

I MINA'TRENTA NA LIHESLATURÁN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 271-30(LS)

Introduced by:

Adolpho B. Palacios, Sr.



2009 NOV -4 AM 9:47 *me*

AN ACT TO REPEAL §77108, CHAPTER 77, TITLE 10 GUAM CODE ANNOTATED, "AUTHORITY TO HIRE ATTORNEY"; AND TO ESTABLISH PROVISIONS FOR THE ATTORNEY GENERAL TO PROVIDE LEGAL SERVICES TO THE GUAM POLICE DEPARTMENT.

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

2 **Section 1. Legislative Findings and Intent.** The Guam Police Department FY
3 2010 budget submittal and testimonies provided during the FY2010 budget hearings
4 provided no record or information reference to the workload out-put of the in-house legal
5 counsel (GPD Legal Section) for the preceding three (3) years, although such information
6 were included/provided for the other divisions/units within the Guam Police Department.
7 Despite actual request for such information was made during the public hearing, such
8 information is yet to be received by the Legislature. Absent information on the workload
9 out-put, coupled with information received from some police officers regarding the
10 difficulty in communicating with the in-house attorney appear to indicate the under
11 utilization of the in-house attorney.

12 During the FY2010 budget hearing for the Office of the Attorney General, the
13 Attorney General requested for additional attorneys to cope with the continuing rise in

1 the workload of attorneys currently on board. Not all the new attorneys requested by the
2 Attorney General were approved. Moreover, the approved budget act contains provisions
3 that mandate the Office of the Attorney General to provide legal assistance to the
4 Department of Mental Health and Substance Abuse and to the landfill issue.

5 *I Liheslaturan Guåhan* finds that funds appropriated to the Guam Police
6 Department for an in-house attorney can best be utilized if such funds are transferred to
7 the Office of the Attorney General, to maximize the services of the attorney, through
8 supervision, guidance and support of the Attorney General. *I Liheslaturan Guåhan*
9 further finds that legal services for the Guam Police Department will not be diminished or
10 compromised by this arrangement.

11 It is therefore, the intent of *I Liheslaturan Guåhan* to repeal §77108, Chapter 77,
12 Title 10 Guam Code Annotated, “Authority to Hire Attorney” and to establish provisions
13 for the Attorney General to provide legal service to the Guam Police Department.

14 **Section 2. §77108, Chapter 77, Title 10 Guam Code Annotated is hereby**
15 **repealed in its entirety.**

16 ~~“§ 77108. Authority to Hire Attorney.~~

17 ~~(a) the Department may employ an attorney to assist and represent it in all~~
18 ~~civil matters. The Attorney General shall represent the Department in~~
19 ~~litigation in which the Department is interested, provided that the Attorney~~
20 ~~General may designate the Department’s attorney as a Special Assistant~~
21 ~~Attorney General for this purpose.~~

22 ~~(b) The Department may set the terms and conditions of employment for~~
23 ~~the attorney, the compensation of which shall be established in accordance~~

1 ~~with 4 GCA '6208 as a full time employee, or as an independent~~
2 ~~consultant, or may utilize the services of a law firm. The attorney shall be~~
3 ~~admitted to the practice of law in the Territory of Guam.”~~

4 **Section 3. Funds Transfer.** The funds appropriated in Public Law 30-55, “Budget
5 Act” to the Guam Police Department that also funded the salary and benefits of the
6 current position of in-house attorney or police legal advisor shall be transferred to the
7 Office of the Attorney General, including any incumbent of the position.

8 **Section 4. Attorney General to Provide Legal Services.** Notwithstanding any
9 other law, rule or regulation the Attorney General shall upon the transfer of funds from
10 the Guam Police Department to the Office of the Attorney General designate at least one
11 of its attorneys to assist and represent the Guam Police Department in all civil matters.
12 The Attorney General, or his or her designee, shall represent the Guam Police
13 Department (GPD) in administrative hearings or civil litigation in which the Department
14 is interested, and also provide legal advice and guidance to GPD, as well as provide
15 consultation to GPD on training and other police-related matters.

16 **Section 5. Effective Date.** The provisions set forth in this Act shall become
17 effective on January 01, 2010. The Guam Police Department, the Office of the Attorney
18 General, and the Department of Administration and/or the Bureau of Budget
19 Management Research (BBMR) upon the enactment of this Act shall commence
20 preparation for the transfer of the funds and staff. Such transfer shall be completed not
21 later than January 01, 2010.