

Mike Soliday
PO Box 326024
Hagatna, GU 96932
January 27, 2006

Dear Senators,

I am writing in support of Bill No. 254 (LS).

As a teacher and former coordinator for the deaf and hard of hearing program I have experienced frustrations after frustrations with recruitment and the Civil Service Commission. I have lived here on Guam for six years and in that amount of time I can only recall one time that we have been successful with the Civil Service Commission.

As you are already aware, recruitment of teachers is difficult due to our salary schedule that is over fifteen years old and unheard of anywhere in the United States. The ability to offer teachers Step 10 on the salary schedule for the purpose of recruitment is a step in the right direction. Every teacher should automatically be offered Step 10 to enable Guam to compete with schools in the state. Bill 254 will bring teachers to Guam.

I also understand that Bill 254 will allow the DOA and GPSS to create positions to meet the needs of our students on Guam. That is a much needed proposition!

Today, we have a number of students in our deaf and hard of hearing program that are not getting the needed services as mandated by their IEP because we are not able to fill those positions. I'm talking about our sign language interpreters. Because there are no incentives to becoming an interpreter on Guam, these positions are difficult to fill.

However, for ten years we have had an answer to avoid non-compliance with our students' in need of services. For ten years we have tried with the Civil Service Commission to create a Sign Language Interpreter position with its salary, job description, and designed to promote further education to achieve a higher salary within the job, which promotes further education to improve their skills and qualification. For ten years Civil Service Commission has given this plan back to us to refine and redefine the Sign Language Interpreter job description because it could not be satisfied. I now

hold in my hands the Sign Language Interpreter classification that just cannot be improved. It is truly now a very good design.

Today we are not able to fill positions because everyone knows that interpreters are just aides. Today they tell us why they should spend all the money and time going to school only to have the same expectations and salary as a regular school aide. Our interpreters today have given up on GovGuam and the hope that the schooling and training they have received to become an interpreter would mean a step above the rest. Our students today suffer going to classes without an interpreter and not able to understand what is being said so they, too, can learn.

Please strongly consider Bill 254. It is a step in the right direction. It will empower Guam to move forward. It will promote education and services so we have so long waited to happen.

Audi Punzalan

From: "Mike Carey" <mikecarey21@gmail.com>
To: <judiciary@bobsoffice.org>
Sent: Monday, January 23, 2006 2:14 PM
Subject: conflicting bills re: Civil Service Commission functions

The is to express my opposition to Bills 203, 204 and 205; and, my support for Bill 254.

In terms of land area and population, Guam is roughly the size of a small city. It has layers of government bureaucracy to rival many states.

The Civil Service Commission is one such bureaucracy. Created primarily to protect the rights of classified government workers, the Commission has wildly overextended its reach and become a knothole through which most GovGuam personnel decisions must pass. Bill 254 effectively eliminates that knothole by placing personnel responsibilities where they belong. It breaks open an old bureaucratic clog, allowing government executives to manage rather than to stand in line waiting for their turn at the Civil Service Commission knothole.

Bills 203, 204 and 205, on the other hand, seek to move backward -- to restore the knothole. To what end?

We all know that our government is in deep financial kim chee. Any effort to untie bureaucratic knots and eliminate knotholes makes sense to this taxpayer. I keep looking for our elected leadership to lead. Gut this bloated government hog that gobbles tax dollars and lead us to a streamlined, efficient government that can finally operate in the black.

Sincerely,

Michael Carey
Mangilao, Guam

Testimony of Rueben D. Olivas, Gov Guam Employee
Bills 203, 204, 205, 254 – January 2006

Good afternoon, Mr. Chairman, members of the Committee on Judiciary, Governmental Operations and Reorganization and all those that are gathered here today. My name is Rueben Olivas. I am a Government of Guam employee with the Guam Fire Department. I have served in the Public Safety here and in the United States for almost 30 years of which nearly 20 of those years have been with the Guam Fire Department. However, I am here today, as a Government of Guam employee, to offer testimony regarding Bills 203, 204, 205 and 254.

I am not in favor of Bills 203,204, 205 and I am in favor of Bill 254.

Let me explain my position on each bill.

Bill 203

I find it quite surprising that any Senator that has served at least two terms would take exception to the fact that a public hearing was not held for provisions contained in Public Law 28-68 regarding the Civil Service reform. I say, those Senators that have served at least two terms because in the past and currently it has been common practice to pass legislation without the benefit of public hearings. Of course this Legislature has gone on record to say that every bill will have a public hearing, hence I understand the attitudes of all first-term Senators that would stand up for a public hearing on every bill.

But, as I mentioned, in the past it has been common practice to pass legislation without the benefit of public hearings. Yes there have been public hearings in the past, but not consistently.

I often wonder what it takes to qualify for a public hearing. What are the criteria? Why does one bill receive a public hearing and another does not. And of course, every Gov Guam annual budget bill is loaded with “riders”. These, as we know, are pieces of legislation that are placed into the budget bill to ride on the budget bill’s public hearing. This has always been one way that provisions are passed without independent public hearings.

I remember a few years back when the Gov Guam employees annual leave accrument for employees with 15 years of credible service, was decreased by the Legislature from 8 hours to 6 hours, without the benefit of a public hearing. Can you imagine our basic employment benefit package being stripped like that? When we get hired into Gov Guam, we agree to work for certain pay and for certain benefits. When one of those benefits is taken away without the benefit of a public hearing, this is not only wrong but also in my mind constitutes a “breach of contract”.

Back in the year 2000, the Civil Service Commission amended our Firefighter job descriptions to include additional EMT B Certification and related duties without any additional compensation or the benefit of a public hearing.

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Bills 203, 204, 205, 254 – January 2006

Can they do that? Yes they can. But was it right without a public hearing? I don't think so. Yet when the shoe is on the other foot, with regards to the CSC having to endure changes to their scope of duties, you can all see here today, that they are screaming bloody murder.

Mr. Chairman, those are a couple instances. But let us look at this past Gov Guam FY 06 budget, now known as Public Law 28-68. This law contains five (5) chapters and Chapter 4, Miscellaneous Provisions, where the Civil Service Reform sections 31-48 are located, it contains a total of 114 sections. Now why are these other sections not being challenged because they did not have their own public hearings? Why are the sections 31-48 being singled out? Are there possibly some hidden agendas? If not, someone please explain to me why the other sections are not being questioned. This appears discriminatory to me.

I would love to see Chapter Four (4), Section 90, P.L. 28-68 have a public hearing. If you look at the previous section, Section 89, you will find that those departments listed, GPSS, GPD, GMHA, UOG, GCC, Office of the Attorney General, Office of the Public Auditor, Office of Finance and Budget, Guam Legislature, Mayors Council of Guam and the Judiciary, are exempt from the Governor's transfer authority. Yet, in section 90, you will see other departments and agencies, to include the Guam Fire Department. These agencies are subject to a 20% transfer authority of the Governor. Now I truly feel that the Guam Fire Department is as important as any of those listed in Section 89, and that the GFD funds should be protected from the same transfer authority. After all, doesn't money that goes towards saving the lives of our residents, on a daily basis, warrant that protection? How many of those agencies and departments in Section 89, save lives daily?

Anyway, that is just another example of the inconsistency of the public hearing system.

Mr. Chairman, members of this committee, the rest of the Senators and all those that have gathered here today, I think the real issue here, and this is just my opinion, is not that there was a lack of a public hearing, because there are many public hearings that should have taken place. But rather the problems that have longed plagued the employees of the Government of Guam, with regards to the inactions of the Civil Service, have finally been addressed and some Senators of the Legislature were not prepared to discuss the issues and want another opportunity. Well, Senators are expected to be up to speed on all the issues, and this one is no exception. And this one has been festering for years.

The bottom line is that this is not about the rights of the Civil Service Commission, but the rights of the little guys, the Government of Guam employees. We are not complaining about what has happened. We are for it, as you have heard here today.

The law was passed, it has taken effect and we should now work within the confines of the law. Let us move forward.

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Bill 204

Bill 204 is calling for the restoration of the authority to the Civil Service Commission, as it existed prior to the passage of Public Law 28-68 by repealing Sections 31-48 of Chapter 4. This is basically negating the recent Civil Service Reforms and giving the Civil Service back all their duties and responsibilities as before.

Now why would we want to do anything like that? For the past 15 years they were supposed to review all Gov Guam positions and salaries every three (3) years for external competitiveness and annually for internal equity. This has not been done. Why? Mr. Juan Calvo, CSC Personnel Management Administrator and Mr. Vern Perez, CSC Executive Director have told me, that they are understaffed and have not been provided the necessary funds to complete the mandated studies and reviews. Mr. Perez even went on to tell me that this fiscal year, he was hoping to bring the Hay Group in to examine the positions and salaries of a limited group of Gov Guam positions. I can sympathize with their predicament. But when I examined their FY 06 budget on the internet, I saw that there was no request made for additional personnel, funding for addressing the salary reviews and positions or even to bring the Hay Group to Guam.

Now my contention is this...why use an excuse for not doing your job and then do nothing to rectify it. Mr. Vern Perez has said, "If there's a problem, let's fix it." They have had plenty of opportunities to fix their problems. At least 15 years worth, and they are not only not fixing their problems, they are not even asking for help to do it. At least that is what their budget reflects.

Let me give another example of what happen to us, the Guam Firefighters. We requested, via Legislation to have our salaries reviewed, along with a few other provisions, as the last time this occurred was back in 1990 when the Hay Study was conducted. We also requested this due to the addition of EMT-B duties to our job description without any additional compensation. Well, this was passed and sent to the Civil Service Staff for the required salary review. The result was that the Civil Service conducted the Review. We did not agree with the review and I wrote an appeal to the CSC Report.

I met with Mr. Vern Perez on September 17, 2005 at his CSC office in Tamuning. I presented him with my appeal document. We even discussed the case in points, which there were seven (7) of them. Mr. Perez stated that he and his staff would review the report as he felt that I had brought up some legitimate objections to the CSC report. Once that was accomplished, he would call me back in to discuss the merits with the CSC staff and himself to see whether or not he would recommend that the Commission would revisit this issue.

I waited for his phone call and it never came. On October 27, 2005, I contacted GFD Asst. Chief Michael Uncangco and inquired if he had received any word from the CSC regarding this matter. No contact had been made. I finally called Mr. Vern Perez in mid November, 2005 and spoke with him regarding the appeal. I explained to him that I had been waiting for his call and he told me that he felt that when I was ready, that I would

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call him. I asked him when was he going to call me into the CSC staff to discuss my appeal. He responded in a surprised manner and asked me what appeal was I talking about. I told him the appeal that I had presented to him in September regarding the salary review of the Firefighters. He told me that he did not realize that it was an appeal. He said he would review it with his staff and get back to me. Well, to this date, I do not have yet to be contacted by Mr. Perez nor have I received any written document concerning this appeal. Again the little guys are being stepped on.

Quite honestly, I feel that it is frugal to actually appeal a decision to the entity that made it in the first place. The chances are slim that they would reverse their decision. But what recourse do we have? Some say that we can take it to court. I know we can, but where are we going to get the money. Not only does the CSC not address our needs but also they don't even dignify us with a response. This is the epitome of arrogance.

When the firefighters were lobbying for a mandate for the Advance Life Support program, we put together an information packet about one (1) inch thick and gave a presentation to the CSC staff at their office. When we mentioned the fact that the CSC had not completed a salary review in almost 15 years, Mr. Calvo, in front of his staff and about 15 firefighters became upset, raised his voice and in an angry tone told us they tried but they were not given the money or staff. We took offense to this display. We are the employees, the customers to CSC. We go to them for help and we received this type of treatment. This, again, is a display of arrogance. As employees of the Government of Guam, we do not feel that we deserve this type of treatment.

I would like to bring to light one other incident. Back in early September, 2005 I attended a hearing for Bill 180, a bill to restore the Firefighters EMT differential pay. During the public hearing for Bill 180 I was at the testimony table along with Acting Fire Chief George Aquino and Mr. Vern Perez. Senator Klitzkie, the committee chairperson directed Mr. Perez to take the provisions of Bill 180 to the CSC for a public hearing and to contact Chief Aquino and myself so that we could attend the hearing.

On Tuesday morning, Sept. 20, 2005, I called the Civil Service offices. The purpose was to inquire about the newspaper (PDN) notice regarding the Civil Service board meeting scheduled for Sept. 20th at 5:30 p.m. Of particular interest was the part in the notice regarding "bills affecting CSC".

I wanted to attend the hearings for Bill 180 at the CSC but the notice was very vague. I was transferred to Mr. Juan Calvo. I identified myself and that I worked for the Fire Department. I explained that I wanted to attend the hearing on Bill 180 and I was inquiring if this was the hearing for that bill. I brought up to Mr. Calvo's attention that Chief Aquino and I were to be there per the instructions of Sen. Klitzkie, as directed at the previous public hearing. Mr. Calvo told me that this was not the hearing for that. The purpose of this hearing was to inform the Commission members of the various bills that affect and involve the Civil Service. He told me this is not the hearing for giving testimony on these matters. There would be no testimony from the public. I asked him if that meant that fire personnel did not need to be there because no testimony would be

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allowed. He told me that fire personnel did not have to be there and that there would be another hearing for the bills where testimony would be accepted.

Well, needless to say there was no other hearing and this was the hearing to offer testimony to the Commission as I later found out from Asst. Fire Chief Michael Uncangco, who did testify.

When I brought this up to the attention of Mr. Vern Perez and reminded him that he was directed to contact Chief Aquino and I regarding the place, date and time of the meeting, he advised me that I was misinformed about the meeting. He also told me that he called my place of work, and left a message. That was a message that I never received. Bottom line was that I was not contacted with regards to the meeting and I was given erroneous information regarding attending the meeting. Was it intentional? I don't know, but I have my suspicions.

I want to bring up one last incident regarding language in Bill 204 regarding the intercession of politics within the Executive Branch. We must remember that the Civil Service Commission is within the Executive Branch.

A few years ago, I along with many other Gov Guam employees to include teachers, police officers, nurses, to name a few, attended a public hearing at the Civil Service Commission at it's former office in Agana Heights, to testify against a government-wide 10% across the board pay cut.

Testimony was heard, mine included, not supporting the pay cut. Not one person testified in favor of the pay cut. The testimony was quite overwhelming. Anyway, the Commission members came back approving the pay cut. It was unbelievable.

What did they base their decision on? It certainly was not on the testimony. It was obvious that this was a "done deal" prior to the hearing. I suspect that the Commission members already had their "marching orders" from the powers to be. Politics is already in the current process. We are trying to get rid of the politics. We have a better chance with the Department of Administration. We feel more comfortable working with them. They are already doing most of this work anyway. That is what this employee and a lot of others feel.

I bring these instances up for a reason. I just want to explain to the committee the type of treatment that we have received from the CSC staff. I want to show what we have not been receiving from the CSC. They have not been carrying out their duties to the full extent that they should.

Advantages are given to the CSC reforms. We can eliminate duplication as DOA's Human Resources Section, currently has the salary and position classification review duties. They create positions, determine qualifications, and conduct new employee ratings and testing. The CSC is just another clog in the bureaucratic red tape that slows the system down. One less approval process alone, will expedite matters. One only has to

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read the newspaper to see what has happened with many agencies waiting on the CSC to perform their duties to include GPSS, GMHA, GWA and GFD, just to name a few.

This past week, KUAM aired a segment, hosted by Sonja Artero, regarding the Guam Department of Labor, headed by Maria Connelly. In this special report it was revealed that the wages on Guam were some of the lowest ones in the United States. And that includes the Government of Guam.

It has been said that the CSC reform threatens the integrity of the government's merit system. But I have not heard anyone actually pinpoint how it would do that. Of all the statements that have been made regarding the negative aspects of the CSC reform, not one person has actually come up with anything concrete on how it would affect negatively upon the system.

If the CSC says they can handle it, I say that DOA can handle it better just because they have more resources. Regarding certain duties, nothing is going to change much. It will probably be the same persons doing the required work in a different location with more resources.

We can eliminate some conflict of interests with DOA doing the salary studies and position description reviews. As I have said before, the CSC should not be involved in personnel and pay decisions at the Government of Guam agencies because the commission ultimately is the appeals board for the employees who disagree with those decisions. What Civil Service needs to concentrate more on is adverse actions, making sure the merit system is properly carried out and that due process has been served.

With the provisions of Chapter 4, Sections 31-48 of P.L. 28-68, the changes are not taking way a lot of the powers and duties that are important for the CSC to perform. What it's doing is making sure the CSC is doing what they are supposed to be doing.

Even Governor Felix Camacho has gone on record to say that the well-intended civil service process has become "cumbersome and counterproductive in many areas".

It is obvious that the CSC has not been getting the job done. I am willing to take my chances with the Department of Administration. We deal with them on a daily basis and they do a fine job. This is why it is best left with the Department of Administration. At the very least, if we don't agree with the decisions of the Department of Administration, we still have one more avenue of recourse in the grievance procedure before going to court. And that is taking it to the Civil Service.

Bill 205

I feel that Bill 205, a bill to change the effective date of the implementation of Sections 31-48 of Chapter 4 of Public Law 28-68, from January 1, 2006 to June 30, 2006 is mute. I do not support this bill. It would be very difficult to delay the implementation date on something that has already been implemented.

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Bill 254

I support Bill 254. It clearly identifies the responsibilities of the various entities involved in the personnel management of the employees of the Government of Guam. The bill delineates the various duties, accountability and the mechanisms to be used to maintain transparency.

By breaking down the responsibilities and workload to the agency level, the work is delegated so that it can be more efficiently and expeditiously performed.

It presents a better method than we currently have. If we are going to improve our system we must not be afraid to effect change.

I have heard this old adage so many times, "If it ain't not broke, don't fix it." Well, I don't agree with it. If this were the case, we would still be driving around in Model T Fords or riding carabaos. We must strive for change and improvement. Bill 254 offers just that.

Bills 203, 204 and 205 do not offer any alternatives or suggestions on how to improve the system. Repealing the provisions of the aforementioned CSC reforms would only revert us back to square one. This definitely would not serve the employees of the Government of Guam in a positive way. It appears to me that public opinion and the employees of Gov Guam are pleased with the changes. We should give the new system an opportunity to work. We already know the old system was not working effectively.

As a final note, I have not seen anyone else offer anything better.

Thank you.

February 3, 2006

RECEIVED
02/04/06
5:24 PM

TO: The 28TH Guam Legislature

FROM: Roland Fejarang
440 Chalan Deggu
Mataguac, Yigo

P.O.B. 2464
Hagatna, Guam 96932

SUBJECT: Addendum on, Public Hearing
Bills 203, 204 and 205
and to include,
Bills 254, 255

To the Committee on Judiciary, Governmental Operations and Re-organization;

Chairman – The honorable Senator Robert Klitzkie
Vice Chairman and Ex Officio – The honorable Speaker Mark Forbes
Committee Member – The honorable Senator Jesse A. Lujan
Committee Member – The honorable Senator Adolpho B. Palacios, Sr.
Committee Member – The honorable Senator Larry F. Kasperbauer, PH. D.
Committee Member – The honorable Senator Ray Tenorio
Committee Member – The honorable Senator Benjamin J. F. Cruz

and Senators of the 28th Guam Legislation, the honorable;

Senator Lou Leon Guerrero
Senator Tony Unpingco
Senator Frank Aguon
Senator Eddie Calvo
Senator Rory Respicio
Senator Joann Brown
Senator Judy Wonpat
Senator Mike Cruz

After attending the Public Hearing on Bills 203, 204, 205, 254 and 255, on Friday, January 27, 2006, I am moved to add to my written testimony submitted on January 27, 2006, as a registered voter, a tax payer and a resident of Guam.

I hereby respectfully re-state my position **in favor of Bills 203, 204 and 205.**
I am against Bills 254 and 255.

First, I am against Bills 254 and 255, Both Bills will erode if not destroy the Unified and Uniformed Pay Scale for the government of Guam. Both Bills go against Merit System principles, equal work for equal pay. If bills 254 and 255 are passed, the government of Guam, could look forward to same classes of positions earning different salaries, depending at which agency they are employed with, (i.e. GPA vs. DPW). Senators, all you have to do is look at our history to make the right decision for the future. It is on record, in the past, the Port Authority of Guam had a different pay scale than other government of Guam agencies, (ie a secretary at the PAG would make a higher salary than a Secretary at GWA). Both Bills will allow this past practice to begin again. The agency with the funding will prevail over the agencies without funding. Additionally, giving agencies the authority and the jurisdiction to handle classified employees due process hearings, whether it is adjudication or a non-adjudication matter, *is just not right*. Again, look to our history to make the right decision for the future. It is on record, management has in the past, consistently made adverse or inappropriate decisions affecting employees. Thus, a Civil Service Commission was established.

As I watched and listened to the testimonies for and against Bills 203, 204, 205, 254 and 255. I thought to myself, how sad, and how soon people forget. The reason a Civil Service Commission was established was to provide public servants a venue that was independent of political influences. And how ironic, the very branch of government "*I guahan legislature*" that established the Commission was now dismantling the agency, in the most disgraceful manner, *political influences*. The public hearing to restore or not to restore CSC was distracted and baited with the idea that agencies' boards and commissions can have their dreams come true, with Bills 254 and 255. It is common knowledge that the Human Resources Administrators of GPSS, UOG, GCC, GMH, GHURA, and others have had several meetings to promote Bills 254 and 255. Could it be, because PL28-68 did not address their desire for full authority and jurisdiction? Or was this the political way of rallying support for what was not done right?

I was going to provide verbal testimony but decided not to, because at times I felt I was attending an Oversight Hearing. It appeared Senator Klitzkie had made up his mind already. The hearing was not impartial or fair, allowing some people to speak uninterrupted, yet constantly interrupting others. Do not yield to the Pacific Daily News (PDN) or Senator Klitzkie's knowledge and expertise on this matter. As you know, there are always two sides of the story.

On a personal note, when upright citizens and employees get in trouble for following rules and laws, then the system is failing the people of this community, and you dear

senators, are responsible and accountable to fix this problem. The people of Guam always prefer for you to do the right thing. *"inafan malek esti"*

For the record, so that all 15 senators may make an educated and informed decision on Bills 203, 204, 205, 254 and 255. I submit my further testimony.

I perform my duties in a professional and courteous manner, in accordance to rules, regulations and laws. Should an agency employee or official violate these rules, regulations and laws, I will cite them and hold them accountable for their actions.

I was hoping to find out why *I guahan legislature* reformed or crippled the Civil Service Commission, as I was under the impression it was a performance issue as the media and Senator Klitzkie had reported. Just from my observation, pay issues top the list of complaints, then a tie between, inconsistent practices and Senator Klitzkie's interjection of *"was it staff or the seven board members"*.

Salaries for teachers has not been addressed? The system provides for Above Step Recruitment (ASR). GPSS has blanket authority to recruit up to step 4, without CSC review. GPSS may petition for step 5, up to step 10, and this does not include bonuses, rewards, and incentive programs authorized by law. **Look at the Pay Scale**, at Pay Grade HT or IT, this process will meet the national average salaries, however, GPSS has not requested for an ASR, and I wonder, have they ever utilized these recruitment tools.

Even though the Pay Scale is outdated, there are tools available by rule and law, to accommodate difficult to recruit positions. GMHA has gotten very good at ASR, with 27 requests for last year alone. In the case of the Engineer I position at GPA, they admitted they did not follow applicable rules for the ASR, yet they claimed CSC was not consistent, not up to date in technology and sensitive to their needs, The CCU Chairman, explained how they get creative and circumvent the system for GWA. The presidents of UOG and GCC claimed CSC is not sensitive to their needs, yet have not submitted ASR requests.

The system is not broken, it is not being used properly. Updating the pay schedule would address most if not all complaints by the agencies on pay issue matters. The CSC has made recommendations to adjust the pay scale.

Remember, when you accommodate only certain classes of positions to National Pay standards, you create a disparity in salary for the remainder of the classes of positions (i.e. a License Practical Nurse vs. a Registered Nurse).

Thank you Senator, for being the champion of **Health pay issues**, Thank you Senator, for being the champion of **Education pay issues**, Thank you Senator, for being the champion of **Public Safety pay issues**. Who is willing to be the **champion** for the rest of the workforce, because *all government servants are equally important*, they are not hired as an employee, they are appointed by law. Who will stand up for them?

Staff or seven Board members? This question is not to be taken lightly, this is an important question. Although the Civil Service Commission is an agency, the law clearly addresses the Civil Service Commission as the seven board members and not staff. The seven board members or commissioners, is the independent tribunal to decide employee matters, and their integrity must be protected always. The Commissioners are not present at the work site, five days a week.

The staff, which includes the Executive Director, work for the Commissioners. The Job Standard of the Executive Director, Civil Service Commission, clearly defines his role on the day to day operations (see attached standard). The Executive Director supervises the Personnel Management Administrator and Analyst, all official memorandums are approved by the Executive Director. Whether it is a adjudication or non-adjudication matter, each case is assigned to an analyst for review and case management, so, in the spirit of delegation, staff addresses themselves as the Civil Service Commission. However, the CSC staff, do not and has never made decisions for the board of commissioners.

Is it inappropriate to discuss employee matters and case review with our clients? Of course not, it is necessary and required for case review. Are the Commissioner's the only authorized persons to speak on the agency's matters? If, so, then nothing will get done. But even more importantly, because this is a public hearing, Is this the problem? Is the performance issue with the Commissioners, the Executive Director, the Personnel Management Administrator or the Personnel Management Analyst? Then lets address it and correct the problems, nobody is perfect. Here is a suggestion. All appeals, and complaints are to be routed to the Commissioners for a board approval, then to the Executive Director, Administrator and Analyst for follow-up, review and case management.

Inconsistent practices of the Civil Service Commission? Because this is a perception issue on how business is conducted interactively, I could agree to a certain extent, if it is factual.

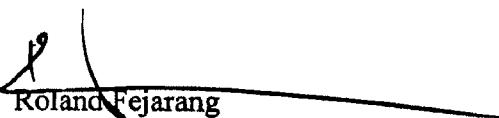
Please allow me to rebut. Mr. Reyes spoke about the Ultrasound technologist at the GMHA and how a post audit found her not qualified. This was not a post audit but an Above Step Recruitment (ASR) request. After reviewing the documents submitted, I found the applicant did not possess any work experience, and inquired from GMHA how they qualified the applicant. I was advised by GMHA, that initially they did not qualified her, but amended the rating after discussing the matter with a CSC staff. GMHA said per CSC staff she did qualify. I inquired from the CSC staff how did she qualify. He advised me, he did not do a rating, but advised GMHA on the correct interpretation of the minimum qualification requirements, (i.e. obtained education can be substituted for the experience requirements and vice versa). He further advised GMHA to do the review using the correct interpretation. Not only did GMHA misquote the CSC staff they misapplied the applicants education credits. To be proactive, using my personal long distance phone card I called Seattle and confirmed her transcript to be credit quarters instead of credit hours and I did the rating instead of GMHA. I advised GMHA she did

not qualify for the position. This went from bad to worse, I could not approve the ASR and now she did not even qualify for the job. Her mother got involved, the media got involved, Mr. Underwood got involved and now Mr. Reyes is involved. Tell me, what would you have done? Did I create the hostile work environment? Was I inconsistent? Sometimes my job produces unpopular decisions. And just so you know, I believe in local people and would have been delighted to have Kristina Halloran work on Guam, as a public servant.

Mr. Reyes statements at the public hearing implied of many inconsistencies and improprieties, that the PDN believed him. Did you believe him? The PDN, in their great wisdom, Headlined "CSC Invetigates Alleged Bribe" on January 31, 2006, only to find out, Mr. Reyes responds there was no bribe (see attached copy of headline and ask Mr. Reyes for his reply). This is a good example of, *there are always two sides of a story*.

In closing, the Civil Service Commission is not broken, like some would have you believe. For every controversial decision (sensationalized in the PDN) or not) the Civil Service Commission has made, there is records available for your review on these matters, (i.e. DRC, CFO, Pharmacist, Ultrasound Technologist, etc). The CSC might not make popular decisions, but then again, we are not running for a seat in the legislature. The Law mandates what the Civil Service Commission can do and what it cannot do. *If there is problem with the Civil Service Commission, don't you think it might be because of how a law is written?*

Matt Rector put it into the right perspective, as he said, the government's job is to be good, the government's job is to be fair, the government's job is to be just. *I say do the right thing. "inafan malek esti"*. Matt went on to say, as he looked around the public hearing on Friday and said, "I see management, but where are the employees?" Make no mistake, the employees do care and are watching this very closely, attached are some of the petitions signed by the rank and file. If I'm not mistaken, **this is more people for Bills 203 and 204** than of those who spoke at the public hearing.


Roland Fejarang
Former CSC Employee
U.S. Citizen, Resident of Guam
Registered Voter, Yigo

**EXECUTIVE DIRECTOR
CIVIL SERVICE COMMISSION**

NATURE OF WORK IN THIS CLASS:

This position is in the unclassified service of the Executive Branch of the Government of Guam pursuant to 4 GCA §4102(4), and is compensated pursuant to 4 GCA §6206.

The Executive Director is appointed by the Civil Service Commission with the approval of the Governor, and with the advice and consent of the Legislature pursuant to 4 GCA §4405(a), and serves at the pleasure of the Commission.

The Executive Director works under the supervision of the Commission and through the administrative guidance of the Chairperson. S/He exercises executive and administrative authority as delegated by the Commission. S/He supervises the professional and support staff of the Commission, with the exception of the Legal Office, in accordance with established duties and responsibilities, and, within this context, oversees the operations, programs, and activities of the Commission. S/He provides technical and logistical support to the Civil Service Commissioners in the performance of their duties and responsibilities.

ILLUSTRATIVE EXAMPLES OF WORK:

Plans, organizes, directs, administers, and coordinates the overall activities of the Office of the Civil Service Commission (CSC).

Represents the CSC before the Governor, Legislature, government agencies and community groups.

Consults and advises government agencies on personnel matters as they pertain to the merit system and CSC programs and activities.

Coordinates and facilitates oral and written communication and reports.

Directs and administers the equal employment opportunity program of the Government of Guam as provided in laws and executive orders.

Directs and administers the position classification program in the Government of Guam under CSC jurisdiction.

Provides logistical support to the Civil Service Commission in adverse action hearings and other adjudications.

Administers personnel research programs and makes appropriate recommendations for improving personnel procedures and policies.

Initiates and implements new procedures, policies and programs to promote, perfect, and protect the merit system.

Gathers information and attends to correspondence on behalf of the CSC.

Solicits legal opinions on personnel rules, statutes and policies, procedures and other related matters.

Develops and maintains rapport with departments and agencies, the Legislature, and the public.

Coordinates and directs investigations of employment conditions in the Government of Guam and post audits of personnel actions.

Enforces Government of Guam political activity and ethics laws and regulations.

Represents the CSC at conferences, meetings, and legislative hearings.

Evaluates and analyzes CSC programs for effectiveness and efficiency.

Plans, analyzes, prepares, submits and justifies the CSC budget to the Governor and the Legislature.

Schedules CSC meetings and hearings.

Plans and conducts meetings and conferences.

Performs other related work as required.



MARIA S. CONNELLEY
Chairperson

Date: 10/26/89

Barber Beauty Barbers

CSC investigates alleged bribe

GPSS official reports attempt by commission worker

Guam PDN
Pacific Daily News
www.guampdn.com
A Guaman Newspaper

Don't forget to vote today's Pacific Daily News poll. Today's position:

no should be responsible for paving the roads the Gill Baza division?

Results from yesterday's PDN poll on **SEE 2**



ORIGINAL
UTO JAM

Competitors in all categories still welcome at up-

TO THE POINT

▲ A veteran public education official has alleged that a Civil Service Commission employee tried to bribe him. The commission and the attorney general's office is investigating the alleged act.



Reyes

By Oyoel Ngravidid

Pacific Daily News
ongravidi@guampdn.com

The Civil Service Commission is looking into an allegation that one of its own tried to bribe a public education official.

Luis Reyes, the Guam Public School System personnel administrator, said that sometime last year a CSC official offered to assist the education department with pay issues that were

INSIDE

▲ Report: What to do if you encounter wrongdoing. Page 4

before the commission if Reyes could smooth the way for a leave request submitted by the CSC official's niece, who was a GPSS employee.

Reyes, a veteran education department administrator, did not provide the name of the CSC or the GPSS employee.

▲ See GPSS. Page 4



Perez


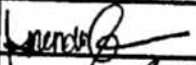

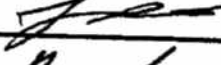

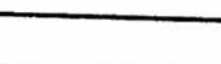


WELFARE
VIOLATIONS

Recipients of public health assistance disqualified for viola-

PEOPLE'S PETITION TO PROTECT THE GOVERNMENT OF GUAM'S

MERIT SYSTEM

	PRINT NAME	SIGNATURE	DATE
55	CHRISTOPHER PEREZ		1/30/06
56	CATHERINE R. MARIANO		2/30/05
57	ROSA MENDIOLA		1/30/06
58	JAMES T. SMITH		1-30-06
59	JOHN T. BURKH II		1-30-06
60	ROSA MENDIOLA		1-30-06
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PEOPLE'S PETITION TO PROTECT THE GOVERNMENT OF GUAM'S

MERIT SYSTEM

(47)

We, the undersigned, support the legislation of Bill Nos. 203 and 204 to restore the authority to the Civil Service Commission as it existed prior to the enactment of Public Law 28-68 by repealing sections 31-48 of Chapter IV and re-enacting 4 GCA, 4403, 1114, 4101, 4102, 4105, 4108, 4109.3, 4114, 4117, 4408 and 5 GCA 20108 and 36105.

	PRINT NAME	SIGNATURE	DATE
1	Richard Barcinas, Jr.		10-15-05
2	Jason Tyquienge		10-15-05
3	Daryl Williams		10-15-05
4	David L Hollingshead		15 OCT 05
5	Dante P. Sernas		15 OCT 05
6	Jim M. Banez		15 OCT 05
7	JUAN F. SANTIAGO		15 OCT 05
8	Paul M. Perez		15 OCT 05
9	Ronald S. Teitaro		15 OCT 05
10	Kristoffer B. Castro		15 OCT 05
11	OSCAR DIMALANTA		15 OCT 05
12	Chris Tamayo		15 OCT 05
13	Manuel M. Flores		16 OCT 05
14	Romeo N. Banzal		16 OCT 05
15	Art Lavante		16 OCT 05
16	FRED BLAS		16 OCT 05
17	Matthew Angulo		16 OCT 05
18	Podney P. Virango		16 OCT 05
19	Thomas M. Tamasia		16 OCT 05
20	John Mark Quintanilla		16 OCT 05
21	Chris P. Quintanilla		16 OCT 05
22	Brandon P. Sana		10/16/05
23	Joseph V. Castro		10/16/05
24	George K. Salas		10/16/05
25	ROLANDO ESTABLANO		10-16-05

PEOPLE'S PETITION TO PROTECT THE GOVERNMENT OF GUAM'S

MERIT SYSTEM

	PRINT NAME	SIGNATURE	DATE
26	Richardson David	David Richardson	10-16-05
27	San Nicolas Vicente	[Signature]	10-16-05
28	NEDEDO, BRIAN S.	[Signature]	10-16-05
29	CASTRO, JOSEPH JOHN R.	Joseph M. Castro	10-16-05
30	Atoigue, Michael P.	Michael P. Atoigue	10-16-05
31	Sablan, John R.	[Signature]	10-16-05
32	Mendoza, Tyrone J.	Tyrone J. Mendoza	10-16-05
33	ILCANTE JACOB	Jacobe Ilcante	10-16-05
34	A Bongzon	[Signature]	10-16-05
35	BLAS, STEVEN	Steven Blas	10-16-05
36	Manlanat, Christopher	Christopher Manlanat	10-16-05
37	John R. Beltran	[Signature]	10-16-05
38	Erika L. Scherer	[Signature]	10-16-05
39	[Signature]	[Signature]	10-16-05
40	Joseph C. Fofa	Joseph C. Fofa	10-16-05
41	John San Nicolas	[Signature]	10-16-05
42	Baldomero P. Badiango	Baldomero P. Badiango	10/16/05
43	Nancy J. Flores	[Signature]	10/16/05
44	JOVEL D. PINEDA	[Signature]	10/16/05
45	DANIEL T. OKADA	[Signature]	10/16/05
46	CATHERINE Q. TOPAGNA	Catherine Topagna	10/16/05
47	Ferlito M. Peroy	Ferlito M. Peroy	10/16/05
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PEOPLE'S PETITION TO PROTECT THE GOVERNMENT OF GUAM'S

MERIT SYSTEM

(60)

We, the undersigned, support the legislation of Bill Nos. 203 and 204 to restore the authority to the Civil Service Commission as it existed prior to the enactment of Public Law 28-68 by repealing sections 31-48 of Chapter IV and re-enacting 4 GCA, 4403, 1114, 4101, 4102, 4105, 4108, 4109.3, 4114, 4117, 4408 and 5 GCA 20108 and 36105.

	PRINT NAME	SIGNATURE	DATE
1	SABLAN, MICHAEL I.	Michael I. Sablan	09 OCT. 05
2	Nora C. Quintanilla	Nora C. Quintanilla	10.09.05
3	CHRISTINA M. C. SABLON	Concepcion Sablan	10.9.05
4	Cecilia M. Charfauros	Cecilia M. Charfauros	10.9.05
5	TARA R. VUDDIOLA	Tara R. Vuddiola	10.9.05
6	JENNIFER FINDNA	Jennifer Findna	10.9.05
7	Benny F. Fernandez	Benny Fernandez	10-9-05
8	Crispin M Santos	Crispin M Santos	10-9-05
9	Monica Duran	Monica Duran	10-9-05
10	Cristina Signenza	Cristina Signenza	10-9-05
11	Crispin G. Santos	Crispin G. Santos	10/9/05
12	THOMAS GUERRERO	Thomas Guerrero	10/9/05
13	Eugene Guerrero	Eugene Guerrero	10-9-05
14	Maria B Guerrero	Maria B Guerrero	10-9-05
15	BERNARD R. GUERRERO	Bernard R. Guerrero	10/9/05
16	Pearlani T.S. Peredo	Pearlani T.S. Peredo	10/9/05
17	MARIA N. SANTOS	Maria N. Santos	10/9/05
18	CHRISTINA J. MARQUE	Christina J. Marque	10-09-05
19	Doris A. Guerrero	Doris A. Guerrero	10-9-05
20	Eric Cruz	Eric Cruz	10.9.05
21	Johanna Beside	Johanna Beside	10.9.05
22	Virginia S. GUERRERO	Virginia S. Guerrero	10-9-05
23	Patrick R. Sablan	Patrick R. Sablan	10-9-05
24	Kenneth J. AFFLEDE	Kenneth J. Afflede	10-9-05
25	Velissa Charfauros	Velissa Charfauros	10-9-05

PEOPLE'S PETITION TO PROTECT THE GOVERNMENT OF GUAM'S

MERIT SYSTEM

	PRINT NAME	SIGNATURE	DATE
26	Ucolet M. B. M.	<i>[Signature]</i>	10/10/05
27	ANTONIO M. BLAS	<i>[Signature]</i>	10/10/05
28	Eric Lujan	<i>[Signature]</i>	10-10-05
29	Tito F. Bault	<i>[Signature]</i>	10-10-05
30	Harold Charanos	<i>[Signature]</i>	10-10-05
31	JOSEPH TANGUILLEG	<i>[Signature]</i>	10-10-05
32	JOSE T. PANGELINAN	<i>[Signature]</i>	10-10-05
33	Art Hernandez	<i>[Signature]</i>	10/10/05
34	Roberto T. BELITO	<i>[Signature]</i>	10/10/05
35	William Hasotiang	<i>[Signature]</i>	10/10/05
36	Johnny R. MENDO	<i>[Signature]</i>	10/10/05
37	Very Asuncion	<i>[Signature]</i>	10/11/05
38	JAMES F. CAMACHO	<i>[Signature]</i>	10/12/05
39	ROBERTO RIVERA	<i>[Signature]</i>	10-15-05
40	ELINA PANGELINAN	<i>[Signature]</i>	10-15-05
41	JAYSON DELGADO	<i>[Signature]</i>	10-15-05
42	José Torres	<i>[Signature]</i>	10-15-05
43	CONCEPCION P. TOVES	<i>[Signature]</i>	10-15-05
44	JOSEPH D. MURPHY	<i>[Signature]</i>	10-15-05
45	GEORGE SN TRELITAS	<i>[Signature]</i>	10/15/05
46	JOSEPH Q. LEON GUERRERO	<i>[Signature]</i>	10/15/05
47	MARIE V. LEON GUERRERO	<i>[Signature]</i>	10/15/05
48	Melinda Treltas	<i>[Signature]</i>	10/15/05
49	BARBARA DELGADO	<i>[Signature]</i>	10/15/05
50	RITA S. LEON GUERRERO	<i>[Signature]</i>	10-15-2005
51	Torres MARIA C.	<i>[Signature]</i>	10-15-05
52	Maria I. Quichocho	<i>[Signature]</i>	10/15/06
53	FRANCIS M. MENDO	<i>[Signature]</i>	10/15/05
54	Antonia R. Sablan	<i>[Signature]</i>	10-15-05

PEOPLE'S PETITION TO PROTECT THE GOVERNMENT OF GUAM'S

MERIT SYSTEM

	PRINT NAME	SIGNATURE	DATE
55	Joaquin M. Sublan	Joaquin M. Sublan	10-15-05
56	Felipe P. San Nicolas	Felipe P. San Nicolas	10-15-05
57	Vicente Trellar C.	Vicente Trellar	10-15-05
58	Orta San Nicolas	Orta San Nicolas	10/15/05
59	Vicente G. San Nicolas	Vicente G. San Nicolas	10/15/05
60	JOEY A. FRANCISCO	JOEY A. FRANCISCO	10/15/05
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PEOPLE'S PETITION TO PROTECT THE GOVERNMENT OF GUAM'S

MERIT SYSTEM

④

We, the undersigned, support the legislation of Bill Nos. 203 and 204 to restore the authority to the Civil Service Commission as it existed prior to the enactment of Public Law 28-68 by repealing sections 31-48 of Chapter IV and re-enacting 4 GCA, 4403, 1114, 4101, 4102, 4105, 4108, 4109.3, 4114, 4117, 4408 and 5 GCA 20108 and 36105.

	PRINT NAME	SIGNATURE	DATE
1	ANTHONY J. BARNES	<i>[Signature]</i>	11/21/05
2	FRED W. DELO CRUZ	<i>[Signature]</i>	10/2/05
3	Peter A. Cruz	<i>[Signature]</i>	10/2/05
4	ROBERT JOHNSON	<i>[Signature]</i>	10/21/05
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January 27, 2006

TO: 28TH Guam Legislature

FROM: Roland Fejarang
440 Chalan Deggu
Mataguac, Yigo

P.O.B. 2464
Hagatna, Guam 96932

SUBJECT: Public Hearing
Bills 203, 204 and 205

*Issues of Merit
Perspective*

The Civil Service Commission, administrator of the Merit System.

In the past year, government of Guam, agencies and departments, along with much media coverage, have described the current Civil Service Commission as a bureaucratic barrier, a stumbling block, and a cumbersome agency, with an Outdated Pay Scale, poor Employee Discipline decisions, and a time consuming process to Create Positions and approve Above Step Recruitments, leading their concerns. If this is the fact, then it is truly time to review the functions of the Civil Service Commission and how it administers the Merit System, in order to make it serve the government, its employees and the public. PL28-68 has begun that process, as it transferred a majority of the Commission's personnel, duties and authority to the Department of Administration. The consensus is, the Commission needed to be restructured, as it was performing functions, previously performed by the Department of Administration. Additionally, the Commission should only adjudicate adverse actions, grievances, mini hatch violations and ethics violations. Generally, restructuring involves a fundamental rethinking of the way public services and functions are organized and delivered. It involves many challenges, concentrated planning and searching for new and better ways to do tasks efficiently. This process has not taken place.

The Commission is a bureaucratic barrier, a stumbling block, and a cumbersome agency. This applies to all government of Guam departments and agencies, and to understand this better, we need to look at the basic principals of government. The authority of the government is derived from the people. Therefore the citizens bear the financial burden for maintaining the government. The Legislature passes legislation to create departments and agencies to serve the citizens of this community, mandated by law to perform and provide services. Government of Guam employees and the respective departments or agencies they work at, by Law are held to a higher standard and accountability for their actions, and should provide for checks and balances to ensure effective management of government and safeguard the community's interest. Bureaucracy has long been recognized as an essential part of the way in which "Public Interest" is protected. The Civil Service Commission is such an agency, it is mandated to administer the Merit System, as mentioned in the Organic Act of Guam and has been codified in law and written in rule.

Historically, the Civil Service Commission has consistently been proactive in the development of progress within our government. The staff provides Adverse Action, Grievance, Equal Employment Opportunity and Sexual Harassment training. The Commission has had numerous consultations, and developed checklists to educate and speed up the review process. Stumbling Block is defined as an obstacle to progress. The Civil Service Commission's review of Merit System applications is based on Laws and Rules, and many times request are denied for noncompliance of these rules and laws. The Commission has consistently provided impartial, fair, and efficient decisions, as the record reflects. Only two percent (2%) of the Commission's decisions are appealed to the Judicial System and of that percentage, the courts have ruled ninety eight percent (98%) in favor of the Commission.

Preplanning is of utmost importance for managing a government of Guam department or agency effectively and efficiently. Management and employees need to be responsive to the task at hand and yet responsible to be within prescribed guidelines, rules and laws. More often than not, management has a tendency to go from point "A" direct to point "D" instead of "A, B, C, D". Public sector differs from Private sector in this process, as the public sector is mandated by the Organic Act and Legislation, and requires checks and balances. Some will argue this process is cumbersome and counter productive. However, there are advantages and disadvantages to both processes. It is equally important to have a strong and knowledgeable human resources section in applicable laws, rules and regulations to guide management.

Focus on the Facts,

"letting the numbers paint the picture"

Perception - "the Commission has not made any recommendation or adjusted the government of Guam's Unified Pay Schedule and this why the Unified Pay Schedule is outdated and lagging in comparison to the National Average pay.

Review - in 1991, the Unified Pay Schedule was passed into law by the 18th Guam Legislature, with Steps 1 through 20 for all government jobs, plus an additional 3.5%

beyond Step 20, every two years for performance evaluation increments. Originally the Hay Experts had recommended Steps 1 through 10 only, with the concept that the Unified Pay Schedule would move with the national average. Steps 11 through 20 and the additional 3.5% beyond Step 20, distorts the comparison ratio of the national average verses the government of Guam's Unified Pay Schedule from year to year.

Fact – the Commission has made several recommendations to the Governor and the Legislature, to adjust the Unified Pay Schedule. The economy and government of Guam's revenue collections has been decreasing since 1998, and recommendations to adjust the Unified Pay Schedule in comparison to the National Average was and still is not economical feasible. The Commission has no authority to adjust the Unified Pay Schedule, and actual adjustment to pay schedule would require legislation, The Commission, the Governor and the Legislature will need to establish much dialog, and preplanning to implement an adjustment to the Unified Pay Schedule.

Perception - it is almost impossible to discipline a government of Guam classified employee.

Review – first we should understand the essence of a permanent classified employee status. It is the legal basis for employment mandated by a Merit System. The laws and regulations that shape the nature of employment (public sector) is different from that found elsewhere in the economy (private sector) as defined by the general labor laws. Therefore, classified employees are given more protection, as they are performing the work of the government. Permanent classified employees know they may and will receive disciplinary action when warranted.

Fact – the Commission does not represent Employee or Management. The Commission is an appellant body that hears evidence from the presenting parties and renders a decision based on that evidence. In the past five years, 473 government of Guam employees received Proposed Adverse Actions related to suspension, demotion or dismissal. Of the 473 Adverse Actions, 358 were escalated to Final Adverse Actions. Of the 358 Final Adverse Actions, only 90 were appealed to the Commission. Clearly management has a 75% successful rate of disciplining employees.

Perception – the Commission is a bureaucratic barrier and a cumbersome agency to approve a Creation of a Position.

Review – all should know the process of creating a position. Departments or Agencies, must first realize a need for a task, required at the work site. First management with the human resources department should determine if a classification standard already exist that properly matches the task needed to be performed. If no standard exist, then the department or agency should compile all data regarding the job factors, corresponding with the job experts at the work site. After proper justification, supporting documents and receiving approval from the appointing authority, the request for a Creation should be forwarded to the Governor for review and approval. The Governor will then request for the Commission to approve the Creation.

Fact – the Commission does not create positions, the Commission reviews Creations for accuracy, compliance of rules and laws. Creations are limited to 90 days for review and

approval. In 2005, the Commission has received seven requests for a Creation of Job Standard, of the seven, three were approved and four were denied. The Commission has approved or disapproved, 100% of all above Creation of Jobs.

Perception – the Commission is a stumbling block and takes long to approve an Above Step Recruitment.

Review – recruiting above the minimum step is not the normal practice. The law requires all positions be recruited at Step 1, unless it is a position that is Difficult to Recruit or the employee has Exceptional Qualifications. Management should identify what positions are difficult to recruit, determine funding availability, and take all necessary measures to adequately preplan for recruitment efforts. After proper justification, supporting documents and receiving approval from the appointing authority, the request for an Above Step Recruitment should be forwarded to the Commission for review and approval.

Fact – the Civil Service Commission has a policy on Above Step Recruitment which has been disseminated to all departments and agencies. The Commission does not perform the work required to approve an Above Step Recruitment. In 2005, the Commission has received thirty six (36) requests for Above Step Recruitment, of the thirty six (36), thirty one (31) were approved and five were denied. The Commission has approved or disapproved, 100% of all above step recruitments.

Conclusion

The Laws are good, with Rules and Regulations that must be complied with. Understanding these laws, rules, regulations and having the resolve to get the job done, is paramount for managers to effectively and efficiently execute employee discipline and administrative goals while promoting stability in government. Laws, rules and regulations are only as good as those tasked to enforce them. The Unified Uniform Pay Scale is outdated and needs to be adjusted.

It is evident, there is a need for knowledgeable, well trained, and confident managers in the government of Guam, in the above areas. With the improvement of manager's skills in Discipline, Adverse Actions and Administrative Tasks, the *system* or the Civil Service Commission will no longer be a bureaucratic barrier, a stumbling block, and a cumbersome agency.

It is just as evident, the Civil Service Commission is where most decision's affecting employee discipline and administrative functions, will be made, therefore indirectly affecting departments and agencies. The Commission is willing and able to review current practices to serve the government, its employees and the public, in an effort to become more effective and efficient.

Restructuring the Civil Service Commission ***"what has happen"***

PL28-68 transferred a majority of the Civil Service Commission's responsibilities and authority to the Department of Administration. These functions are known as the Administrative Functions. If it is the intent of the Legislature to reorganize after the Federal System, then it is important to note that the Civil Service Reform Act (CSRA) of the Federal Civil Service Commission created three new independent agencies. The Merit System Protection Board (MSPB) the Office of Personnel Management (OPM), the Federal Labor Relations Authority (FLRA). The Office of Special Counsel (OSC) was a section of the MSPB, but became independent. The MSPB assumed the employee appeals functions, the OPM manages the Federal work force, the FLRA oversees Federal labor-management relations and the **Office of Special Counsel** investigates allegations of prohibited personnel practices, prosecutes violators of civil service rules and regulations, and enforces the Hatch Act, much like Civil Service Commission's former *null and void* authority on Post Audits. PL28-68 repealed 4GCA, §4403 (d). *It may set aside and declare null and void any personnel action taken by any entity...[cited in part]*, in its entirety. Removing a critical component to the *Merit System*, the ability to provide checks and balances and placing review work in a department that has no independency.

Improving the Merit System

"Suggestions" areas of possible changes, which will allow management additional flexibility in the recruitment and discipline process, however, this will require legislation to amend laws, and require changes to rules and regulations.

Repeal all sections of PL28-68 in reference to the *Civil Service Commission* and keep the control of the *Merit System* in the hands of an independent agency, or establish other independent agencies mirroring the Federal system, such as the Office of Special Counsel (OSC) safeguarding the principles of merit.

The government of Guam should hold highest consideration for the fair interests and demands of people and every citizen. Classified employment is not a formal agreement between two equal parties, but rather a decision of the government of Guam, employees are appointed by decision of an authorized public institution in accordance with the Organic Act and Merit System laws. Classified employees are not simply employees of the government, they also have a constitutional role and prevent political pressures from leading to inappropriate personnel changes. For this reason there should be more constraints on the actions of government of Guam employees, that the population and citizens of this community may have the highest confidence and trust in their government.

"Benefiting from change"

The following suggestions are ideas that need to proceed with caution and a thorough analysis before implementation, *there are many good reasons why laws, rules and regulations are written the way they are.*

Rule of 4 (affirmative vote);

Amend Laws, Rules and Regulations and remove affirmative vote of four (4) requirement.

Notices (open government);

Amend Laws, Rules and Regulations and reduce the public notice requirement.

Administrative Adjudication Law (Commission);

Amend Laws, Rules and Regulations and remove the CSC from the requirement of the AAA.

Investigations (duties of Commission);

Amend Laws, Rules and Regulations and re-affirm the ability to conduct investigations.

Enforcement of Orders (orders of commission)

Amend Laws, Rules and Regulations and add \$3,000USD Monetary Fines to management for non-compliance.

Unified Pay Schedule;

Amend Laws, Rules and Regulations and restrict all Pay Grades to a maximum of Step 10, and include Pay Schedule will adjust yearly with the National Averages.

Drug Free Workplace;

Amend Laws, Rules and Regulations and require mandatory drug testing for all government employees.

Amend Laws, Rules and Regulations and restrict Safe Harbor to employees who disclose a problem 60 days prior to scheduled drug test.

Employee Discipline;

Amend Laws, Rules and Regulations and remove the ten (10) day rule.

Amend Laws, Rules and Regulations and allow for an extension to the sixty (60) day rule, for those cases requiring additional investigation.

Amend Laws, Rules and Regulations and allow for immediate dismissal for any government employee convicted of a crime.

Amend Laws, Rules and Regulations and allow for immediate suspension for any government employee arrested for a crime and if not convicted, be restored whole.

Above Step Recruitment;

Amend Laws, Rules and Regulations and allow management to immediately recruit at any step, as a "conditional employment for thirty (30) days" for difficult to recruit positions, for those cases where management has not had an opportunity to show cause.

Creation of Job Standard;

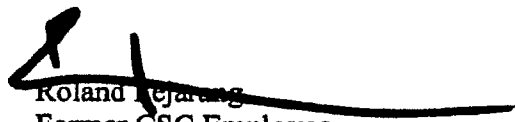
Amend Laws, Rules and Regulations and allow management to immediately Create a Job Standard, and recruit as a "*conditional employment for thirty (30) days*" for those cases where management has not had an opportunity to show cause.

Employment Contracts;

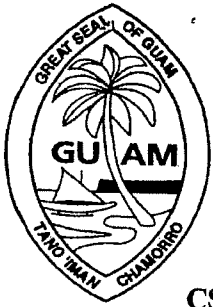
Amend Laws, Rules and Regulations and allow management to immediately recruit at any step, as a "*conditional employment for thirty (30) days*" for Contract Employment, for those cases where management has not had an opportunity to show cause.

Extension of Detail Appointment Request;

Amend Laws, Rules and Regulations and allow management to immediately extend a Detail Appointment, "*conditional detail appointment for thirty (30) days*" for those cases where management has not had an opportunity to show cause.



Roland Mejia
Former CSC Employee
U.S. Citizen, Resident of Guam
Registered Voter, Yigo



GOVERNMENT OF GUAM

**CIVIL SERVICE COMMISSION
KUMISION I SETBISION SIBIT**

2nd Floor Hakubotan Bldg.
E.T. Calvo Way, Tamuning 96913
P.O. Box 3156 Hagatna, Guam 96932
Tel: 647-1855*57 Fax: 647-1867



CSC NO. 06-075

January 26, 2006

**Honorable Robert Klitzkie
Senator, 28th Guam Legislature
Chairperson, Committee on Judiciary,
Governmental Operations and Reorganization**

Re: Bills 254 and 255

Dear Senator Klitzkie:

My name is Luis R. Baza and I am the Chairperson of the Civil Service Commission. The Civil Service Commission at its meetings of January 24 and 26, discussed these bills and its impact. I would like to thank the Committee for allowing me to speak on behalf of all of the Civil Service Commissioners on bills 254 and 255.

After reviewing bill 254, the Civil Service Commission has the following comments:

1. Why must the Department of Administration maintain, in coordination with the Attorney General's Office, a panel of hearing officers?

This section is placed in the personnel policy of the government of Guam (4 GCA Section 4101.1). Currently, there is no need for a listing of hearing officers for personnel decisions. Unless the law is changed to require the use of hearing officers for personnel decisions, we are unaware of why this particular provision is included here.

2. Section 2 amends 4 GCA Section 4105 by providing that several autonomous agencies and departments will no longer have to have their rules be subject to the Department of Administration's review.

We believe that by having several different agencies and departments develop their own personnel rules and regulations without the same criteria that is established for the other agencies and departments within the government of Guam goes against a merit system that is required to be established by the Organic Act of Guam. This provision gives these agencies no criteria for these agencies to follow and as such,

employees at these departments will no longer have merit system protection that is given to other government of Guam employees..

3. Section 5 who authorize recruitment above-step for autonomous agencies, departments and public corporations in addition to the Director of the Department of Administration. Currently, the Director of the Department of Administration has the authority to grant such above step needs if requested. We believe that there should be consistency throughout the government of Guam in personnel matters and since the Director can provide such above-step authorization on a case-by-case basis, there is no need for this section.
4. Sections 6-8 attempts to allow the Judiciary, line agencies and the autonomous and public corporations to create new jobs by posting such created positions on the web. These sections allow these agencies and departments to determine a classification related matter without proper consistent standards and control. A good example will be that the same position will be paid at a different rates due to the agencies and departments not following the current Hay methodology for a proper pay range for a position.

This proposed bill brings up back to the pre-Hay period of 1990 wherein every agency and department paid the different rates for the same position. The adoption by the Guam Legislature of the 4 GCA Section 6201 was intended to ensure uniformity of action for the same positions within the government of Guam.

We oppose this bill as it will once again create disparate treatment for the government employees.

As to bill 255, the legislative findings states "the I Liheslaturan Guahan finds that compensation is a significant obstacle to recruitment and retention...".

The Hay methodology is a mechanism to properly slot individuals into the appropriate pay range and scale based upon the point total given for a particular job. Since there is not a problem with the classification of these individuals, the only issue is of pay. We therefore, would recommend that you allow the Director of the Department of Administration to determine the appropriate increase of pay rather than allowing agencies to disturb the merit system of the government of Guam by changing the classification of employees without proper justification. The lack of pay affects all of the employees within the government of Guam, not just those working at these positions.

4 GCA Section 6102 has not been repealed. It states in part:

4 GCA Section 6102: The purpose of this Chapter is to provide a uniform and unified system of position classification and compensation for the Executive and Judicial Branches of the Government of Guam.

The purpose of passing this legislation was to ensure fairness and equality for government positions no matter what agency that the employee worked for. Unless you are saying the those employees at the Guam Waterworks Authority or the Guam Power Authority are no longer government of Guam classified employees, we believe that this bill should not pass.

We are also concerned about the piecemeal legislation that is occurring regarding the merit system. Public Law 28-68 was recently passed and the transfer of our former functions went into effect on January 1, 2006. You have not given the Director of the Department of Administration the opportunity to handle these issues.

We recommend that these bills not be passed.

Thank you again for allowing me to comment on these bills.



LUIS R. BAZA

**Chairperson
Civil Service Commission**

Testimony of Eloy P. Hara

Relative to PL28-68 § 31-48, INCLUSIVE OF Chapter IV And Bills 203, 204, 205 and 254, 255

Good morning Mr. Chairman and Senators. Thank you Mr. Chairman for giving me the opportunity to express my personal and professional positions regarding Bills; 203, 204, 205, 254, and 255.

My name is Eloy P. Hara, a registered voter, a U.S. Citizen, a permanent resident and native of Guam. I retired from the U.S. Navy in February 1987, after over 20 years of active service as a Navy Yeoman (Naval Administrative, Personnel and Legal) background. Throughout my twenty plus years active service, I completed my college courses and attained a Bachelor's Degree in Business Administration in Administrative and Personnel Management. I also completed ten of twelve courses towards a Master's Degree in Management Science, at the University of LaVerne, Los Angeles, just prior to my retirement and return to Guam in 1987.

In December 1987, Mr. John Benavente, General Manager of then Guam Power Authority (GPA) hired me as his assistant, the Assistant General Manager of Administration, I was directly in charged of all Administrative and Personnel (H.R.) functions. Four of my many accomplishments were; The establishment of a Ten Year Strategic Plan, the establishment of the GPA Policies and Procedures Manuals, the completion of the Ernst and Young Management Standards / Indicators and the update of the GPA Personnel Rules and Regulations.

In December 1993, I transferred from GPA to the Civil Service Commission (CSC) as its new Executive Director until my early retirement in December 1999 (six years later). While at the CSC, we established the implementation of the Unified Uniform Pay Plan of 1991, and adopted the Hay Methodology Classification and Compensation System as mandated by the Legislature. Approximately 1,600 Job Standards were reviewed and about half were updated. Furthermore, the CSC ensured the completion of the Department of Administration's (DOA) Personnel Rules and Regulations, the Drug Free Workplace Policy, the Government of Guam's Hazard Pay Policies and Procedures Manual, and the Government of Guam's Merit Bonus Program. CSC also completed the Government of Guam's Cost of Living Allowance (COLA) Market Movement of Salary Schedules and recommendations as mandated by the Unified Pay Act in 1994, 1996 and 1998, but none were enacted by the Legislature due to "budget constraints".

I was also appointed as the Guam Memorial Hospital Authority (GMHA), Administrator briefly from March 2000 to June 2000, but resigned for personal reasons. While at GMHA Mr. John Denorcey and I completed an Internal Management Audit and noted and corrected relevant deficiencies.

As noted by my brief job history, education and experiences above, I feel very qualified to make the following statements and opinion;

First, please disregard my verbal testimony on Friday, January 27, 2006, at the public hearing on Bills; 203, 204, 205, 254, and 255. Second, I respectfully, re-state my position **in favor of Bills 203, 204, and 205**. Third, I do not support Bills 254 and 255 for the following reasons;

BILL 203: I support the purpose and intent of Bill 203 in its entirety.

BILL 204: I support the purpose and intent of Bill 204 in its entirety.

BILL 205: If Bills 203 and 204 are not passed, I support Bill 205, i.e. Delay the implementation of Sections 31-48 of Chapter IV, of PL28-68, until the Attorney General of Guam, files a Law Suit, that the above sections of PL28-68 is **Inorganic**, in that the 1996 Ninth circuit ruled that Guam's government is constrained by the Organic Act, and Courts **must** invalidate Guam statutes (PL28-68, CH-IV, §31-48, Inclusive) that are in derogation of the Organic Act.

BILL 254: I do not support Bill 254. If passed Bill 254 will also be **Inorganic**. §1422c of the Organic Act of Guam, 1950, states ... "the Legislature shall establish **a Merit System** and as far as practicable, appointments and promotions shall be made in accordance with such Merit System. In 1967, the Legislature created the CSC under PL-8. I believe that the 28th Legislature does not have the authority to split the functions of **the Merit System**. Rather the Legislature can place **the Merit System** under DOA or DOE, GCC, UOG or GPA, however, cannot give each of them a part of **the Merit System**, plain and simple! Additionally, before placing **the Merit System** under DOA, for example, the Legislature must first dissolve the CSC by amending PL-8, a completely new but correct process.

BILL 255: I support the intent of Bill 255 but I do not support the process by which the purpose is achieved, therefore, I do not support Bill 255 for the same reasons as stated above.

Eloy P. Hara

MINA'BENTE OCHO NA LIHESLATURAN GUAHAN

2006 (SECOND) Regular Session

254
Bill No. ___ (LS)

Introduced by:


R. Kitzkie

AN ACT TO AMEND 4 G.C.A. § 4101 RELATIVE TO THE PROMOTION OF GOVERNMENT EMPLOYEES BASED UPON MERIT; TO AMEND 4 G.C.A. § 4101.1 RELATIVE TO DELINEATING THE PERSONNEL MANAGEMENT RESPONSIBILITIES OF THE DIRECTOR OF ADMINISTRATION; TO AMEND 4 G.C.A § 4105 RELATIVE TO THE RULES ENABLING AUTHORITY OF DEPARTMENTS, AGENCIES, AND PUBLIC CORPORATIONS; TO AMEND 4 G.C.A., CHAPTER 6, § 6205 RELATIVE TO RECRUITMENT ABOVE-STEP BY BOARDS AND COMMISSIONS; AN ACT TO AMEND 4 G.C.A., CHAPTER 6, § 6303(a) RELATIVE TO ALLOWING THE ADMINISTRATOR OF COURTS TO CREATE NEW POSITIONS IN THE JUDICIARY; TO ADD A NEW § 6303(b) TO 4 G.C.A., CHAPTER 6 RELATIVE TO AUTHORIZING DEPARTMENT HEADS TO CREATE NEW POSITIONS IN LINE AGENCIES; TO ADD A NEW § 6303(C) TO 4 G.C.A., CHAPTER 6 RELATIVE TO AUTHORIZING AUTONOMOUS AGENCY AND PUBLIC CORPORATION HEADS TO CREATE NEW POSITIONS IN AUTONOMOUS AGENCIES & PUBLIC CORPORATIONS; TO ADD A NEW §6303.1 TO 4 G.C.A., CHAPTER 6 RELATIVE TO PROVIDING FOR TRANSPARENCY & DISCLOSURE IN THE CREATION OF NEW POSITIONS AND ABOVE-STEP RECRUITMENT; AND TO ENACT THE PERSONNEL MANAGEMENT MODERNIZATION ACT OF 2006.

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

2 **Section 1. Short Title.** This act may be cited as the Personnel Management
3 Modernization Act of 2006.

1 **Section 2. Personnel Policy. 4 G.C.A., Chapter 4, § 4101 is amended to read:**

2 **“§ 4101. Personnel Policy.**

3 (a) Employment in the service of the government of Guam shall be
4 based upon merit, and selection and promotion of employees shall be free of personal or
5 political consideration. No person shall be discriminated against in an application for
6 employment or promotion or dismissed from employment on account of race, color, age,
7 religion, sex, national origin or physical or mental impairment. All personnel actions,
8 including appointments and promotions, shall be based, insofar as practicable, on
9 competitive practical tests and evaluations. Continuity of employment shall be dependent
10 upon good behavior, satisfactory performance of work and availability of funds.”

11 **Section 3. Duties of the Director of Administration. 4 G.C.A., Chapter 4, §**
12 **4101.1 is amended to read:**

13 **“§ 4101.1 Responsibilities of the Director of Administration regarding**
14 **Personnel Policy of the Government.** The Director of Administration shall perform the
15 following functions:

16 (a) Maintain and from time to time modify a general personnel policy for all
17 government of Guam line agencies through the adoption of rules and regulations pursuant
18 to the Administrative Adjudication Law;

19 (b) Investigate conditions of government employment as he deems necessary,
20 and report his findings thereon to *I Maga'lahen Guåhan* and *I Liheslaturan Guåhan*
21 annually;

22 (c) Administer the Equal Employment Opportunity Program for the Executive
23 Branch of the government of Guam.

24 (d) Maintain, post and keep current on the Department's website a list of all
25 classified and unclassified positions in the executive branch, including autonomous
26 agencies and public corporations showing the job description and pay range assigned to
27 each position.

28 (e) Make an annual report on July 1 on the status of the unified pay schedule
29 required by §6302 of this title to the Governor and Speaker and post the report on the
30 department's website.

1 (f) Establish and maintain, in coordination with the Attorney General, a panel
2 of hearing officers.

3 (g) Take cognizance of compliance with the provisions of §4101 of this title.”

4 **Section 4. Department Rules. 4 GCA § 4105 is amended:**

5 **“§ 4105. Departmental Rules.** Rules subject to criteria established by this
6 Chapter governing the selection, promotion, performance, evaluation, demotion,
7 suspension and other disciplinary action of classified employees shall be adopted by
8 the Board of Directors of the Antonio B. Won Pat Guam International Airport Authority;
9 the Board of Directors for the Guam Economic Development Authority, the Board of
10 Directors of the Guam Housing Corporation; the Board of Commissioners for the Guam
11 Housing and Urban Renewal Authority; ~~the Guam Judicial Council; the Board of~~
12 ~~Directors of the Guam Telephone Authority; the Board of Directors of the Port~~
13 ~~Authority of Guam; the Board of Directors of the Guam Power Authority; the Guam~~
14 ~~Education Policy Board the Board of Education;~~ the Board of Regents of the University
15 of Guam; the Guam Community College Board of Trustees; the Board of Trustees of the
16 Guam Memorial Hospital Authority; the Board of Directors of the Guam Visitors Bureau;
17 ~~and by the Board of Directors of the Guam Waterworks Authority~~ the Consolidated
18 Commission on Utilities with respect to personnel matters within their respective
19 ~~Branches~~, agencies, public corporations or departments, and by the Director ~~of the~~
20 ~~Department~~ of Administration as to all other Executive Branch employment.”

21 **Section 5. Recruitment Above-step. 4 G.C.A., Chapter 6, § 6205 is hereby**
22 **amended to read:**

23 **“§ 6205. Recruitment Above-Step.** Step 1 of the Pay Grade assigned to a
24 classified position shall be the regular rate for initial employment in any department or
25 agency. The appointing authority, or the head of an agency, department or public
26 corporation listed in the first paragraph of 4 GCA §4105 may petition the Director of
27 ~~Department~~ of Administration, ~~or~~ the Judicial Council (as to Judicial Branch
28 employment) or the agency department or public corporation’s governing board or
29 commission (as to an agency, department or public corporation listed in the first
30 paragraph of 4 GCA §4105), for recruitment at a higher step not to exceed Step 10,
31 because of documented recruitment difficulty or exceptional qualifications. The petition

1 shall be posted on the agency's website for ten (10) days (Saturdays, Sundays and
2 government of Guam holidays excepted). This petition shall be made before an applicant
3 is hired. Every petition shall be scrutinized and amply justified before being approved.
4 The Department of Administration, the Judicial Council,and governing board or
5 commission (as to an agency, department or public corporation listed in the first
6 paragraph of 4 GCA §4105) may establish policies to administer this section. Increment
7 schedule consisting of Steps 11 through 20 shall not be used for recruitment above step.”

8 **Section 6. Creation of Positions in the Judiciary. 4 G.C.A., Chapter 6,**
9 **§ 6303(a) is amended to read:**

10 **“§ 6303(a). Creation of positions in the Judiciary.** New positions may be
11 created by ~~I Maga'lahaen Guahan, the Administrator of the Courts or the Presiding Judge~~
12 ~~of the Superior Court of Guam~~ for the Judicial Branch, when necessary for the efficient
13 performance of the duties and functions of the government Judiciary. ~~I Maga'lahaen~~
14 ~~Guahan shall submit to the Civil Service Commission, and the Presiding Judge~~
15 Administrator of the Courts shall submit to the Judicial Council; the position descriptions
16 for the positions within thirty (30) calendar days after creation and post the position
17 descriptions on the judiciary website. The positions shall be terminated unless approved
18 by ~~the Commission or the Judicial Council, as the case may be,~~ within ninety (90) days
19 after submission. No newly created position shall be filled in the absence of
20 appropriations to pay the salary of the proposed position.”

21 **Section 7. Creation of Positions in Line Agencies. A new § 6303(b) is added**
22 **to Chapter 6, 4 G.C.A. to read:**

23 **“§ 6303(b). Creation of Positions in the Line Agencies.** (1) The petition of the
24 head (Department Head) of a line agency or department to create a position shall include:

- 25 A. the justification for the new position,
26 B. the essential details concerning the creation of the position,
27 C. an analysis of the similarities and differences between the position to be
28 created and positions listed pursuant to Title 4 G.C.A. § 4101.1(d),
29 D. the position description,
30 E. the proposed pay range and demonstration of compliance with §6301 of
31 this title,

1 F. a fiscal note as that term is described in 2 GCA § 9101 *et seq.*; and
2 any other pertinent information.

3 (2) The Department Head and the Director of Administration shall post the
4 petition on their respective websites for ten (10) days (Saturdays, Sundays and
5 government of Guam holidays excepted). After the posting, the Director of
6 Administration shall forward the petition with his recommendation to I Maga'lahi
7 Guahan who, if he approves the same, shall so indicate and file it for record with
8 the Director of Administration and the Legislative Secretary.

9 (3) No new position may be filled until after compliance with the
10 provisions of section 6303.1 of this code and this section and thirty (30) days have
11 elapsed from the date of filing with the Legislative Secretary.”

12 **Section 8. Creation of positions in the Autonomous Agencies & Public**
13 **Corporations. A new § 6303(c) is added to Chapter 6, Title 4 G.C.A. to read:**

14 **“§ 6303(c). Creation of Positions in the Autonomous Agencies and Public**
15 **Corporations .**

16 (1) The petition of the head of an agency, department or public corporation listed
17 in the first paragraph of 4 GCA §4105 to create a position shall include:

- 18 A. the justification for the new position,
- 19 B. the essential details concerning the creation of the position,
- 20 C. an analysis of the similarities and differences between the position to be
21 created and positions listed pursuant to Title 4 G.C.A. § 4101.1.(d),
- 22 D. the position description,
- 23 E. the proposed pay range and demonstration of compliance with §6301 of
24 this title,
- 25 F. a fiscal note as that term is described in 2 GCA § 9101 *et seq.*; and
26 any other pertinent information.

27 (2) The petition shall be posted on the agency, department or public corporation's
28 website for ten (10) days (Saturdays, Sundays and government of Guam holidays
29 excepted). After the posting, the head shall forward the petition to the governing board
30 or commission who, if they approve the same, shall approve the petition by resolution

1 and file the petition and resolution for record with the Director of Administration and the
2 Legislative Secretary.

3 (3)No new position may be filled until after compliance with the provision of this
4 section and thirty (30) days have elapsed from the date of filing with the Legislative
5 Secretary.”

6 **Section 9. Transparency and Disclosure. A new §6303.1 is added to Chapter**
7 **6, Title 4 G.C.A. to read:**

8 **“6303.1 Transparency and Disclosure.**

9 (a)Prompt notice of the postings required by §§6303 and 6305of this title shall be
10 provided to each newspaper of general circulation and broadcasting station which airs a
11 regular local news program within Guam.

12 (b) The petitions required by §§6303 and 6305 are public documents for the
13 purposes of 4GCA Ch.10 Art 1. (The Sunshine Law.)

14 (c) Any attempted creation of a position or above-step recruitment not in
15 compliance with the provisions of §§ 6303 and 6303.1(a) of this title is void *ab*
16 *initio.*”

2nd
3/22/06

3rd
3/22/06

6
3/22/04
w/o explanation

MINA'BENTE OCHO NA LIHESLATURAN GUAHAN

2006 (SECOND) Regular Session

Bill No.254 (LS)

Substitute by the Committee on
Judiciary, Governmental
Operations, & Reorganization

R. Klitzkie

AN ACT TO AMEND 4 GCA § 4101(a) RELATIVE TO THE PROMOTION OF GOVERNMENT EMPLOYEES BASED UPON MERIT; TO AMEND 4 GCA § 4101.1 RELATIVE TO DELINEATING THE PERSONNEL MANAGEMENT RESPONSIBILITIES OF THE DIRECTOR OF ADMINISTRATION; TO AMEND 4 GCA § 4105 RELATIVE TO THE RULES ENABLING AUTHORITY OF DEPARTMENTS, AGENCIES, AND PUBLIC CORPORATIONS; TO AMEND 4 GCA, CHAPTER 6, § 6205 RELATIVE TO RECRUITMENT ABOVE-STEP BY BOARDS AND COMMISSIONS; TO AMEND 4 GCA, CHAPTER 6, § 6302 RELATIVE TO THE HAY STUDY; TO AMEND 4 GCA, CHAPTER 6, § 6303(a) RELATIVE TO ALLOWING THE ADMINISTRATOR OF COURTS TO CREATE NEW POSITIONS IN THE JUDICIARY; TO ADD A NEW § 6303(c) TO 4 GCA, CHAPTER 6 RELATIVE TO AUTHORIZING DEPARTMENT HEADS TO CREATE NEW POSITIONS IN LINE AGENCIES; TO ADD A NEW § 6303(d) TO 4 GCA, CHAPTER 6 RELATIVE TO AUTHORIZING AUTONOMOUS AGENCY AND PUBLIC CORPORATION HEADS TO CREATE NEW POSITIONS IN AUTONOMOUS AGENCIES & PUBLIC CORPORATIONS; TO ADD A NEW §6303.1 TO 4 GCA, CHAPTER 6 RELATIVE TO PROVIDING FOR TRANSPARENCY & DISCLOSURE IN THE CREATION OF NEW POSITIONS AND ABOVE-STEP RECRUITMENT; AND TO ENACT THE PERSONNEL MANAGEMENT MODERNIZATION ACT OF 2006.

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

2 **Section 1. Short Title.** This act may be cited as the Personnel Management
3 Modernization Act of 2006.

4 **Section 2. Personnel Policy.** 4 GCA, Chapter 4, § 4101(a) is amended to read:

5 **“§ 4101. Personnel Policy.**

6 (a) Employment in the service of the government of Guam shall be based upon
7 merit, and selection and promotion of employees shall be free of personal or political
8 consideration. No person shall be discriminated against in an application for employment
9 or promotion or dismissed from employment on account of race, color, age, religion, sex,
10 national origin or physical or mental impairment. All personnel actions, including
11 appointments, shall be based, insofar as practicable, on competitive practical tests and
12 evaluations. Continuity of employment shall be dependent upon good behavior,
13 satisfactory performance of work and availability of funds.”

14 **Section 3. Duties of the Director of Administration.** 4 GCA, Chapter 4, §
15 **4101.1 is amended to read:**

16 **“§ 4101.1 Responsibilities of the Director of Administration regarding**
17 **Personnel Policy of the Government.** The Director of Administration shall perform the
18 following functions:

19 (a) Maintain and from time to time modify a general personnel policy for all
20 government of Guam line agencies through the adoption of rules and regulations pursuant
21 to the Administrative Adjudication Law;

22 (b) Investigate conditions of government employment as he deems necessary,
23 and report his findings thereon to *I Maga'lahen Guåhan* and *I Liheslaturan Guåhan*
24 annually;

25 (c) Administer the Equal Employment Opportunity Program for the Executive
26 Branch of the government of Guam.

27 (d) Maintain, post and keep current on the Department's website a list of all
28 classified and unclassified positions in the executive branch, including autonomous
29 agencies and public corporations, showing the job description and pay range assigned to
30 each position.

1 (e) Make an annual report on July 1 on the status of the unified pay schedule
2 required by §6302 of this Title to the Governor and Speaker and post the report on the
3 department's website.

4 (f) Establish and maintain, in coordination with the Attorney General, a panel
5 of hearing officers.

6 (g) Take cognizance of compliance with the provisions of 4 GCA §4101 of
7 the Title.”

8 (h) Coordinate the fielding of necessary computer software and the training of
9 personnel to allow the agencies, departments and public corporations listed in. § 4105(a)
10 of this Title to assess and update the unified pay scheduled required by § 6302(a) of this
11 Title.

12 (i) Delegate, at the Director's discretion, such authority under such terms as
13 is appropriate to the agencies, departments and public corporations listed in § 4105(a) of
14 this Title to assess and update the unified pay schedule required by § 6302(a) of this
15 Title.

16 (j) Establish and appoint members from among the human relations
17 professionals in the government of Guam to a Human Relations Officer Coordinating
18 Council to advise the Director concerning the implementation and administration of the
19 provisions of this Title.

20 **Section 4. Department Rules. 4 GCA, Chapter 4, § 4105 is amended to read:**

21 **“§ 4105. Departmental Rules. (a)** Rules subject to criteria established by this
22 Chapter governing the selection, promotion, performance, evaluation, demotion,
23 suspension and other disciplinary action of classified employees shall be adopted by the
24 Board of Directors of the Antonio B. Won Pat Guam International Airport Authority; the
25 Board of Directors for the Guam Economic Development Authority, the Board of
26 Directors of the Guam Housing Corporation; the Board of Commissioners for the Guam
27 Housing and Urban Renewal Authority; the Guam Judicial Council; ~~the Board of~~
28 ~~Directors of the Guam Telephone Authority;~~ the Board of Directors of the Port Authority
29 of Guam; ~~the Board of Directors of the Guam Power Authority;~~ the Guam Education
30 Policy Board ~~the Board of Education;~~ the Board of Regents of the University of Guam;
31 the Guam Community College Board of Trustees; the Board of Trustees of the Guam

1 Memorial Hospital Authority; the Board of Directors of the Guam Visitors Bureau; and
2 ~~by the Board of Directors of the Guam Waterworks Authority~~ the Consolidated
3 Commission on Utilities on behalf of the Guam Waterworks Authority and the Guam
4 Power Authority with respect to personnel matters within their respective Branches,
5 agencies, public corporations or departments, and by the Director ~~of the Department~~ of
6 Administration as to all other Executive Branch employment.”

7 (b) Such rules shall, to the extent practicable, provide standard conditions for
8 entry into and the other matters concerning the government service. The personnel rules
9 adopted for the Guam Economic Development Authority, the Guam Housing
10 Corporation, the Guam Housing and Urban Renewal Authority, the University of Guam,
11 the Guam Community College, the Antonio B. Won Pat Guam International Airport
12 Authority, the Guam Telephone Authority, the Port Authority of Guam, the Guam Public
13 School System, the Guam Memorial Hospital Authority, the Director ~~of the Department~~
14 ~~of Administration~~ and by the Consolidated Commission on Utilities ~~Guam Waterworks~~
15 ~~Authority~~ shall require that all their classified employee appeals, except academic
16 personnel of the Guam Community College and the University of Guam in conformance
17 with Title 4 GCA § 4403(h), be heard by the Civil Service Commission ('Commission').

18 (c) The personnel rules adopted for the Judiciary Branch by the Judicial Council
19 shall require that the Council hear all classified employee appeals. Personnel rules
20 governing any other Executive Branch entities shall require that their classified employee
21 appeals be heard by the Commission. Rules concerning the Executive Branch shall take
22 effect upon their approval by the Director of Administration, by Executive Order of I
23 Maga'lahaen Guåhan and filing with the Legislative Secretary. Rules concerning the
24 Judicial Council shall take effect upon adoption by the Judicial Council of Guam and
25 filing with the Legislative Secretary.

26 (d) Such rules shall include the following provisions:

27 (a) (1) that the minimum rate of each pay range shall be the normal rate for initial
28 employment in the positions and classes assigned thereto; provided, however, that the
29 directors or other department heads may, ~~with the approval of the Director of~~
30 ~~Administration~~ in accordance with §6205 of this title, authorize initial employment in a
31 position at a higher step in the position's pay range if such action is warranted by

1 recruitment difficulties or by the new employee's special or unusual qualifications,
2 including experience;

3 (b) (2) that no spouse of any director, chief administrator or department head
4 within the government of Guam may be employed within the department, agency or
5 instrumentality so headed by such director, chief administrator, department head or other
6 officer;

7 (c) (3) that overtime for those employees entitled hereto shall be calculated at
8 one and one-half (1 1/2) times their regular wage;

9 (d) (4) that employees may work at outside employment not in conflict with their
10 government service, nor such as would bring the government of Guam or its employees
11 into disrepute, but that any employee may undertake such employment only if such is not
12 in conflict with that person's duly scheduled hours and only with the consent of that
13 person's department or agency head, which consent may not be unreasonably withheld;
14 and

15 (e) (5) that no person shall be required to work overtime, unless the employee has
16 received certification by the Director that funds for overtime pay as provided in
17 Subsection (c), above, are available.

18 (e) Adoptions of such rules are subject to the Administrative Adjudication Law.

19 **Section 5. Recruitment Above-step. 4 GCA, Chapter 6, § 6205 is hereby**
20 **amended to read:**

21 “§ 6205. Recruitment Above-Step. Step 1 of the Pay Grade assigned to a
22 classified position shall be the regular rate for initial employment in any department or
23 agency. The appointing authority, or the head of an agency, department or public
24 corporation listed in 4 GCA §4105(a) of this title may petition the Director of Department
25 of Administration, or the Judicial Council (as to Judicial Branch employment) or the
26 agency department or public corporation’s governing board or commission (as to an
27 agency, department or public corporation listed in 4 GCA §4105(a), for recruitment at a
28 higher step not to exceed Step 10, because of documented recruitment difficulty or
29 exceptional qualifications. The petition shall be posted on the agency’s website for ten
30 (10) days (Saturdays, Sundays and government of Guam holidays excepted). This
31 petition shall be made before an applicant is hired. Every petition shall be scrutinized

1 and amply justified before being approved. The Department of Administration, the
2 Judicial Council,~~and governing board or commission (as to an agency, department or~~
3 public corporation listed in 4 GCA §4105(a)) may establish policies to administer this
4 section. Increment schedule consisting of Steps 11 through 20 shall not be used for
5 recruitment above step.”

6 **Section 6. 4 GCA, Chapter 6, § 6302 is repealed and re-enacted to read:**

7 **“§6302. Administration.**

8 (a) The Director of Administration shall adopt and apply the currently used
9 unified pay schedule based on the Hay methodology or any other classification methods
10 and salary administration to the extent he deems appropriate. The unified pay schedule,
11 either by the Hay Group or any other experts in classification and pay, shall be
12 administered by the Director of Administration and by the Judicial Council for the
13 Judicial Branch.

14 (b) The Director of Administration and the Judicial Council may reassign pay
15 grades as they deem necessary. Reassignment shall be based upon the calculation of Hay
16 points or points established by other experts and shall be performed by the technical staff
17 trained in the classification and compensation evaluation system, for the sake of
18 consistency and uniformity of results. The technical staffs of the Human Resources
19 Division in the Executive Branch, and the Judicial Council’s Human Resources Office,
20 shall coordinate their efforts in implementing the Hay methodology or any other
21 classification and pay system.

22 (c) The Director of Administration and the Judicial Council shall establish
23 appropriate policies and procedures for implementing the provisions of this Article for
24 their respective jurisdictions.”

25 **Section 7. Creation of Positions in the Judiciary. 4 GCA, Chapter 6, §**
26 **6303(a) is amended to read:**

27 **“§ 6303(a). Creation of positions in the Judiciary.** New positions may be
28 created by ~~I-Maga'lahaen Guahan, the Administrator of the Courts or the Presiding Judge~~
29 ~~of the Superior Court of Guam~~ for the Judicial Branch, when necessary for the efficient
30 performance of the duties and functions of the government Judiciary. ~~I-Maga'lahaen~~
31 ~~Guahan shall submit to the Civil Service Commission, and The Presiding Judge~~

1 Administrator of the Courts shall submit to the Judicial Council, the position descriptions
2 for the positions within thirty (30) calendar days after creation and post the position
3 descriptions on the judiciary website. The positions shall be terminated unless approved
4 by ~~the Commission or~~ the Judicial Council, ~~as the case may be,~~ within ninety (90) days
5 after submission. No newly created position shall be filled in the absence of
6 appropriations to pay the salary of the proposed position.”

7 **Section 8. Creation of Positions in Line Agencies. A new 4 GCA, Chapter 6,**
8 **§ 6303(c) is added to read:**

9 “§ 6303(c). **Creation of Positions in the Line Agencies.** (1) The petition of the
10 head (Department Head) of a line agency or department to create a position shall include:

- 11 A. the justification for the new position,
- 12 B. the essential details concerning the creation of the position,
- 13 C. an analysis of the similarities and differences between the position to be
14 created and positions listed pursuant to 4 GCA § 4101.1(d),
- 15 D. the position description,
- 16 E. the proposed pay range and demonstration of compliance with §6301 of
17 this title,
- 18 F. a fiscal note as that term is described in 2 GCA § 9101 *et seq.*; and
19 any other pertinent information.

20 (2) The Department Head and the Director of Administration shall post the
21 petition on their respective websites for ten (10) days (Saturdays, Sundays and
22 government of Guam holidays excepted). After the posting, the Director of
23 Administration shall forward the petition with his recommendation to I Maga’lahi
24 Guahan who, if he approves the same, shall so indicate and file it for record with the
25 Director of Administration and the Legislative Secretary.

26 (3) No new position may be filled until after compliance with the
27 provisions of 4 GCA § 6303.1 and this section and thirty (30) days have elapsed from the
28 date of filing with the Legislative Secretary.”

29 **Section 9. Creation of positions in the Autonomous Agencies & Public**
30 **Corporations. A new 4 GCA, Chapter 6, § 6303(d) is added to read:**

1 **“§ 6303(d). Creation of Positions in the Autonomous Agencies and Public**
2 **Corporations .**

3 (1) The petition of the head of an agency, department or public corporation listed
4 in §4105(a) of this title to create a position shall include:

- 5 A. the justification for the new position,
- 6 B. the essential details concerning the creation of the position,
- 7 C. an analysis of the similarities and differences between the position to be
8 created and positions listed pursuant to 4 GCA § 4101.1(d),
- 9 D. the position description,
- 10 E. the proposed pay range and demonstration of compliance with §6301 of
11 this title,
- 12 F. a fiscal note as that term is described in 2 GCA § 9101 *et seq.*, and any
13 other pertinent information.

14 (2) The petition shall be posted on the agency, department or public
15 corporation’s website for ten (10) days (Saturdays, Sundays and government of Guam
16 holidays excepted). After the posting, the head shall forward the petition, along with
17 evidence of his compliance with 5 GCA § 6303.1(a), to the governing board or
18 commission who, if they approve the same, shall approve the petition by resolution and
19 file the petition and resolution for record with the Director of Administration and the
20 Legislative Secretary.

21 (3) No new position may be filled until after compliance with the provision of
22 this section and thirty (30) days have elapsed from the date of filing with the Legislative
23 Secretary.”

24 **Section 10. Transparency and Disclosure. A new 4 GCA, Chapter 6, §6303.1**
25 **is added to read:**

26 **“6303.1 Transparency and Disclosure.**

27 (a) Prompt notice of the postings required by 4 GCA §§6303 and ~~6305~~ shall be
28 provided to each newspaper of general circulation and broadcasting station which airs a
29 regular local news program within Guam.

30 (b) The petitions required by 4 GCA §§6303 and 6305 are public documents for
31 the purposes of 4 GCA Ch.10 Art 1. (The Sunshine Law.)

RKFA
02

6205

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 254

Senator Klitzkie

Section 10. Transparency and Disclosure. A new 4 GCA, Chapter 6, §6303.1 is added to read:

“6303.1 Transparency and Disclosure.

(a) Prompt notice of the postings required by 4 GCA §§6205 and 6303 shall be provided to each newspaper of general circulation and broadcasting station which airs a regular local news program within Guam.

(b) The petitions required by 4 GCA §§6205 and 6303 are public documents for the purposes of 4 GCA Ch.10 Art 1. (The Sunshine Law.)

(c) Any attempted creation of a position or above-step recruitment not in compliance with the provisions of 4 GCA §§ 6303 and 6303.1(a) is void *ab initio*.”

(Below only for Clerk of Legislature's use and processing))

Date 3/22, 2000

Floor Amendment No. I of a total of changes on above Bill.


Votes For Amendment: Votes Against Amendment:

AMENDMENT PASSED:

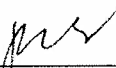
Amendment Failed:

Amendment Withdrawn:

APPROVED AS TO FORM PASSED


AUTHOR OF AMENDMENT

Concur (initial)


Clerk of Legislature

Speaker

1 (c) Any attempted creation of a position or above-step recruitment not in
2 compliance with the provisions of 4 GCA §§ 6303 and 6303.1(a) is void *ab initio*.”