



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

11 MAR 2005

The Honorable Mark Forbes
Speaker
Mina' Bente Ocho Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 15 (LS), "AN ACT TO ADD A NEW CHAPTER 16 TO TITLE 18 GUAM CODE ANNOTATED, TO ENABLE GOVERNMENT EMPLOYEES TO BECOME FULL PARTICIPANTS IN THE FREE ENTERPRISE SYSTEM, TO PROVIDE FOR EMPLOYEE-OWNED COMPANIES (EOC) AND TO ENACT THE EMPLOYEE-OWNED COMPANY LAW AND FOR OTHER PURPOSES," now designated as Public Law 28-16.

Sinseru yan Magåhet,

[Handwritten signature of Felix P. Camacho]

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo
Senator and Legislative Secretary

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE
ACKNOWLEDGEMENT RECEIPT
Rcv'd by: [Signature]
Print Name & Initial:
Time: 10:34am Date: 3/17/05

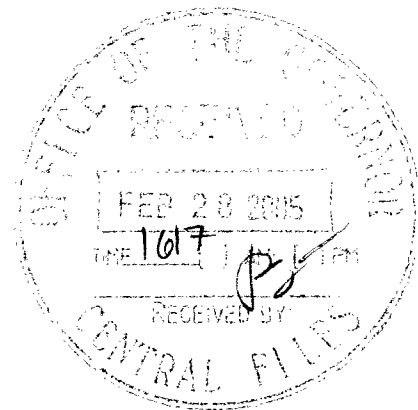
0081

Office of the Speaker
MARK FORBES
Date: 3-16-05
Time: 11am
Rec'd by: [Signature]
Print Name:
28-05-0080



**MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN**  
TWENTY-EIGHTH GUAM LEGISLATURE  
155 Hessler Place, Hagåtña, Guam 96910

February 28, 2005



The Honorable Felix P. Camacho  
*I Maga'lahen Guåhan*  
*Ufisinan I Maga'lahi*  
*Hagåtña, Guam 96910*

Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 15(LS), 17(LS), 35(EC), 36(EC), 37(EC), 47(EC), 48(EC); and Substitute Bill Nos. 7(LS), 10(LS), 20(EC) and 29(EC) which were passed by *I Mina'Bente Ocho Na Liheslaturan Guåhan* on February 25, 2005.

Sincerely,

EDWARD J.B. CALVO  
Senator and Secretary of the Legislature

Enclosures (11)

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2005 (FIRST) Regular Session

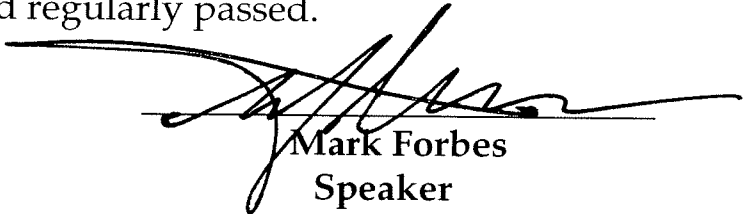
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 15 (LS), "AN ACT TO ADD A NEW CHAPTER 16 TO TITLE 18 GUAM CODE ANNOTATED, TO ENABLE GOVERNMENT EMPLOYEES TO BECOME FULL PARTICIPANTS IN THE FREE ENTERPRISE SYSTEM, TO PROVIDE FOR EMPLOYEE-OWNED COMPANIES (EOC) AND TO ENACT THE EMPLOYEE-OWNED COMPANY LAW AND FOR OTHER PURPOSES," was on the 25<sup>th</sup> day of February, 2005, duly and regularly passed.

Attested:

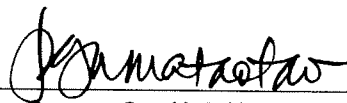


Edward J.B. Calvo  
Senator and Secretary of the Legislature




Mark Forbes  
Speaker

This Act was received by *I Maga'lahaen Guåhan* this 28 day of February, 2005,  
at 10:17 o'clock P.M.



Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:



FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*

Date: March 11, 2005

Public Law No. 28-15

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2005 (FIRST) Regular Session

**Bill No. 15 (LS)**

As amended on the Floor.

Introduced by:

R. Klitzkie  
Mark Forbes  
J. M.S. Brown  
L. F. Kasperbauer  
J. A. Lujan  
Ray Tenorio  
Edward J.B. Calvo  
A. R. Unpingco  
Mike Cruz  
F. B. Aguon, Jr.  
B. J.F. Cruz  
L. A. Leon Guerrero  
A. B. Palacios  
R. J. Respicio  
J. T. Won Pat

**AN ACT TO ADD A NEW CHAPTER 16 TO TITLE 18  
GUAM CODE ANNOTATED, TO ENABLE GOVERNMENT  
EMPLOYEES TO BECOME FULL PARTICIPANTS IN THE  
FREE ENTERPRISE SYSTEM, TO PROVIDE FOR  
EMPLOYEE-OWNED COMPANIES (EOC) AND TO ENACT  
THE EMPLOYEE-OWNED COMPANY LAW AND FOR  
OTHER PURPOSES.**

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

2 **Section 1. Legislative Intent.** Hard economic times dictated that  
3 certain government functions be outsourced. Workers ought to be

1 empowered to seize the opportunities presented by outsourcing to improve  
2 their economic lot.

3 When government functions are outsourced, government employees  
4 ought to have the opportunity to share in the profits created by their labor, to  
5 become their own bosses and otherwise share in the benefits of capitalism and  
6 free enterprise. When government functions are outsourced, government of  
7 Guam employees should be encouraged to form companies and bid on the  
8 outsourcing contracts.

9 To that end, *I Liheslatura* has created a new business designation,  
10 Employee-Owned Companies (EOC), for companies organized by employees  
11 whose jobs will be subject to outsourcing. *I Liheslatura* declares that it is the  
12 policy of the law that government employees be encouraged to form these  
13 companies and bid on outsourcing contracts. In order to facilitate EOC's  
14 bidding on outsourcing contracts, *I Liheslatura* has made certain parts of the  
15 Procurement Law inapplicable to EOC's.

16 The retirement law is an important fringe benefit that must be revised to  
17 comport with the new realities of government employment but not at the  
18 expense of the actuarial soundness of the fund. It is the intent that EOC  
19 employees may under certain circumstances remain members of the  
20 Government of Guam Retirement Fund. As an alternative, former employees  
21 should have immediate access to their contributions to the fund.

22 **Section 2. A new Chapter 16 is hereby *added* to Title 18 Guam Code**  
23 **Annotated to read:**

1 "Chapter 16

2 Employee-Owned Companies

3 Section 16000. Citation.

4 Section 16001. Policy of the Law.

5 Section 16002. Employee-Owned Companies.

6 Section 16003. Same: Name.

7 Section 16004. Displaced Employee.

8 Section 16005. Same: Ownership.

9 Section 16006. Same: Conflict of Interest.

10 Section 16007. Small Business Development Center.

11 Section 16000. Citation. This Chapter may be cited as the  
12 'Employee-Owned Company Law'.

13 Section 16001. Policy of the Law. It is the policy of the law that  
14 government employees must have the opportunity to put their hard  
15 work, dedication and enterprise to work so that they may take full  
16 advantage of their hard work. When government functions are  
17 outsourced, government employees ought to have the opportunity to  
18 share in the profits created by their labor, to become their own bosses  
19 and otherwise share in the benefits of capitalism and free enterprise.  
20 When government functions are outsourced, government of Guam  
21 employees should be encouraged to form companies and bid on the  
22 outsourcing contracts.

23 Section 16002. Employee-Owned Companies. In this Chapter  
24 '*Employee-Owned Company (EOC)*' means any form of business

1 organization described in this Title that is formed and organized by  
2 government of Guam employees whose jobs may be *privatized* or  
3 *outsourced*.

4 **Section 16003. Same: Name.** The name of an *Employee-Owned*  
5 *Company* shall contain the letters EOC.

6 **Section 16004. Displaced Employee.** In this Chapter '*Displaced*  
7 *Employee*' means an employee who is or had been employed by an entity  
8 of the government that was or is scheduled to be outsourced or  
9 privatized and the employment was or may be terminated as a result of  
10 the *outsourcing* or *privatization*.

11 **Section 16005. Same: Ownership.** Regardless of the business  
12 form of an EOC, the majority of the ownership and control of an EOC  
13 must, at the time of its formation and for five (5) years thereafter, be  
14 held by *displaced employees*.

15 **Section 16006. Same: Conflict of Interest.** The provisions of 5  
16 GCA §§5626, 5628, 5632 and 5633 shall *not* apply to an EOC or its  
17 owners when the EOC is attempting to acquire or participate in a  
18 contract with the government to provide services that have been or will  
19 be *privatized* or *outsourced*.

20 **Section 16007. Small Business Development Center.** The  
21 Small Business Development Center of the University of Guam shall  
22 develop a program to assist employees in the formation of EOC's."

6

# I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN

## 2005 (FIRST) Regular Session

Date: 2-25-05

### VOTING SHEET

Bill No. 15(LS)

Resolution No. \_\_\_\_\_

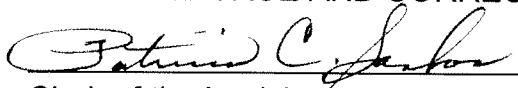
Question: \_\_\_\_\_

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
AGUON, Frank B., Jr.	✓				EA
BROWN, Joanne M.S.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J.F.	✓				
CRUZ, Michael (Dr.)	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
KLITZKIE, Robert	✓				
LEON GUERRERO, Lourdes A.	✓				
LUJAN, Jesse A.	✓				
PALACIOS, Adolpho B.	✓				
RESPICIO, Rory J.	✓				
TENORIO, Ray	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

14      0      0      0      1

CERTIFIED TRUE AND CORRECT:

  
 Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence

PL. 28-16





**Mina' Bente Ocho Na Lihsalaturan Guahan**  
**28<sup>th</sup> Guam Legislature**

155 Hesler Street  
Hagatna, Guam 96910  
Office (671) 472-3409 • Fax (671) 472-3510

**Speaker Mark Forbes**

**MEMORANDUM**

**TO:** Senator Robert Klitzkie, Chairman  
Committee on Calendar

**FROM:** Speaker Mark Forbes, Chairman  
Committee General and Omnibus Matters & Executive Committee

**DATE:** February 14, 2005

**RE:** Bill 15 - Committee Report

The Committee on Finance, Taxation, and Commerce & the Office of Finance & Budget to which was referred **BILL 15 (LS) AN ACT TO ADD A NEW CHAPTER 16 TO 18 GCA; TO ADD A NEW ITEM (q) TO 4 GCA §8104; TO ADD A NEW SECTION (r) TO 4 GCA; TO REPEAL AND REENACT §8113 OF 4 GCA; TO AMEND §8130 OF 4 GCA; TO ENABLE GOVERNMENT EMPLOYEES TO BECOME FULL PARTICIPANTS IN THE FREE ENTERPRISE SYSTEM, TO PROVIDE FOR EMPLOYEE-OWNED COMPANIES (EOC) AND TO ENACT THE EMPLOYEE-OWNED COMPANY LAW AND FOR OTHER PURPOSES**, has had the same under consideration, and now wishes to report back the same with the recommendation **to pass**.

Transmitted herewith for your consideration and action is our committee report on the above subject matter.

The Committee votes are as follows:

- 5 TO PASS
- 0 NOT TO PASS
- 0 TO REPORT OUT ONLY
- 0 ABSTAIN
- 0 INACTIVE FILE

A copy of the committee report and other pertinent documents are attached for your immediate reference. Any questions on the accompanying documents should be directed to Senator Klitzkie's office via email at [bob@bobsoffice.org](mailto:bob@bobsoffice.org) or by phone at 472-9355.



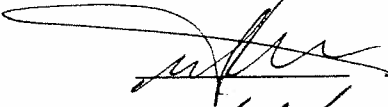
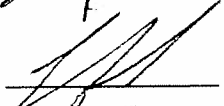
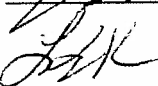
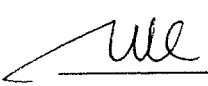

# COMMITTEE ON GENERAL & OMNIBUS MATTERS

*I MINA'BENTE OCHO NA LIHESLATURAN GUAHAN*

155 HESLER STREET, HAGATNA, GUAM 96910

**BILL 15 (LS) AN ACT TO ADD A NEW CHAPTER 16 TO 18 GCA; TO ADD A NEW ITEM (q) TO 4 GCA §8104; TO ADD A NEW SECTION (r) TO 4 GCA; TO REPEAL AND REENACT §8113 OF 4 GCA; TO AMEND §8130 OF 4 GCA; TO ENABLE GOVERNMENT EMPLOYEES TO BECOME FULL PARTICIPANTS IN THE FREE ENTERPRISE SYSTEM, TO PROVIDE FOR EMPLOYEE-OWNED COMPANIES (EOC) AND TO ENACT THE EMPLOYEE-OWNED COMPANY LAW AND FOR OTHER PURPOSES**

## VOTE SHEET

	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT OF COMMITTEE	ABSTAIN	INACTIVE FILE
Mark Forbes, Chair		✓	_____	_____	_____	_____
Edward J. B. Calvo, Member		✓	_____	_____	_____	_____
Lawrence F. Kasperbauer, Ph.D., Member		+	_____	_____	_____	_____
Jesse A. Lujan, Member	_____	_____	_____	_____	_____	_____
Judith Won Pat, Member	_____	_____	_____	_____	_____	_____
Mike Cruz, M.D., Member		✓	_____	_____	_____	_____
Ray Tenorio, Member		✓	_____	_____	_____	_____
Benjamin J.F. Cruz, Member	_____	_____	_____	_____	_____	_____

*2nd*  
*2/24/05*  
*POF-1*  
*2/24/05*

*3rd*

**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2005 (FIRST) Regular Session**

**Bill No. 15 (LS)**

Introduced by:

R. Klitzkie  
Mark Forbes  
J.M.S. Brown  
L.F. Kasperbauer  
J.A. Lujan  
Ray Tenorio  
E.B. Calvo  
A.R. Unpingco  
M. Cruz

~~AN ACT TO ADD A NEW CHAPTER 16 TO 18 GCA; TO  
ADD A NEW ITEM (q) TO 4 GCA §8104; TO ADD A NEW  
SECTION (r) TO 4 GCA; TO REPEAL AND REENACT  
§8113 OF 4 GCA; TO AMEND §8130 OF 4 GCA; TO  
ENABLE GOVERNMENT EMPLOYEES TO BECOME  
FULL PARTICIPANTS IN THE FREE ENTERPRISE  
SYSTEM, TO PROVIDE FOR EMPLOYEE-OWNED  
COMPANIES (EOC) AND TO ENACT THE EMPLOYEE-  
OWNED COMPANY LAW AND FOR OTHER PURPOSES~~

*RK FAJ*

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

*Section 1.*                      **Legislative Intent**

4 Hard economic times dictated that certain government functions be outsourced. Workers  
5 ought to be empowered to seize the opportunities presented by outsourcing to improve their  
6 economic lot.

8 When government functions are outsourced, government employees ought to have the  
9 opportunity to share in the profits created by their labor, to become their own bosses and  
10 otherwise share in the benefits of capitalism and free enterprise. When government functions  
11 are outsourced, government of Guam employees should be encouraged to form companies  
12 and bid on the outsourcing contracts.

(1)

**I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN**

**FLOOR AMENDMENTS/CHANGES**

**Bill No. 15**

Klitzkie

**Senator Proposing Amendment**

(Below for Senator to complete)

**Amend §1 of the bill to read:**

**"Section 1. Definition of displaced employee. A new item (q) is added to 4 GCA §8104 to read:**

**(q) Displaced employee** means an employee who is or had been employed by an entity of the government that was or is scheduled to be outsourced or privatized and the employment was or may be terminated as a result of the *outsourcing or privatization.*"

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

Date 2/24, 2004

Floor Amendment No. 2 of a total of \_\_\_\_\_ changes on above Bill.

Votes For Amendment: \_\_\_\_\_ Votes Against Amendment: \_\_\_\_\_

**AMENDMENT PASSED:** ✓

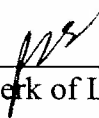
Amendment Failed: \_\_\_\_\_

Amendment Withdrawn: \_\_\_\_\_

**APPROVED AS TO FORM PASSED**

  
AUTHOR OF AMENDMENT

**Concur (initial)**

  
Clerk of Legislature

\_\_\_\_\_  
Speaker

1 To that end, the legislature has created a new business designation, Employee-Owned  
2 Companies (EOC), for companies organized by employees whose jobs will be subject to  
3 outsourcing. The legislature declares that it is the policy of the law that government  
4 employees be encouraged to form these companies and bid on outsourcing contracts. In order  
5 to facilitate EOC's bidding on outsourcing contracts, the legislature has made certain parts of  
6 the Procurement Law inapplicable to EOC's.

7  
8 The retirement law is an important fringe benefit that must be revised to comport with the  
9 new realities of government employment but not at the expense of the actuarial soundness of  
10 the fund. It is the intent that EOC employees may under certain circumstances remain  
11 members of the Government of Guam Retirement Fund. As an alternative, former employees  
12 should have immediate access to their contributions to the fund.

13 *re phrase* **Table of Contents**

- 14 *OK* Section 1. Adds new Chapter 16 to 18 GCA, Employee-Owned Company.  
15 Section 2. Adds new item (q) to 4 GCA §8104, definition of displaced employee.  
16 Section 3. Adds new section (r) to 4 GCA §8104, definition of subsequent  
17 nongovernmental service.  
18 Section 4. Repeals and reenacts 4 GCA §8113, Subsequent Nongovernmental Service.  
19 Section 5. Amends §8130 of 4 GCA, refund on separation.

20  
21 **Section 1. Employee-Owned Company. A new chapter 16 is added to 18**

22 **GCA to read:**

23 **Chapter 16 Employee-owned Companies**

24 Section 16000. Citation. This Chapter may be cited as the Employee-Owned Company  
25 Law.

26 Section 16001. Policy of the law. It is the policy of the law that government  
27 employees must have the opportunity to put their hard work, dedication and enterprise to  
28 work so that they may take full advantage of their hard work. When government functions are  
29 outsourced, government employees ought to have the opportunity to share in the profits  
30 created by their labor, to become their own bosses and otherwise share in the benefits of  
31 capitalism and free enterprise. When government functions are outsourced, government of

*(Handwritten mark)*

1 Guam employees should be encouraged to form companies and bid on the outsourcing  
2 contracts.

3  
4 Section 16002. Employee-owned companies. In this Chapter *Employee-Owned*  
5 *Company* (EOC) means any form of business organization described in this title that is  
6 formed and organized by government of Guam employees whose jobs may be *privatized* or  
7 *outsourced*.

8  
9 Section 16003. Same: name. The name of an *employee-owned company* shall contain  
10 the letters EOC.

11  
12 Section 16003. Same: ownership. Regardless of the business form of an EOC the  
13 majority of the ownership and control of an EOC must, at the time of its formation and for  
14 five years thereafter, be held by *displaced employees*.

RK  
PA3

Section 16004

15  
16 Section 16004. Same: conflict of interest. The provisions of 5 GCA §§5626, 5628,  
17 5632 and 5633 shall not apply to an EOC or its owners when the EOC is attempting to acquire  
18 or participate in a contract with the government to provide services that have been or will be  
19 *privatized* or *outsourced*.

20  
21 Section 16005. Small Business Development Center. The Small Business  
22 Development Center of the University of Guam shall develop a program to assist employees  
23 in the formation EOC's.

RK  
PA3

24 **Section 2. Definition of displaced employee. A new item (q) is added to 4**  
25 **GCA §8104 to read:**

26 **(q) Displaced employee** means an employee who had been employed by an entity of  
27 the government that was *outsourced* or *privatized* and the employment was terminated as a  
28 result of the *outsourcing* or *privatization*.

**I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN**

**FLOOR AMENDMENTS/CHANGES**

**Bill No. 15**

Klitzkie

**Senator Proposing Amendment**

(Below for Senator to complete)

*R*

1 Strike §§ 2,3 and 4.

2 Amend §1 of the bill by adding §16004 after §16003 to read:

“Section 16004. *Displaced employee* means an employee who is or had been employed by an entity of the government that was or is scheduled to be outsourced or privatized and the employment was or may be terminated as a result of the *outsourcing* or *privatization*.”

3 Clerk to renumber §§ 16004 and 16005.

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

Date 2/25, 2004

Floor Amendment No. 2 of a total of \_\_\_\_\_ changes on above Bill.

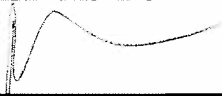
Votes For Amendment: \_\_\_\_\_ Votes Against Amendment: \_\_\_\_\_

**AMENDMENT PASSED:** ✓

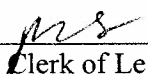
Amendment Failed: \_\_\_\_\_

Amendment Withdrawn: \_\_\_\_\_

**APPROVED AS TO FORM PASSED**

  
AUTHOR OF AMENDMENT

**Concur (initial)**

  
Clerk of Legislature

\_\_\_\_\_  
Speaker

1           **Section 3. Definition of subsequent nongovernmental service. A new**  
2 **section (r) is added to 4 GCA §8104 to read:**

3           **(r)** *Subsequent Nongovernmental Service* shall mean paid employment with the  
4 employer that, by-means-of outsourcing or privatizing, assumed the function or functions that  
5 a *displaced employee* was employed by the government of Guam to accomplish.  
6

7           **Section 4. Subsequent nongovernmental service. 4 GCA §8113 is repealed**  
8 **and reenacted to read:**

9           § 8113. Same: Subsequent Nongovernmental Service.

10           Any employee who shall have been employed by the government of Guam for a  
11 period of ten (10) years or more and who is a member of the Fund, who is about to become a  
12 *displaced employee*, as that term is defined in 4 GCA §8104(q), who has not terminated his  
13 membership in the Fund may be allowed credit for up to five years *Subsequent*  
14 *Nongovernmental Service* provided that he pays to the Fund, during the time he is earning that  
15 credit, the member's and employer's contributions in biweekly payments in the amounts that  
16 would have been paid had this employment been with the government of Guam.  
17 Contributions shall be made at such times and in such manner as the Board by rule directs.  
18 An employee must elect, in such manner as required by the Board, *Subsequent*  
19 *Nongovernmental Service* prior to his last day of employment with the government of Guam. ]

20  
21           **Section 5. Refund on separation. §8130 of 4GCA (a) is amended to read:**

22           § 8130. Refund on Separation.

23           **(a)** Upon complete separation from service before a member shall have completed at  
24 least twenty (20) years of total service, the member shall be entitled to receive a refund of his  
25 total contributions, including regular interest, but no payment of interest shall be  
26 made in any case in which total service is less than one (1) year. Total contributions shall  
27 include all contributions made by a member to obtain various types of credit authorized by  
28 this Chapter.

29           Any member who withdraws after having completed at least five (5) years total  
30 service shall have the option of leaving his contributions in the Fund and receiving a service

2x  
FAI  
M



**I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN**

**FLOOR AMENDMENTS/CHANGES**

**Bill No. 15**

Klitzkie

**Senator Proposing Amendment**

(Below for Senator to complete)

Strike §5 of the bill  
*p. 4, line 21 to p 5 line 15*

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

Date 2/24, 2004

Floor Amendment No. 1 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**

*[Signature]*  
AUTHOR OF AMENDMENT

**Concur (initial)**

*[Signature]*  
Clerk of Legislature

\_\_\_\_\_  
Speaker

Ass't. Amend. Clerk  
Engrossment Staff

1 retirement annuity upon attainment of the age of sixty (60) years without choice of any of the  
2 optional survivors" benefits herein under described.

3 If such member has less than twenty (20) years of total service, he may elect to receive  
4 his contributions, with regular interest, as herein above provided, in lieu of the service  
5 retirement annuity. If his total service is twenty (20) years or more, the acceptance of such  
6 deferred retirement annuity payment beginning at the age of sixty (60) years, shall be  
7 mandatory as to such member-, provided, however, that a *displaced employee* may elect to  
8 receive his contributions, with regular interest, as herein above provided notwithstanding that  
9 his total service is twenty (20) years or more.

10 Any member receiving a refund of contributions shall thereby forfeit, waive and  
11 relinquish all accrued rights and benefits in the system, including all credited and creditable  
12 service. The Board may, in its discretion regardless of cause, withhold payment of a refund  
13 for a period not to exceed one (1) year after receipt of an application from a member-  
14 provided, however, that the Board shall pay a refund to a *displaced employee* upon receipt of  
15 his application.

## **I. OVERVIEW**

The Committee on General and Omnibus Matters and the Executive Committee held a public hearing on Friday, February 11, 2005 at 9:00 AM at the Guam Legislature public hearing room in Hagatna, Guam. Notice of public hearing was disseminated throughout all local media (see attached).

Senators present were:  
Speaker Mark Forbes, Chairman  
Senator Frank Aguon, Jr.  
Vice Speaker Joanne Brown  
Senator Robert Klitzkie  
Senator Lou Leon Guerrero  
Senator Adolpho Palacios

## **II. SUMMARY OF TESTIMONY**

The following bill was heard at the public hearing in which no oral or written testimony were provided:

**BILL 15 (LS) AN ACT TO ADD A NEW CHAPTER 16 TO 18 GCA; TO ADD A NEW ITEM (q) TO 4 GCA §8104; TO ADD A NEW SECTION (r) TO 4 GCA; TO REPEAL AND REENACT §8113 OF 4 GCA; TO AMEND §8130 OF 4 GCA; TO ENABLE GOVERNMENT EMPLOYEES TO BECOME FULL PARTICIPANTS IN THE FREE ENTERPRISE SYSTEM, TO PROVIDE FOR EMPLOYEE-OWNED COMPANIES (EOC) AND TO ENACT THE EMPLOYEE-OWNED COMPANY LAW AND FOR OTHER PURPOSES**

### **Senator Robert Klitzkie's Remarks:**

Senator Klitzkie briefly discussed the impact of Bill 15 on procurement and retirement law as they relate to Employee-Owned Companies (EOC). He provided a hypothetical scenario of government downsizing to highlight the intent behind Bill 15 to encourage government employees to form their own companies to be able to bid on outsourcing contracts. He labeled the bill as a "reasonable alternative" for employees in these situations and a move into a "free-enterprise system."

### III. FINDINGS AND RECOMMENDATION

The increase in outsourcing and privatizing of public agencies is becoming increasingly evident as is the effort to establish a more efficient government. These means of efficiency can be achieved not only through down-sizing, but through advancement of government workers into private industry.

Bill 15 is a revolutionary step. It complements the downsizing of the Government of Guam, while also giving employees the opportunity to form businesses. As prospective business owners, these employees are given the potential to become financially free of GovGuam, and as hard working individuals, they deserve the chance to build their own wealth.

When government functions are outsourced, government employees should have the opportunity to share in the profits created by their labor, to become their own bosses and otherwise share in the benefits of free enterprise. GovGuam employees should be encouraged to form companies and bid on outsourcing contracts.

Bill 15 creates a new business designation (Employee-Owned Company-EOC) for companies organized by employees whose jobs will be subject to outsourcing. As a matter of policy, the bill encourages the affected employees to form these companies and bid on outsourcing contracts. In order to facilitate EOC's bidding on outsourcing contracts, Bill 15 makes certain parts of the Procurement Law inapplicable to EOC's (see Appendix).

The bill also allows EOC employees to -- under certain circumstances -- remain members of the Government of Guam Retirement Fund. As an alternative, former employees will have immediate access to their contributions to the Fund.

The Committee finds Bill 15 to be an innovative step toward free-enterprise. The advancement of GovGuam employees and simultaneous growth in the private sector paves the path for a more prosperous local economy. By creating new businesses and ensuring employment for those impacted by outsourcing, the Employee-Owned Company Law ensures that each GovGuam worker has an alternative for securing employment in the midst of government downsizing.

Accordingly, the Committee on General and Omnibus Matters does hereby submit it's findings and recommendations to *I Mina' Bente Ocho Na Liheslaturan Guahan* **TO PASS BILL 15 (LS) AN ACT TO ADD A NEW CHAPTER 16 TO 18 GCA; TO ADD A NEW ITEM (q) TO 4 GCA §8104; TO ADD A NEW SECTION (r) TO 4 GCA; TO REPEAL AND REENACT §8113 OF 4 GCA; TO AMEND §8130 OF 4 GCA; TO ENABLE GOVERNMENT EMPLOYEES TO BECOME FULL PARTICIPANTS IN THE FREE ENTERPRISE SYSTEM, TO PROVIDE FOR EMPLOYEE-OWNED COMPANIES (EOC) AND TO ENACT THE EMPLOYEE-OWNED COMPANY LAW AND FOR OTHER PURPOSES.**

## IV. PUBLIC HEARING NOTICES

Mariana's Variety – February 4, 2005

I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN



### COMMITTEE ON GENERAL AND OMNIBUS MATTERS & EXECUTIVE COMMITTEE

Speaker Mark Forbes - Chairman

## NOTICE OF PUBLIC HEARING

The following appointment and bills will be heard on Friday,  
February 11, 2005 at 9:00 AM in the Public Hearing Room,  
I Liheslaturan Guahan, 155 Hesler Pl., Hagatna.

Matanane, David J.- To serve as a member of the Chamorro Land Trust Commission

Bill No. 15 (LS) - by R. Klitzkie  
An Act To Add A New Chapter 16 To 18 GCA; To Add A New Item (Q) To 4 GCA §8104; To Add A New Section (R) To 4 GCA; To Repeal And Reenact §8113 Of 4 GCA; To Amend §8130 Of 4 GCA; To Enable Government Employees To Become Full Participants In The Free Enterprise System, To Provide For Employee-Owned Companies (EOC) And To Enact The Employee-Owned Company Law And For Other Purposes.

Bill No. 29 (EC) - by F. B. Aguon  
An Act Relative To The Transfer Of The Former Guam Mass Transit Authority Property And Building To The Office Of The Hagatna Mayor, For The Relocation Of The Hagatna Mayor's Office, The Establishment Of A Youth Recreational Center, And For Other Community Needs And Activities.

Bill No. 35 (EC) - by J. M.S. Brown  
An Act To Deappropriate Fifty Thousand Dollars (\$50,000) From The Sums Appropriated To The Legislature And To Reappropriate Said Sum To The University Of Guam Inarajan Agricultural Experiment Station.

Bill No. 36 (EC) - by L. A. Leon Guerrero  
An Act To Require Mandatory Public Hearings On Certain Legislative Resolutions To Ensure Public Input, Through The Amendment Of Section 2103 Of Chapter 2 Of Title 2, Guam Code Annotated.

Bill No. 37 (EC) - by Adolpho B. Palacios  
An Act To Amend § 17401, Article 4, Chapter 17, Title 3 GCA Relative To Legislative Submission.

FOR ADA ASSISTANCE CONTACT MR. EUGENE SANTOS,  
OFFICE OF THE SPEAKER PHONE (671) 472-3407

Notice paid for by government funds



*IMINA' BENTE OCHO NA LIHESLATURAN GUAHAN*  
**NOTICE OF PUBLIC HEARING**  
**Committee on General and Omnibus Matters**  
**Executive Committee**

**The following bills will be heard on Monday, February 14, 2005 at 9:00 AM at the Public Hearing Room, 155 Hesler Pl., Hagatna.**

**Bill 47 (EC). An Act to Add a New Article 12 to Chapter 68, 21 GCA to Establish the "Guam Flood And Survey Mitigation Plan".**

**BH1 48 (EC) An Act To Add New Subsection 2108(b) To 2GCA To Prohibit Any Measure Intended To Raise Taxes In Guam, Or Establish A New Tax, From Being Passed By Liheslaturan Guahan As A "Rider" And Without Receiving The Input And Testimony Of The Public Through The Public Hearing Process.**

**Bill 49 (EC). An Act To Add A New Section 834.1. To 1GCA To Designate Route 16 As "Army Drive" To Honor The Men and Women Who Have Served And Continue To Serve In The United States Army, Those Army Units That Participated In The Liberation Of Guam In WWII, And The Thousands Of Our People Who Are Veterans.**

**SECOND NOTICE**

**Public Hearing on Friday, 2/11/05. Public Hearing Room, 155 Hesler Pl. Committee on General and Omnibus Matters and Executive Committee.**

**BILL 15(LS), BILL 24 (EC), BILL 26 (EC), BILL 29 (EC), BILL 35 (EC), BILL 36 (EC), BILL 37 (EC) AND THE APPOINTMENT OF DAVID J. MATANANE TO THE CHAMORRO LAND TRUST COMMISSION**

**FOR ADA ASSISTANCE CONTACT MR. EUGENE SANTOS,  
OFFICE OF THE SPEAKER PHONE (671) 472-3407  
FOR E-MAIL INQUIRIES: [speakerforbes@yahoo.com](mailto:speakerforbes@yahoo.com)**

**Notice paid for by government funds**

I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN



COMMITTEE ON GENERAL AND  
OMNIBUS MATTERS &  
EXECUTIVE COMMITTEE

Speaker Mark Forbes - Chairman

NOTICE OF PUBLIC HEARING

The following appointment and bills will be heard on Friday,  
February 11, 2005 at 9:00 AM in the Public Hearing Room,  
1 Liheslaturan Guahan, 155 Hesler Pl., Hagatna.

Matanane, David J.- To serve as a member of the Chamorro Land Trust  
Commission

Bill No. 15 (LS) - by R. Klitzkie  
An Act To Add A New Chapter 16 To 18 GCA; To Add A New Item (Q) To  
4 GCA §8104; To Add A New Section (R) To 4 GCA; To Repeal And  
Reenact §8113 Of 4 GCA; To Amend §8130 Of 4 GCA; To Enable  
Government Employees To Become Full Participants In The Free  
Enterprise System, To Provide For Employee-Owned Companies (EOC)  
And To Enact The Employee-Owned Company Law And For Other  
Purposes.

Bill No. 29 (EC) - by F. B. Agnon  
An Act Relative To The Transfer Of The Former Guam Mass Transit  
Authority Property And Building To The Office Of The Hagatna Mayor,  
For The Relocation Of The Hagatna Mayor's Office, The Establishment Of  
A Youth Recreational Center, And For Other Community Needs And  
Activities.

Bill No. 35 (EC) - by J. M.S. Brown  
An Act To Deappropriate Fifty Thousand Dollars (\$50,000) From The Sums  
Appropriated To The Legislature And To Reappropriate Said Sum To The  
University Of Guam Inarajan Agricultural Experiment Station.

Bill No. 36 (EC) - by L. A. Leon Guerrero  
An Act To Require Mandatory Public Hearings On Certain Legislative  
Resolutions To Ensure Public Input, Through The Amendment Of Section  
2103 Of Chapter 2 Of Title 2, Guam Code Annotated.

Bill No. 37 (EC) - by Adolpho B. Palacios  
An Act To Amend § 17401, Article 4, Chapter 17, Title 3 GCA Relative To  
Legislative Submission.

FOR ADA ASSISTANCE CONTACT MR. EUGENE SANTOS,  
OFFICE OF THE SPEAKER PHONE (671) 472-3407

Notice paid for by government funds

**IV. PUBLIC HEARING AGENDA**



## VI. SIGN-IN SHEET

\* There were no individuals who signed-in to present oral or written testimony before the committee.

## VII. APPENDIX

Provisions of the Procurement Law inapplicable to EOC's: 5 GCA §§5626, 5628, 5632 and 5633

**§5626. General Standards of Ethical Conduct.** (a) **General Ethical Standards for Employees.** Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust.

In order to fulfill this general prescribed standard, employees must also meet the specific standards set forth in §§5628 through 5633 of this Chapter.

(b) **General Ethical Standards for Non-Employees.** Any effort to influence any public employee to breach the standards of ethical conduct set forth in this Section and §§5628 through 5633 of this Chapter is also a breach of ethical standards.

SOURCE: GC §6980.2. MPC §12-202.

**§5628. Employee Conflict of Interest.** (a) **Conflict of Interest.** It shall be a breach of ethical standards for any employee to participate directly or indirectly in a procurement when the employee knows that:

(1) the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;

(2) a business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or

(3) any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

(b) **Financial Interest in a Blind Trust.** Where an employee or any member of the employee's immediate family holds a financial interest

in a blind trust, the employee shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest, provided that disclosure of the existence of the blind trust has been made to the Civil Service Commission.

**(c) Discovery of Actual or Potential Conflict of Interest, Disqualification, and Waiver.** Upon discovery of an actual or potential conflict of interest, an employee shall promptly file a written statement of disqualification and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply to the Civil Service Commission in accordance with §5676(c) of this Chapter for an advisory opinion as to what further participation, if any, the employee may have in the transaction.

**(d) Notice.** Notice of this prohibition shall be provided in accordance with regulations promulgated by the Civil Service Commission.

**SOURCE:** GC §6980.4. MPC §12-204 modified.

**COMMENT:** Modification is to refer employees to the Civil Service Commission for opinions on conflicts of interest, since this Chapter does not create a separate Ethics Commission, but continues the general supervision of employment matters with the Civil Service Commission and gives the Policy Office responsibility for opinions requested by non-employees. Change by Committee on GGO.

**§5632. Restrictions on Employment of Present and Former Employees.** **(a) Contemporaneous Employment Prohibited.** Except as may be permitted by regulations pursuant to this Chapter or pursuant to Title 4 GCA, or rulings of the Civil Service Commission pursuant to this Chapter, it shall be a breach of ethical standards for any employee who is participating directly or indirectly in the procurement process to become or be, while such an employee, the employee of any person contracting with the governmental body by whom the employee is employed. Notice of this provision shall be provided in accordance with regulations promulgated by the Civil Service Commission.

**(b) Restrictions on Former Employees in Matters Connected with Their Former Duties.**

**(1) Permanent Disqualification of Former Employee Personally Involved in a Particular Matter.** It shall be a breach of ethical standards for any former employee knowingly to act as a principal, or as an agent for anyone other than the Territory, in connection with any:

(i) judicial or other proceeding, application, request for a ruling, or other determination;

(ii) contract;

(iii) claim; or

(iv) charge or controversy;

in which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, where the Territory is a party or has a direct and substantial interest.

**(2) One Year Representation Restriction Regarding Matters for Which a Former Employee Was Officially Responsible.** It shall be a breach of ethical standards for any former employee, within one (1) year after cessation of the former employee's official responsibility, knowingly to act as a principal, or as an agent for anyone other than the Territory, in connection with any:

(i) judicial or other proceeding, application, request for a ruling or other determination;

(ii) contract;

(iii) claim; or

(iv) charge or controversy; in matters which were within the former employee's official responsibility, where the Territory is a party or has a direct or substantial interest.

**(c) Disqualification of Business When an Employee Has a Financial Interest.** It shall be a breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal, or as an agent for anyone other than the Territory, in connection with any:

(1) judicial or other proceeding, application, request for a ruling or other determination;

(2) contract;

(3) claim; or

(4) charge or controversy;

in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of the employee's official responsibility, where the Territory is a party or has a direct and substantial interest.

**(d) Selling to the Territory After Termination of Employment is Prohibited.** It shall be a breach of ethical standards for any former employee, unless the former employee's last annual salary did not exceed Twelve Thousand Dollars (\$12,000.00), to engage in selling or attempting to sell supplies, services other than personal services, or construction to the Territory for ninety (90) days following the date employment ceased.

The term sell as used herein means signing a bid, proposal, or contract; negotiating a contract, contracting any employee for the purpose of obtaining, negotiating or discussing changes in specifications, price, cost allowances or other terms of a contract; settling disputes concerning performance of a contract; or any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract therefor is subsequently negotiated by another person; provided, however, that this Section is not intended to preclude a former employee from accepting employment with private industry solely because the former employee's employer is a contractor with this Territory, nor shall a former employee be precluded from serving as a consultant to this Territory.

SOURCE: GC §6980.8. MPC §12-208 with salary amount added locally.










**§5633. Use of Confidential Information.** It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

SOURCE: GC §6980.9. MPC §12-209.

**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN**  
**2005 (FIRST) Regular Session**

Bill No. 15 <sup>CG</sup> (COR)

Introduced by:

R. Klitzkie   
Mark Forbes   
J.M.S. Brown   
L.F. Kasperbauer   
J.A. Lujan   
Ray Tenorio   
E.B. Calvo   
A.R. Unpingco   
M. Cruz 

**AN ACT TO ADD A NEW CHAPTER 16 TO 18 GCA; TO  
ADD A NEW ITEM (q) TO 4 GCA §8104; TO ADD A NEW  
SECTION (r) TO 4 GCA; TO REPEAL AND REENACT  
§8113 OF 4 GCA; TO AMEND §8130 OF 4 GCA; TO  
ENABLE GOVERNMENT EMPLOYEES TO BECOME  
FULL PARTICIPANTS IN THE FREE ENTERPRISE  
SYSTEM, TO PROVIDE FOR EMPLOYEE-OWNED  
COMPANIES (EOC) AND TO ENACT THE EMPLOYEE-  
OWNED COMPANY LAW AND FOR OTHER PURPOSES**

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

**Legislative Intent**

Hard economic times dictated that certain government functions be outsourced. Workers ought to be empowered to seize the opportunities presented by outsourcing to improve their economic lot.

When government functions are outsourced, government employees ought to have the opportunity to share in the profits created by their labor, to become their own bosses and otherwise share in the benefits of capitalism and free enterprise. When government functions are outsourced, government of Guam employees should be encouraged to form companies and bid on the outsourcing contracts.

1 To that end, the legislature has created a new business designation, Employee-Owned  
2 Companies (EOC), for companies organized by employees whose jobs will be subject to  
3 outsourcing. The legislature declares that it is the policy of the law that government employees  
4 be encouraged to form these companies and bid on outsourcing contracts. In order to facilitate  
5 EOC's bidding on outsourcing contracts, the legislature has made certain parts of the  
6 Procurement Law inapplicable to EOC's.

7  
8 The retirement law is an important fringe benefit that must be revised to comport with the new  
9 realities of government employment but not at the expense of the actuarial soundness of the fund.  
10 It is the intent that EOC employees may under certain circumstances remain members of the  
11 Government of Guam Retirement Fund. As an alternative, former employees should have  
12 immediate access to their contributions to the fund.

### 13 **Table of Contents**

14 Section 1. Adds new Chapter 16 to 18 GCA, Employee-Owned Company.

15 Section 2. Adds new item (q) to 4 GCA §8104, definition of displaced employee.

16 Section 3. Adds new section (r) to 4 GCA §8104, definition of subsequent nongovernmental  
17 service.

18 Section 4. Repeals and reenacts 4 GCA §8113, Subsequent Nongovernmental Service.

19 Section 5. Amends §8130 of 4 GCA, refund on separation.

20  
21 **Section 1. Employee-Owned Company. A new chapter 16 is added to 18 GCA to**  
22 **read:**

#### 23 Chapter 16 Employee-owned Companies

24 Section 16000. Citation. This Chapter may be cited as the Employee-Owned Company  
25 Law.

26 Section 16001. Policy of the law. It is the policy of the law that government employees  
27 must have the opportunity to put their hard work, dedication and enterprise to work so that they  
28 may take full advantage of their hard work. When government functions are outsourced,  
29 government employees ought to have the opportunity to share in the profits created by their  
30 labor, to become their own bosses and otherwise share in the benefits of capitalism and free

1 enterprise. When government functions are outsourced, government of Guam employees should  
2 be encouraged to form companies and bid on the outsourcing contracts.

3  
4 Section 16002. Employee-owned companies. In this Chapter *Employee-Owned Company*  
5 (EOC) means any form of business organization described in this title that is formed and  
6 organized by government of Guam employees whose jobs may be *privatized* or *outsourced*.

7  
8 Section 16003. Same: name. The name of an *employee-owned company* shall contain the  
9 letters EOC.

10  
11 Section 16003. Same: ownership. Regardless of the business form of an EOC the  
12 majority of the ownership and control of an EOC must, at the time of its formation and for five  
13 years thereafter, be held by *displaced employees*.

14  
15 Section 16004. Same: conflict of interest. The provisions of 5 GCA §§5626, 5628, 5632  
16 and 5633 shall not apply to an EOC or its owners when the EOC is attempting to acquire or  
17 participate in a contract with the government to provide services that have been or will be  
18 *privatized* or *outsourced*.

19  
20 Section 16005. Small Business Development Center. The Small Business Development  
21 Center of the University of Guam shall develop a program to assist employees in the formation  
22 EOC's.

23 **Section 2. Definition of displaced employee. A new item (q) is added to 4 GCA §8104**  
24 **to read:**

25 (q) *Displaced employee* means an employee who had been employed by an entity of the  
26 government that was outsourced or privatized and the employment was terminated as a result of  
27 the *outsourcing* or *privatization*.

1           **Section 3. Definition of subsequent nongovernmental service. A new section (r) is**  
2 **added to 4 GCA §8104 to read:**

3           **(r)** *Subsequent Nongovernmental Service* shall mean paid employment with the employer  
4 that, by-means-of outsourcing or privatizing, assumed the function or functions that a *displaced*  
5 *employee* was employed by the government of Guam to accomplish.

6  
7           **Section 4. Subsequent nongovernmental service. 4 GCA §8113 is repealed and**  
8 **reenacted to read:**

9           § 8113. Same: Subsequent Nongovernmental Service.

10          Any employee who shall have been employed by the government of Guam for a period of  
11 ten (10) years or more and who is a member of the Fund, who is about to become a *displaced*  
12 *employee*, as that term is defined in 4 GCA §8104(q), who has not terminated his membership in  
13 the Fund may be allowed credit for up to five years *Subsequent Nongovernmental Service*  
14 provided that he pays to the Fund, during the time he is earning that credit, the member's and  
15 employer's contributions in biweekly payments in the amounts that would have been paid had  
16 this employment been with the government of Guam. Contributions shall be made at such times  
17 and in such manner as the Board by rule directs. An employee must elect, in such manner as  
18 required by the Board, *Subsequent Nongovernmental Service* prior to his last day of employment  
19 with the government of Guam.

20  
21          **Section 5. Refund on separation. §8130 of 4GCA (a) is amended to read:**

22          § 8130. Refund on Separation.

23          **(a)** Upon complete separation from service before a member shall have completed at least  
24 twenty (20) years of total service, the member shall be entitled to receive a refund of his total  
25 contributions, including regular interest, but no payment of interest shall be  
26 made in any case in which total service is less than one (1) year. Total contributions shall include  
27 all contributions made by a member to obtain various types of credit authorized by this Chapter.

28          Any member who withdraws after having completed at least five (5) years total service  
29 shall have the option of leaving his contributions in the Fund and receiving a service retirement



1 annuity upon attainment of the age of sixty (60) years without choice of any of the optional  
2 survivors" benefits herein under described.

3 If such member has less than twenty (20) years of total service, he may elect to receive  
4 his contributions, with regular interest, as herein above provided, in lieu of the service retirement  
5 annuity. If his total service is twenty (20) years or more, the acceptance of such deferred  
6 retirement annuity payment beginning at the age of sixty (60) years, shall be mandatory as to  
7 such member-, provided, however, that a *displaced employee* may elect to receive his  
8 contributions, with regular interest, as herein above provided notwithstanding that his total  
9 service is twenty (20) years or more.

10 Any member receiving a refund of contributions shall thereby forfeit, waive and  
11 relinquish all accrued rights and benefits in the system, including all credited and creditable  
12 service. The Board may, in its discretion regardless of cause, withhold payment of a refund for a  
13 period not to exceed one (1) year after receipt of an application from a member- provided,  
14 however, that the Board shall pay a refund to a *displaced employee* upon receipt of his  
15 application.