


I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 228-32 (LS)

Introduced by:

Michael F.Q. San Nicolas 

**AN ACT TO EXEMPT BENEFICIARIES OF THE
DEFINED BENEFIT RETIREMENT PLAN FROM THE
SUSPENSION OF THEIR ANNUITY PAYMENTS FOR
LIMITED TERM APPOINTMENTS AS SCHOOL BUS
DRIVERS OR AUTOMOTIVE MECHANICS, BY
AMENDING SUBSECTION (a) OF §8121, ARTICLE 1,
CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED.**

2013 NOV 26 PM 5:14



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

2 **Section 1. Short Title.** This Act *shall* be cited as the “Responsible Retired
3 School Bus Driver and Automotive Mechanic Re-employment Act.”

4 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
5 that the Department of Public Works currently has a fleet of one hundred thirty-
6 eight (138) school buses. In the near future, it is expected that the fleet will expand
7 to approximately one hundred fifty (150) school buses. Currently, the Department
8 of Public Works has difficulty in maintaining sufficient bus drivers to operate the
9 full complement of buses owned by the Territory and keeping much of the bus
10 fleet operational. Recently, the newly-expanded fleet has been operating with
11 around one hundred ten school buses. The automotive mechanics employed by the
12 Department face a large workload, so unexpected mechanical failures or damage to
13 buses can have significant impacts on the transportation of public and private
14 school students.

15 *I Liheslaturan Guåhan* further finds that Subsection (a) of §8206, Chapter 8,

1 Title 4, Guam Code Annotated, provides that some retirees may be re-employed,
2 provided that the retirement annuity is suspended. Many retirees view this as a
3 disincentive to return to government service. Some exceptions to this include
4 certain Judges, persons employed at Department of Education schools, certain
5 licensed health professionals, faculty of the University of Guam and Guam
6 Community College, limited term police officers, unclassified appointees of the
7 Governor, employees of the Office of the Governor and Lieutenant Governor and
8 heads of autonomous agencies appointed by a governing board. School Bus
9 Drivers and Automotive Mechanics are not included in this exempt class, so if they
10 return to work for the Department of Public Works, they would be required to
11 forgo their regular retirement annuity payment, which would be a considerable
12 barrier to re-employment with the Department.

13 Therefore, it is the intent of *I Liheslaturan Guåhan* to permit the limited
14 term appointment of government of Guam retirees to work as School Bus Drivers
15 or Automotive Mechanics and allow such retiree to continue to receive his or her
16 regular retirement annuity payment.

17 **Section 3. Suspension of Annuity Payment.** Subsection (a) of §8121,
18 Article 1, Chapter 8, Title 4, Guam Code Annotated is hereby *amended*, to read:

19 “(a) A retired member who subsequently becomes an employee
20 eligible for membership under §8106 of this Title prior to January 1, 1999,
21 *shall*, upon becoming so employed, have that member’s right to receive
22 payment of that member’s annuity suspended for the duration of that
23 member’s employment, but all other rights pertaining to that member’s
24 annuity provided by this Article, including automatic increases therein, *shall*
25 be retained by that member. The provisions of this Section *shall* not be
26 applicable to any retired Judge or Justice designated and assigned by the
27 Chief Justice to perform judicial duties in the courts of Guam as provided for

1 in §6115 of Title 7 GCA, or any person employed by the Department of
2 Education in Guam schools, as a substitute teacher or as a Certified
3 Augmentation Teaching Service (CATS) employee as that term is defined
4 by Title 17 GCA § 3127(b). Such employment *shall* be subject to the
5 provisions of Subsection (d) of this Section.

6 The provisions of this Section *shall* not be applicable to any certified,
7 registered or licensed health care professional, or ancillary service personnel,
8 employed by the Guam Memorial Hospital Authority, the Department of
9 Mental Health and Substance Abuse, the Department of Public Health and
10 Social Services, academic faculty positions at the University of Guam and
11 the Guam Community College, ~~or~~ a limited term police officer employed by
12 the Guam Police Department to include Police Officers I, II, III and Sergeant
13 I & II, performing duties such as patrol officers, narcotic officers, criminal
14 investigators and school resource officers, or limited term School Bus
15 Drivers or Automotive Mechanics employed by the Department of Public
16 Works; provided, that such person(s) occupies such positions for which no
17 other qualified/certified applicants was available, and that such employment
18 *shall* be on a fiscal year basis; subject to the provisions of Subsection (d) of
19 this Section.

20 The provisions of this Section *shall* not be applicable to employee(s)
21 of the Office of the Governor, employee(s) of the Office of the Lieutenant
22 Governor, unclassified employee(s) appointed by the Governor of Guam,
23 and heads of autonomous agencies appointed by a governing board. An
24 employee of the Governor or Lieutenant Governor's office or unclassified
25 employee appointed by the Governor of Guam and heads of autonomous
26 agencies appointed by a governing board who has previously retired *shall*
27 become a member of the Defined Contribution Retirement System.”