



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 8/17/98

Time: 11:15 AM

Rec'd by: *[Signature]*

Print Name: ANDRE FRANCIS

Refer to
Legislative Secretary

AUG 14 1998

The Honorable Antonio R. Unpingco
Speaker
Mina'Bente Kuattro na Liheslaturan Guahan
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGEMENT	
Received By	<i>[Signature]</i>
Time	8:45 am
Date	8/18/98

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 454 (COR), "AN ACT TO AMEND §§41210 (a)(i), (b) AND (f) OF CHAPTER 41, DIVISION 5 OF TITLE 17 OF THE GUAM CODE ANNOTATED, RELATING TO EMPLOYMENT OF INDIVIDUALS WITH SEVERE DISABILITIES", which I have signed into law today as **Public Law No. 24-252**.

This legislation repeals the current 700 hour program for persons with disabilities, and replaces it with a different program. The 700 hour program provided for placement of persons with severe disabilities in departments and agencies of the government to work for 700 hours during a fiscal year. If the person showed the ability to perform the job, the person with disabilities would be eligible to be hired into the agency.

This legislation, by contrast, establishes a quota for hiring persons with disabilities in the government. The government must hire 2% of the workforce of persons with severe disabilities, for a period not to exceed 6 months. If the person performs satisfactorily, the position occupied by the individual shall be converted to permanent employment. The Division of Vocational Rehabilitation of the Department of Integrated Services for Individuals with Disabilities shall provide a work coach to assist the departments and agencies when necessary.

00968

There is no appropriation or source of funding to support the implementation of this legislation. This will need to be addressed by I Liheslaturan Guåhan.

There is some legal precedent showing that quota programs cannot be legally upheld. If that proves to be the case, the 2% requirement will need to be revised by I Liheslaturan Guåhan in the future. Also, perhaps I Liheslaturan Guåhan can consider providing for a training center for persons with disabilities, instead of quotas, to ensure the success of those persons with disabilities who need the training to make their work experience a success. In any event, all efforts are to be made to successfully place persons with disabilities in situations where they may become self-sufficient and gainfully employed.

Very truly yours,



Carl T. C. Gutierrez
I Maga'lahaen Guåhan
Governor of Guam

00368

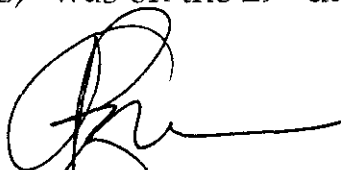
Attachment: copy attached for signed bill
 original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown
 Legislative Secretary

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 454 (COR), "AN ACT TO AMEND §§41210 (a)(i), (b) AND (f) OF CHAPTER 41, DIVISION 5 OF TITLE 17 OF THE GUAM CODE ANNOTATED, RELATING TO EMPLOYMENT OF INDIVIDUALS WITH SEVERE DISABILITIES," was on the 29th day of July, 1998, duly and regularly passed.



ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 3rd day of August, 1998,
at 9:05 o'clock 9 .M.



Assistant Staff Officer
Maga'laha'i's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 8-14-98

Public Law No. 24-252

**MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1997 (FIRST) Regular Session**

Bill No. 454 (COR)

As substituted by the Author and as further substituted by the Committee on Agriculture, Land, Housing, Community and Human Resources Development, and as amended on the Floor.

Introduced by:

L. A. Leon Guerrero
T. C. Ada
F. B. Aguon, Jr.
A. C. Blaz
J. M.S. Brown
Felix P. Camacho
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
Mark Forbes
L. F. Kasperbauer
A. C. Lamorena, V
C. A. Leon Guerrero
V. C. Pangelinan
J. C. Salas
A. L.G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

**AN ACT TO AMEND §§41210 (a)(i), (b) AND (f) OF
CHAPTER 41, DIVISION 5 OF TITLE 17 OF THE
GUAM CODE ANNOTATED, RELATING TO
EMPLOYMENT OF INDIVIDUALS WITH SEVERE
DISABILITIES.**

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

2 **Section 1.** Section 41210(a)(i) of Chapter 41, Division 5 of Title 17 of
3 Guam Code Annotated, as repealed and reenacted by Public Law Number 24-
4 16, is hereby *amended* to read as follows:

5 **“(a)(i) Eligibility Procedures.** An individual with
6 severe disability as defined in the Rehabilitation Act to mean an
7 individual with severe physical or mental impairment whose ability to
8 function independently in the family or community or whose ability to
9 obtain, maintain or advance in employment is substantially limited and
10 for whom the delivery of independent living services will improve the
11 ability to function, continue functioning, or move towards functioning
12 independently in the family or community or to continue in
13 employment, respectively. He/she is considered to meet the two
14 percent (2%) employment program eligibility criteria when an
15 appropriate certification is received from a counselor from the Division
16 of Vocational Rehabilitation (‘DVR’). This certification will be based on
17 knowledge of the jobsite by the counselor and will relate to a specific
18 position. The certification must state that in the counselor’s judgment
19 the proposed applicant for the position has the ability to perform the
20 duties of the position with or without assistive technology devices and
21 is capable to perform the work without possible injury to
22 himself/herself or to others.”

1 **Section 2.** Section 41210(b) of Chapter 41, Division 5 of Title 17 of
2 Guam Code Annotated, as repealed and reenacted by Public Law Number 24-
3 16, is hereby *amended* to read as follows:

4 “(b) Government of Guam departments and/or agencies shall
5 employ at least two percent (2%) of the work force with severe
6 disabilities, and certified by a counselor from the Division of Vocational
7 Rehabilitation (‘DVR’). Such employment shall be on a temporary,
8 limited-term employment not to exceed six (6) months. The immediate
9 supervisor shall complete an evaluation of the individual’s
10 performance, and if the immediate supervisor with the concurrence of
11 appointing authority determines that the individual has performed
12 satisfactorily either prior to or after the expiration of the six (6) month
13 period, the position occupied by the individual shall be converted to
14 permanent employment. If the evaluation recommends that the
15 individual may require an extension of the employment program, the
16 immediate supervisor and the counselor at DVR shall develop a revised
17 Individual Work Rehabilitation Plan (‘IWRP’) to assure successful
18 placement not to exceed an additional six (6) months, which may
19 include consideration of a department or agency acquisition or
20 modification of assistive technology devices or services or placement to
21 other positions in another agency/department within the government
22 of Guam. DVR shall provide a work coach to assist the department
23 and/or agency when necessary. DVR shall be responsible to monitor
24 compliance by the departments and/or agencies.”

1 **Section 3.** Section 41210(f) of Chapter 41, Division 5 of Title 17 of
2 Guam Code Annotated, as repealed and reenacted by Public Law Number 24-
3 16, is hereby *amended* to read as follows:

4 “(f) Provisions of this Section shall only apply to all new
5 applicants certified under the two percent (2%) employment program
6 and those individuals presently participating in of the seven hundred
7 (700) hour program upon enactment of this Act.”

8 **Section 4. Seven Hundred Hour Program Repealed.** The two per-
9 cent (2%) employment program established by this Act supersedes the seven
10 hundred (700) hour program which is hereby repealed.

11 **Section 5. Severability.** If any provision of this Law or its
12 application to any person or circumstance is found to be invalid or contrary to
13 law, such invalidity shall not affect other provisions or applications of this
14 Law which can be given effect without the invalid provisions or application,
15 and to this end the provisions of this Law are severable.



24th GUAM
LEGISLATURE

COMMITTEE ON
AGRICULTURE, LAND, HOUSING,
COMMUNITY & HUMAN RESOURCES DEVELOPMENT

SENATOR JOHN CAMACHO SALAS
CHAIRMAN

May 21, 1998

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

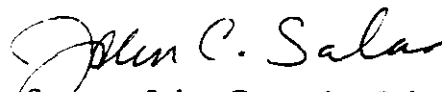
The Committee on Agricultural, Land, Housing, Community & Human Resources Development to which was referred Bill No. 454, has had the same under consideration and now wishes to report back the same with the recommendation **TO DO PASS.**

The Committee votes are as follows:

To Do Pass	7
Not To Pass	0
Abstain	0
Other (Off-Island)	0

A copy of the Committee's report and other pertinent documents are attached for your reference and information.

Sincerely,


Senator John Camacho Salas *j*
Chairman

Attachments



SENATOR JOHN CAMACHO SALAS

CHAIRMAN

COMMITTEE ON AGRICULTURE, LAND, HOUSING, COMMUNITY AND HUMAN RESOURCES DEVELOPMENT

VOTING SHEET

BILL NUMBER 454

TITLE An act to amend P.L. 24-16, Chapter 41, Article 1, 41210 (a) (i),(b) and (f) relating to employment of individuals with severe disabilities.

	TO DO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
 John Camacho Salas, Chairman	✓			
 Eduardo J. Cruz, M.D., Vice-Chairman	✓			
 Thomas C. Ada, Member	✓			
 Frank B. Aguiñ, Jr., Member	✓			
Felix P. Camacho, Member				
Francisco P. Camacho, Member				
 William B.S.M. Flores, Member	✓			
 Larry F. Kasperbauer, Member	x			
 Carlotta A. Leon Guerrero, Member	✓			
Antonio R. Unpingco, Ex-officio Member				

Committee on Agriculture, Land, Housing,
Community & Human Resources Development
Committee Report on Bill 454
Publicly Heard Thursday, May 7, 1998

Bill 454: An act to amend P.L. 24-16, Chapter 41, Article 1, §41210(a) (i), (b) and (f) relating to employment of individuals with severe disabilities.

I. ATTENDANCE

- Senator John C. Salas, Chairman
- Senator Edwardo J. Cruz, Vice-Chairman
- Senator Tom C. Ada, Member
- Senator Frank B. Aguon, Jr., Member
- Senator Felix P. Camacho, Member
- Senator Francisco P. Camacho, Member
- Senator Lou A. Leon Guerrero, Guest
- Senator Angle L.G. Santos, Guest

II. MAIN SPONSORS

Senator Lou Leon Guerrero

III. SYNOPSIS

Bill 454 proposes to change the current 700 hour program's temporary employment requirement from 700 hours to 6 months. The bill also mandates that government of Guam agencies employ at least 2% of the work force.

IV. TESTIMONY

Senator Lou Leon Guerrero, the bill's author, provided an overview of the bill. There is currently a 700 Hour Program for persons with disabilities that allows the hiring of a certain percentage of the labor force. However, after the 700 hour requirement, these people are not being given the jobs. Bill 454 proposes to complete the current program and ensures that those entering the program are given 6 months to train and then hired upon a supervisor's recommendation. If the applicant is not recommended for permanent employment, then the supervisor can place the individual through the same training or recommend another tract. The bill requires that the Division of Vocational Rehabilitation certify the individual for the program. The bill only applies to government of Guam entities and not the private sector.

John S. Taitano, Deputy Director of DISID, presented his testimony on behalf of the Director and staff. He noted that the bill is a good compliment to the Rehabilitation Act. This would give DISID an opportunity to place more of the severely disabled. He did express reservation regarding the bill's provision on providing coaches on page 2, lines 14 and 15. Mr. Taitano provided requested the Committee to consider amending the bill in relation to coaches. Chairman Salas requested Mr. Taitano to provide written testimony on his proposed changes. Mr. Taitano replied that he would (written testimony attached).

Dan Astorga, Division of Personnel Management, Department of Administration. He agreed that while the bill's intention is good to allow supervisors to permanize individuals with the concurrence of the department head, he asked that certain things be added to bill to bring preciseness and closure to the bill's intent. He noted that severe disability must be clearly defined and recommended that the bill defines "severe disability as defined in the Rehabilitation Act". He also suggested that the bill move away from the 2% requirement as people will have a tendency to only pick-up 2%, and the government needs to give ample opportunity for anyone with a severe disability to participate in the program. He noted an ongoing court case that identifies it is unconstitutional to set-up a block of positions for persons with disabilities. **Chairman Salas** requested Mr. Astorga to provide factual documentation of this court case if he is making recommended amendments. Mr. Astorga noted that he would submit writing in 10 days. Responding to Senator Lou Leon Guerrero, Mr. Astorga replied that this is a court case that has been

settled. Mr. Astorga also suggested an amendment be made to Page 2, Line 5 regarding the evaluation of an individual's performance. He suggested the amendment to read "...if the immediate supervisor with the concurrence of the appointing authority determines..."

Mr. Albert San Agustin, DISID, provided oral testimony on the bill. There is a problem with the current law that identifies one body to one FTE position that requires 8 hour days. He expressed his desire to see that the proper working environment is created for persons with disabilities. In many cases, these persons exhibit good performance during the training and once placed in permanent positions are given a greater workload and longer hours and this sets them up to become a liability to the organization. These persons with disabilities may not be able to work a full 8 hours and there needs to be some flexibility would like to see some flexibility on the part of the appointing authority to create positions that highlight their strengths and focus on their disability. Mr. Astorga and Mr. Taitano both agreed to look into the possibility and would research regulations to see how this could be done.

Senator Francisco Camacho noted that if a percentage is not specified, will this encourage abuse of the program where agencies would not proactively pursue training and hiring of individuals with disabilities. Senator Camacho recommended that some language be put into the bill encouraging agencies to proactively participate in the program.

Mr. Ben Servino, Guam System for Assistive Technology, presented oral testimony. He emphasized the need to clarify "severe disability" as many who can compete through the merit system can also go through this program. The 700 Hour Program was intended for those with severe disabilities. He recommended that the bill be amended to comply with federal guidelines.

Mr. Servino suggested that the bill include a provision that Human Resources Offices (HRO) will work with DVR in identifying available positions since DVR cannot assume these positions for their clients exist. He also recommended that all government of Guam agencies provide, within their budget, limited term positions because agencies will claim that they did not include the position in their budget. If this is mandated, DVR can monitor agencies and see which ones are in compliance.

Mr. Servino further made the following recommended amendments:

Page 1, Line 11 to read "with ~~or without~~ assistive technology devices".

Page 1, Line 12, replace the word "hazard" with "**possible injury**". Mr. Servino also recommended that standards and procedures be established by DVR and submitted to all HROs in the government of Guam so there is consistency in the implementation of the 2% process. He noted that various departments are implementing this program differently because of each department's interpretation. He also suggested that the 2% program should be exempt from any current or future hiring freeze that may be implemented by executive order or Legislation.

On Page 2, Line 10 to read "...the counselor at the DVR shall develop a **revised Individualized Work Rehabilitation Plan (IWRP)** ~~work plan~~ to assure successful placement..."

On Page 2, Line 12, to read "... include consideration of **a department or agency acquisition or modification of assistive technology devices or services or placement** to other positions in another agency/department within the government of Guam."

Recommended that since this bill is converting the 700 Hour Program to a 2% employment program the 700 Hour Program may need to be abolished once these people complete the program to provide closure. Mr. Servino noted that he would provide written testimony within the week.

Mr. Eugene S. Santos, representing the Guam Developmental Disabilities Council, provided oral and written testimony (written testimony attached). He expanded on the written testimony and suggested that most persons with severe disabilities will need to have an evaluation done at the beginning to ensure that the individual can do the job. He also noted that without compliance authority, no agency will have to comply with the law.

Chairman Salas asked Mr. Santos and Mr. Servino if it is possible for their respective organizations to provide a statistical report on the ability of agencies to employ people with disabilities. He found that neither could provide such a listing. He asked if we are efficient with our people and are we effective in our ability to serve these clients. We know how many have disabilities and how many are being served. He asked the witnesses representing the various organizations to take a look at what they have done to gauge where they need to go. At Chairman Salas' request, Mr. Santos noted he would provide a report to the committee.

V. COMMITTEE FINDINGS & RECOMMENDATION

The Committee finds that Bill 454 amends the current 700 Hour Program to ensure that individuals with severe disabilities are given the opportunity to secure permanent employment within the government of Guam. However, during the bill's public hearing, it was made clear the need for more precise, stronger language to ensure that all of Guam's severely disabled have a chance for productive employment, the Committee recommends **TO DO PASS Bill 454, as substituted.**



SENATOR JOHN CAMACHO SALAS CHAIRMAN

COMMITTEE ON AGRICULTURE, LAND, HOUSING, COMMUNITY AND HUMAN RESOURCES DEVELOPMENT

TESTIMONY SIGN IN SHEET

Thursday, May 7, 1998

Legislative Public Hearing Room

Bill Number **454**

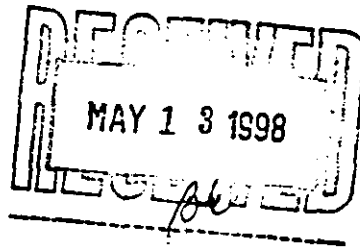
Title An act to amend P.L. 24-16, Chapter 41, Article 1, §41210(a) (i), (b) and (f) relative to employment of individuals with severe disabilities.

NAME	ORGANIZATION	MAILING ADDRESS	FOR	AGAINST	WRITTEN	ORAL
John S. Taitano	Disid		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
DAN ASTORGA	DOA		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Dibut T. San Agustin	Disid	475-4636	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Berni Grayek	GDDC	475-9127 104 E St. Tiyan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ben S. Servino	GSAT	735-2490 UOG	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Eugene Santos	DPHSS / GDDC		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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for

CARL T.C. GUTIERREZ
Governor of Guam

MADELEINE Z. BORDALLO
LT. Governor



John C. Salas
Chair, Committee on Agriculture, Land, Housing,
Community, Planning, and Human Resources Development
24th Guam Legislature

My name is John S. Taitano, Deputy-Director, DISID. To assist me and to provide technical support comments is Mr. Albert T. San Agustin, RSFA. On behalf of the Director, Mr. Joseph Artero-Cameron and the DISID staff, we support and endorse the passage of Bill No. 454 relating to the employment of individuals with severe disabilities. However, we cannot testify as to any issues relating to any finances as a consequence of this bill.

To ensure the successful implementation of Bill No. 454, we do offer the following comments:

- ▶ Chapter 41, Article 1, 41210 should read: Chapter 41, Article II
- ▶ Page 2, line 14: insert after "a work coach" consistent with the IWRP to assist the department or agency. Delete "when necessary."
- ▶ Page 3, line 2: Delete "a temporary, limited-term" and replace with "excepted employment."
- ▶ Need to address the issue of full-time employment (FTE). For purposes of employing individuals with severe disabilities that the application of job sharing or individuals employed for 20 hours a week will be considered employees that would qualify for the GovGuam insurance programs.
- ▶ Based on the work conditions and essential job factors, 4 hours daily shall constitute one work day for individuals with severe disabilities.
- ▶ need to incorporate definition of severe disabilities (attached)

Thank you for the opportunity by allowing us to present this testimony.

JOHN S. TAITANO
Deputy Director

DEPARTMENT OF VOCATIONAL REHABILITATION
DIPÁTTAMENTON BUKASIONÁT NUMA'LO

1313 Central Avenue, Tiyan, Guam 96913 • (671) 475-4645 • Fax/TDD (671) 477-2892

ATTN: ALBERT SAN JUAN

requires, means the Secretary of Education.

(15) (A) Except as provided in subparagraph (B) or (C), the term "individual with a severe disability" means an individual with a disability (as defined in paragraph (8)) -

(i) who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle-cell anemia, specific learning disabilities, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22) to cause comparable substantial functional limitation.

(B) For purposes of title VII, the term "individual with a severe disability" means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

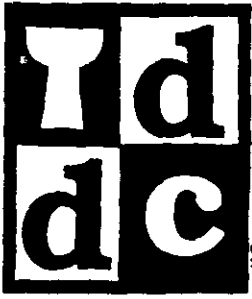
(C) For purposes of section 13 and title II, the term "individual with a severe disability" includes an individual described in subparagraph (A) or (B).

(16) The term "State" includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

(17) The term "vocational rehabilitation services" means those services identified in section 103 which are provided to individuals with disabilities under this Act.

(18) (A) The term "supported employment" means competitive work in integrated work settings for individuals with the most severe disabilities

(i) (I) for whom competitive employment has not traditionally occurred; or



Guam

Developmental Disabilities Council

Konsehelon Guahan para i Taotao ni Maninutet desde ki Manhoben

104 E STREET, TIYAN GUAM 96913 • TEL: (671) 475-9127 • FAX: (671) 475-9128

January 20, 1998

Senator Eduardo Cruz, Chairperson
Committee on Health and Human Services
24th Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Senator Cruz:

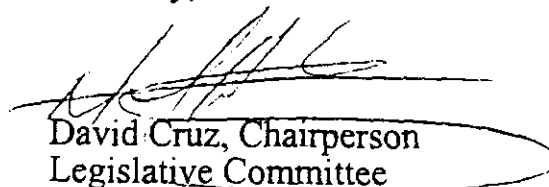
Hafa Adai. The Guam Developmental Disabilities Council (GDDC) would like to thank you for the opportunity to provide testimony in support of the intent of Bill 454, **an ACT TO AMEND P.L. 24-16, CHAPTER 41, ARTICLE 1, §41210 (a) (I), (b) and (f) RELATING TO EMPLOYMENT OF INDIVIDUALS WITH SEVERE DISABILITIES.**

In order to assure successful placement, we, however, would like to suggest that the Division of Vocational Rehabilitation counselor and the employee's immediate supervisor, develop the work plan which would include the discussion of the need for a job coach, assistive devices and other related accommodations, **at the beginning of the program**, not at the end. To wait until the end of the first six months for a comprehensive work plan to be developed sets the employee up to fail.

The GDDC also recognizes the need for a strong monitoring agency. How is the Division of Vocational Rehabilitation going to monitor compliance? What happens to an agency and/or department that does not comply? If these questions are left unanswered, we return to where we were . . . nowhere.

The GDDC, appreciates the efforts of Senator Lou Leon Guerrero, and members of this committee in promoting the employment of persons with severe developmental disabilities.

Sincerely,


David Cruz, Chairperson
Legislative Committee

May 14, 1998

Honorable John C. Salas,
Senator, 24th Guam Legislature
Chairperson, Committee on Agriculture, Housing,
Community and Human Resources Development
155 Hessler Place
Agana, Guam 96910

Hafa Adai Senator!!!

This is my written testimony on Bill # 454, an act amend P.L.24-16. Kudos to Senator Lou Leon Guerrero, a long time advocate for persons with disabilities and the issues in their lives, for authoring this bill to address improprieties in the employment of persons with disabilities within the Government of Guam.

While the intent of Bill #454 is commendable, and we must do everything we can to address the past inequities of treatment in all areas of society, and more specifically in the area of employment, I do have a few concerns about the proposed legislation:

1. The term "**Individual with a Severe Disability**" needs to be defined, according to the Rehabilitation Act the term is defined as an individual who meets the qualification of a person with a disability and also has SEVERE mental or physical impairment which limits one or more functional capacities, i.e., communication, mobility, self-care, self-direction, interpersonal skills, work tolerance, or work skill.
2. The quota provision, "The Government of Guam SHALL employ at least percent (2%) of the workforce.....The idea of using an affirmative action type model to address the lack of representation of persons with disabilities in the work force is commendable, however we need not exacerbate a bad situation by discriminating against another group to make up for past discriminatory practices. Federal regulation contained in CFR 60-2.12(a), 6002.15 and 602-30 specifically prohibit the use of employment quotas. Affirmative action does not require that quotas or "Set asides" be established to address past injustices. Where minorities women and persons with disabilities are underutilized, underrepresented hiring or promotional **goals** can be established. What is affirmative action? It is a way for the workplace to reflect the make up of the community, it is a tool used to reach the goal of fair employment and eliminate the effects of past discrimination, it is a doctrine that employers use to ensure that applicants and employees are treated the same regardless to race, sex, religion, or disability status. It is a plan and a promise to reach out into the community and bring in people from all the sectors of the community. **Goals** are guidelines that we use to ensure that the workplace truly reflects the community and are flexible, quotas are imposed by the judicial or legislative branches and must be met

What I would suggest Senator, is the investment in a training program that would allow persons with disabilities to receive the skills necessary to compete on a level playing field, or to address past problems, on a not so level playing field where individuals with disabilities who go through and successfully complete the training would then be eligible

for 10-15 bonus points in the selecting factors. By doing this the individual feels they have actively participated and truly did compete for the job, and it was not given to them because they have a disability.

The stigma that is associated with being given a position rather than earning it through hard-work and sacrifices are hard to overcome. Most qualified persons with disabilities who are looking for employment only want the opportunity to be judged on the character of their ability not the characteristic of their disability. The old axiom goes "give a man a fish you feed him for a day, teach Well this is the same for person with disabilities if we are given the opportunity to learn a marketable skill, we are able to seek employment that fulfill our dreams. If we are given a special treatment job, there is no satisfaction of accomplishment, just the government taking care of me again.

Persons with disabilities have been left out of the ball game to long, not because we can't but because people weren't will to let us try. Nothing in life is guaranteed, you can get as far as your talents can take you. Most people step up to the plate and take their swings, because they feel it is their right to try, persons with disabilities have not been allowed to try, we have been dictated to, coddled and told "No need to do this or that you have a disability let someone else try".

Senators if you want to address past inequities, fund or establish a functional training center, that can build the skill levels of persons with disabilities so when we come to the employment table we have something to offer and not come with hat in hand, hoping for the altruistic nature of employers to shine through.

We are all different in this world and that is what makes it so special, to treasure our differences and to celebrate our sameness.

Rodney Priest, BSW

cc: Senator Lou Leon Guerrero



DEPARTMENT OF EDUCATION

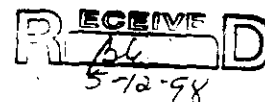
P.O. Box DE
Agana, Guam 96932
Tel: (671) 475-0457
Fax: (671) 472-5003



ROLAND L.G. TAIMANGLO
Director of Education

ALINE YAMASHITA, Ph.D.
Deputy Director of Education

May 07, 1998



Honorable Senator John C. Salas, Chairman
Committee on Agriculture, Land, Housing,
Community & Human Resources Development
24th Guam Legislature
#155 Hesler Street
Agana, Guam 96910

Dear Mr. Chairman:

Thank you for giving the Department of Education the opportunity to provide testimony on Bill No. 454, an act to amend Public Law 24-16, Chapter 41, Article 1, 41210 (a) (1), (b) and (f) relating to employment of individuals with severe disabilities. The Department of Education supports Bill No. 454, provided that the following are fully considered and addressed.

1. The Bill did not define severe disability. We suggest that instead of addressing specific disability, all persons with disabilities be afforded the opportunity for employment provided that a disability certification is issued by the individual's Counselor from the Division of Vocational Rehabilitation.
2. The Department of Education recommends that each school and division be required to comply with the two percent (2%) employment of persons with disabilities. This prevents supervisors from resisting the hiring of disabled persons since procedurally, candidates are referred to supervisors for interviews and the supervisors in turn submit their recommendations to the appointing authority for final selection for employment.

Once again Mr. Chairman, we reiterate that we support Bill No. 454, if our recommendations are included in this very important Bill to give persons with disabilities the opportunity to become productive citizens and to be able to support themselves and perhaps their families as well.

Sincerely,


ROLAND L.G. TAIMANGLO
Director of Education

COMMONWEALTH NOW!





GOVERNMENT OF GUAM

AGANA, GUAM 96932

DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON ATMENESTRASION)

DIRECTOR'S OFFICE
(UFISINAN DIREKTOT)

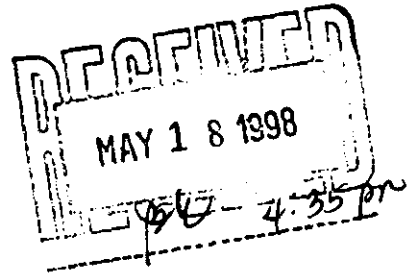
Post Office Box 884 • Agana, Guam 96932
Tel.: (671) 475-1101/1250 • Fax: (671) 477-6788

Carl T.C. Gutierrez
Governor

Madeleine Z. Bordallo
Lieutenant Governor

May 18, 1998

Senator John Camacho Salas
Chairman
Committee on Agriculture, Land, Housing,
Community & Human Resources Development
Twenty-Fourth Guam Legislature
T.S. Tanaka Bldg.
Rte. 4, Suite 210
Agana, Guam 96910



REF: COMMENTS ON BILL NO. 454

Dear Senator Salas:

Hafa Adai! Thank you for the opportunity to provide written comments on Bill No. 454, an Act to amend P.L. 24-16, Chapter 41, Article 1, Section 41210 relating to employment of individuals with severe disabilities. This is a follow-up on our oral testimony delivered at the public hearing held on Thursday, May 7, 1998.

We generally support the amendments proposed by Bill 454. However, we would like to recommend the following:

1. Rather than requiring a goal or a quota of two percent employment for persons with severe disabilities, we recommend language that would require each department or agency to give priority consideration for employment to all individuals certified by the Division of Vocational Rehabilitation. This can be done by requiring all departments or agencies to route to their EEO Officers, or designated representatives, all recruitment Requests for Personnel Action (GG-1's) after Bureau of Budget and Management Research (BBMR) clearance and prior to active recruitment. The use of employment quotas is prohibited in accordance with federal regulation, CFR 60-2.12(a), 6002.15 and 602-30.
2. To clarify the definition of severe disabilities, we recommend that language be included to identify that the definition of severe disabilities under the Rehabilitation Act is used.



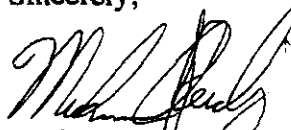
COMMONWEALTH OF NORTHERN MARIANA ISLANDS

PAGE 2 - COMMENTS ON BILL NO. 454

3. Instead of a six-month excepted appointment program, we recommend a one-year program with the stipulation that if the immediate supervisor, with concurrence by the appointing authority, determines that the individual has performed satisfactorily upon completion of at least six months out of the one-year program, a permanent appointment shall be granted the individual occupying the permanent position.
4. As mentioned by DVR at the public hearing, we support the amendment of the Full Time Equivalent (FTE) law to provide exceptions for persons with a severe disability and allow two persons with a disability to occupy one FTE not to exceed a composite total of 40 hours per week.
5. Lastly, we recommend language to require each autonomous agency and the Department of Administration to develop policies and procedures governing implementation of the "excepted appointment" program. In general, "excepted appointment" is a temporary employment program for an individual with a severe disability to provide skill building and an opportunity for permanent employment.

If we can be of further assistance regarding the above recommendation, please let us know. Once again, thank you for the opportunity to provide comments. Dangkulo Na Si Yu'os Ma'ase.

Sincerely,



MICHAEL J. REIDY

Director, Department of Administration

April 24, 1998

INTER-DEPARTMENTAL MEMORANDUM

TO: RSFA
FROM: VR WORKER
SUBJECT: 700 HOUR STATUS

There is no significant change or improvement from the last report that was submitted earlier this year 1998. This is a report on data collected to my knowledge in a joint effort with Department of Administration and Employment Services of Department of Labor on the status of the 700 hour participants who have hired and converted position/titles into permanent positions. Attached are a list of participating Government of Guam Agencies who are in compliance and non-compliance with the 2% or more in hiring persons with disabilities under the 700 hour program. Also attached is a listing of Agencies who have been given letters of referrals of qualified individuals for placement or employment to fill vacant positions. These agencies have expressed a willingness to participate, however, currently funds are not available for any position titles. According to each agency these referrals will be kept on file until funds are identified to fill any vacancies.

I will continue to monitor all Government of Guam Agencies both non-autonomous and autonomous to track current and future applicants and referrals for the 700 hour program.


Edith B. Gallandez

cc/ Deputy Director

**PERMANENT STATUS SINCE 1991 - 1998
PARTICIPATING GOVERNMENT AGENCIES**

COMPLIANCE

Dept. of Public Works - 7
Guam Telephone Authority - 7
Guam International Airport Authority - 12
Dept. of Labor - 3
Dept. of Mental Health & Subst. Abuse - 2
Port Authority of Guam - 21
GETC/KGTF -TV - 14
GuamGuam Water Works - 2
Guam Disaster Recovery Office - 3
Dept. of Land Management - 4
Guam Public Library - 5
Department of Education - 16
Department of Parks & Recreation - 4
Mental Health & Substance Abuse - 2
Department of Law (AG's) - 2
Department of Vocational Rehab. - 21
Dept. of Public Health & Social Services - 6
Guam Mass Transit - 2

**TOTAL COMPLIANCE - 18
TOTAL CONSUMERS - 133**

NON-COMPLIANCE

Guam Election Commission - 1
Dept. Of Agriculture - 1
Dev. Disab. Council - 1
Guam Memorial Hospital - 1
Guam Bureau of Planning - 1

**TOTAL NON-COMPLIANCE -
TOTAL CONSUMERS - 5**

GOVERNMENT AGENCIES NOT PARTICIPATING

Agency for Human Resources Development
Bureau of Womens Affairs
Chamorro Land Commission
Civil Defense/Guam Emergency Services Office
Civil Services Commission
Department of Administration
Department of Commerce
Department of Corrections
Department of Custom & Quarantine
Department of Military Affairs
Department of Revenue & Taxation
Department of Youth Affairs
General Services Agency (GSA)
CAHA
Guam Energy Office
Guam Environmental Protection Agency
Guam Fire Department
Guam Environmental Protection Agency
Guam Health Planning & Development Agency
Guam Legislature
Guam Museum
Guam National Guard
Guam Passport Office
Guam Police Department
Guam Public Defender
Guam State Council on Vocational Education (SCOVE)
Guam Territorial Law Library
Guam Retirement Fund
Territorial Board of Guam

OFFICE OF THE GOVERNOR
BBMR
Commission on Self-Determination
Compact/Impact Information
Community Affairs
Executive Assistance
Guam Medical Referral
Guam Legal Office
Governors Office
Lt. Governors Office
Special Project
Management Team

AUTONOMOUS AGENCIES

Guam Community College
Guam Housing
Guam Housing & Urban Renewal Agency
Guam Power Authority
Guam Visitors Bureau
Superior Court of Guam
University of Guam

AGENCIES WITH LETTERS OF REFERRALS

Guam Power Authority - 1
Dept. of Parks & Recreation - 6
Dept. of Corrections - 2
Dept. of Public Health & Social Services - 17
Dept. of Youth Affairs - 2
Guam Police Department - 7
Guam Energy Office - 2
CAHA - 1
Guam Health Planning - 3
Revenue & Tax - 5
Dept. of Labor - 6
Dept. of Public Works - 14
Guam Veteran's Affairs - 2
Dept. of Administration - 5
Bureau of Budget Management Research - 1
Chamorro Land Commission - 3
Dept. of Law (AG's) - 10
Dept. of Land Management - 1
Bureau of Planning - 1
Guam Public Library - 4
Guam Mass Transit - 2
Guam Mental Health & Substance Abuse - 1
Dept. of Commerce - 2
Agency of Human Research & Development - 2
Guam Fire Department - 1
Guam Environmental Protection Agency - 5
Dept. of Vocational Rehabilitation - 1
Dept. of Agriculture - 2
Civil Defense - 1
Custom & Quarantine - 1
General Services Agency - 2

TOTAL REFERRALS - 113

NAME	AGENCY	POSITION TITLE	EFFECTIVE DATE	PERMANENT POSITION
Emily C. Salas	Guam Public Library	Administrative Aide	09/24/96	01/24/97
Ronald Leon Guerrero	Guam Public Library	Library Technician I		
Maria Camacho (Retired)	Guam Public Library	Building Custodian		
Velma Kim	Department of Land Managment	Payroll Clerk	05/13/94	10/26/94
Dwight Sheldon	Department of Land Managment		12/12/92	
Danny B. Lay	Department of Revenue & Taxation	Tax Technician III	05/20/96	Terminated
Danny B. Lay	Department of Revenue & Taxation	Tax Technician III	09/26/96	Terminated
Raymundo Laserna	Guam Public Library	Administrative Aide	04/04/94	Terminated
Raymundo Laserna	Guam Public Library	Administrative Aide	05/01/96	Terminated
Ruhaul Hartendorp	Department of Mental Health & Substance Abuse	Planner IV	04/15/76	03/17/86
Nena E. Desnacido	Department of Mental Health & Substance Abuse	Psychiatric Technician II	07/20/87	07/20/87
Muna	KGTF-TV Channel 12	Production Manager	06/84	06/84
Benny Flores	KGTF-TV Channel 12	TV Operation Manager	01/92	01/92
Catherine Leon Guerrero	Election Commission	Precinct Official (2 days, 10 hrs. ea. day)	Primary & General Election	In Sept. & Nov. 1996
Joseph W. Santos	Port Authority of Guam	Crane Operator	10/02/73	10/02/73
Michael B. Diaz	Port Authority of Guam	Clerk/Tool Clerk	07/30/90	07/30/90
Alfred B. Crisostomo (Resigned 10/27/95)	Port Authority of Guam	Clerk I	10/29/90	10/29/90
Allan R. Hammer	Port Authority of Guam	Safety Administrator	04/15/91	04/15/91
Frederico B. Aguon (Resigned 02/28/97)	Port Authority of Guam	Equipment Operator II	06/22/92	06/22/92
Felix M. Reyes	Port Authority of Guam	Cargo Checker/Cargo Checker Leader	02/24/93	02/24/93
Jesus S.N. Duenas	Port Authority of Guam	Equipment Operator II	04/17/95	04/17/95
Roque S.N. Santos	Port Authority of Guam	Supply Tech. II/Administrative Assistance	08/07/95	08/07/95
Raymond T. Taimanglo	Port Authority of Guam	Manager, Equipment Support Services	03/17/97	03/17/97
J. B.L. Cruz	Guam Memorial Hospital	Clerk I	07/29/97	On Going
Thomas Manibusan	Guam Int'l Airport Authority	Clerk III	03/24/97	10/17/97
Evelyn Rapolla	Guam Int'l Airport Authority	Clerk III	07/22/97	On Going

NAME	AGENCY	POSITION TITLE	EFFECTIVE DATE	PERMANENT POSITION
Vincent L. Manglona	Department of Agriculture	Laborer: Agriculture Gardener	05/05/92	09/04/92
Doreen M. Flores	Department of Labor	Messenger Clerk	01/17/96	05/17/96
Richard D. Santos	Department of Labor	Clerk II	01/03/94	05/03/94
Terrence Johnson	Department of Labor	Clerk II	12/23/96	04/23/97
Bernadita Grejek	Developmental Disabilities Council	Program Coordinator I	05/01/95	08/31/95
Jesus C. Torres	DDPC/Gov. Comm. for Persons W/Disab.	Program Coordinator IV	09/29/93	01/20/94
Andres S. Bautista	Department of Public Works	Maintenance Custodian	10/04/96	02/01/97
Patrick M. Benavente	Department of Public Works	Administrative Aide	01/02/96	06/15/96
Jesse J. Cruz	Department of Public Works	Solid Waste Technician	12/22/90	06/18/92
Thomas F. Cruz	Department of Public Works	Office Aide	09/09/93	09/09/93
Michael Q. Sablan	Department of Public Works	Solid Waste Technician	11/30/95	03/03/95
Jesue San Nicolas	Department of Public Works	Automotive Service Worker I	07/15/93	07/15/93
Pedro Marquez (dec.)	Department of Public Works	Solid Waste Technician	02/08/95	05/16/95
Allan Borja	Department of Parks & Recreation	Laborer	03/08/93	07/08/93
Joseph G. Chargualaf	Department of Parks & Recreation	Grounds Worker	10/01/95	01/31/96
Joseph J. Mendiola	Department of Parks & Recreation	Laborer	03/08/93	07/08/93
Anthony F.C. Sinobeb	Department of Parks & Recreation	Trades Helper	05/29/94	09/29/94
Peter Blas	Guam Telephone Authority	Auxiliary Worker	03/11/96	12/31/96
Allan Cruz	Guam Telephone Authority	Storekeeper I	02/09/93	06/11/93
Kenneth Cruz	Guam Telephone Authority	Trades Helper	02/09/93	10/14/93
Margie Francisco	Guam Telephone Authority/GIAA	Personnel Assistant I	11/15/93	09/14/94
Celine Taitague	Guam Telephone Authority	Clerk II	11/22/93	04/21/95
Raynaldo Tanayan	Guam Telephone Authority	Clerk Typist III	06/15/92	10/14/92
Paul Ninete	Guam Telephone Authority	Clerk Typist II	04/04/94	01/16/96
Rose B. Flores	Department of Law (AG's Office)	Word Processing Secretary II	11/21/96	03/24/97
Jesue San Nicolas	Guam Water Works	Heavy Equipment Mechanic	12/31/96	05/06/97

NAME	AGENCY	POSITION TITLE	EFFECTIVE DATE	PERMANENT POSITION
Romona C. Ignacio	DOE - Finegayan Elementary School	School Aide I	05/04/92	09/03/92
Mary C. Palomo	DOE - Special Education Division	School Aide I	05/18/92	09/17/92
Bruce D. Aguigui	DOE - GW High School	School Aide I	12/06/93	04/04/94
Angela M. Camacho	DOE - CL Taitano Elementary School	Library Technician I	05/26/92	09/25/92
Lavina Quinata	DOE - Personnel Service Division	Clerk II	09/30/96	01/29/97
Therese A. Quintanilla	DOE - Chief Brodie Elementary School	School Aide I	03/05/91	11/07/91
Maryann B. Castro	DOE - Special Education Division	School Aide I	03/21/91	11/07/91
Evelyn R. Duenas	DOE - Finance Office Division	Clerk III / Telephone Operator	05/06/91	01/07/92
Juan B. Mesa	DOE - Facilities Maintenance Division	Trades Helper	11/12/91	03/13/92
Judy M.G. Sablan	DOE - Agat Elementary School	Library Technician I	11/13/91	03/16/92
Jimmy J. Alerta	DOE -	Cook Assistant	03/04/92	
o P. Pangelinan Jr.	DOE - Special Education Division	School Aide I	05/04/92	09/03/92
Frances J.R. Perez	DOE - John F. Kennedy High School	Cook Assistant	04/29/91	12/31/91
Stella A. Franco	DOE - Tamuning Elementary School	Cook Assistant	05/13/91	04/14/92
Marlyn S. Taianao	DOE - Piti Middle School	School Aide I	11/21/91	03/13/92
Daniel S. Tydingco	DOE - FBLG Middle School	Building Custodian	05/04/92	09/30/92
Jacob Cruz (terminated)	DOE - Yigo Elementary School	School Aide I	12/02/96	01/17/97
Mark A. Borja (resigned)	DOE - Maria Ulloa Elementary School	School Aide I	06/22/92	
Agnes G. Virata (resigned)	DOE - Simon Sanchez High School	Building Custodian	10/05/92	
Daniel C. Cruz (resigned)	DOE - Untalan Middle School	Building Custodian	01/10/94	06/26/96
Manuel A. Santos (resigned)	DOE - MU Lujan Elementary School	Maintenance Custodian	06/29/92	
Frankie C. Toves (resigned)	DOE - Dededo Middle School	School Aide I / School Aide II	06/14/93	01/07/97
Juliann U. Limiaco (resigned)	DOE - Special Education Division	School Aide I	01/18/94	06/11/94
o Aungon (resigned)	DOE - Special Education Division	School Aide I	01/13/94	06/09/95
Edward J. Reyes (resigned)	DOE - Tamuning Elementary School	Cook Assistant	03/06/91	06/05/96
Rosemaire C. Sablan (resigned)	DOE - Piti Middle School	Clerk II	01/13/92	

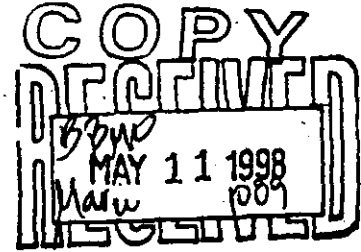


COMMITTEE ON AGRICULTURE, LAND, HOUSING,
COMMUNITY & HUMAN RESOURCE DEVELOPMENT

SENATOR JOHN CAMACHO SALAS
CHAIRMAN

May 8, 1998

MEMORANDUM



To: Director, Bureau of Budget & Management Research
From: Senator John Camacho Salas
Subject: Request for Fiscal Notes

Please find attached Committee Bill 454, Bill 556, Bill 600, Bill 616, and Bill 628, for which I respectfully request issuance of Fiscal Notes.

Your issuance of these fiscal notes will be greatly appreciated. Thank you for your very kind assistance.

John C Salas
John Camacho Salas jr

Attachments