney’s fees to the party prevailing in litigation, as the court deems appropriate.  
19 All claims must be submitted to and verified by the Director, Administrator, or  
20 General Manager of employees department at the time the claim arose. Employee’s  
21 department shall, no later than thirty (30) days after receipt of claim provide the  
22 Director of the Department of Administration its written findings and  
23 recommendations on such claim. The Director of the Department of Administration  
24 shall, no later than sixty (60) days approve or reject such claim. Failure of the DOA  
25 to respond within this time period, shall be considered an approval of such claim by  
26 employee.

1 The promised compensation pay policy shall be established within six (6) months of  
2 the date of enactment. The Director of Administration shall provide a copy to I  
3 Maga'lahañ Guåhan and to the Speaker of I Liheslaturan Guåhan.

4 Upon the establishment of the promised compensation pay policies,  
5 employees wanting to file a promised compensation claim will have a period of three  
6 (3) months from the date of policy establishment to submit their request.  
7 Appropriate information will be distributed to the non-autonomous departments and  
8 agencies under the jurisdiction of the Department of Administration.

9 (b) Cause of Action for Overtime. It is the intent of the Legislature that all  
10 overtime which has been approved be promptly paid. Therefore: any employee who  
11 is entitled to overtime may bring action in the Superior Court against the government  
12 of Guam for payment of all back pay due as a result of overtime, in addition to all  
13 other remedies allowed at law or equity. In any such case, the Court may order  
14 pendente lite and permanently that the appropriate officer of officers of the  
15 Government pay such sums to the employee as may become due in the future on  
16 such terms as the Court deems just.

17 The employee submission of a request for the review and payment of a  
18 promised compensation claim shall be pursuant to the promised compensation pay  
19 policy established pursuant to this section.”

20 In any such case, five (5) ~~ten (10)~~ or more employees similarly situated may  
21 initiate and bring a class action on behalf of all employees similarly situated. In such  
22 case, the Court shall set reasonable attorney’s fees upon conclusion of the case in an  
23 amount not to exceed ten percent (10%) of the recovery, to be paid by the  
24 government of Guam if the employees prevail.”

1           **Section 3. Severability.** If any provision of this Act or its application to any  
2 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
3 not affect other provisions or applications of this Act that can be given effect without  
4 the invalid provisions or application, and to this end the provisions of this Act are  
5 severable.