


I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN

2014 (SECOND) Regular Session

Bill No. 352-32(LS)

Introduced By:

T.C. Ada 

2014 JUN 13 PM 4:58 

AN ACT TO ADD A NEW §3104 TO CHAPTER 3, TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO THEREINSTATEMENT OF CHIEF OF POLICE AND FIRE CHIEF TO PREVIOUS CLASSIFIED POSITION UPON EXPIRATION OF APPOINTMENT, AND TO ESTABLISH AN ALTERNATIVE COMPENSATION LEVEL FOR THE CHIEF POSITION.

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

2 **Section 1. Legislative Finding and Intent.** *I Liheslaturan Guåhan*
3 finds that, §3105 of Chapter 3, Title 5 of the Guam Code Annotated
4 establishes specific qualifications and criteria for the Fire Chief position in
5 the Guam Fire Department. The criteria essentially requires that the
6 candidate be, or have been, a career employee with either a local or federal
7 fire department possessing no less than 10-years of experience in fire control
8 or prevention, and have served as a Battalion Chief for a minimum of two
9 (2) years.

10 *I Liheslaturan Guåhan* further finds that §77109 of Chapter 77, Title
11 10 of the Guam Code Annotated similarly establishes specific qualifications
12 and criteria for the Police Chief position in the Guam Police Department.
13 The criteria essentially requires that the candidate be, or have been, a career

1 employee with either a local or federal law enforcement agency possessing
2 no less than fifteen (15) years of law enforcement experience, and have
3 served at least five (5) years in a senior management position.

4 *I Liheslaturan Guåhan* further finds that the annual income of
5 eligible candidates, who are still in active service, is substantially more than
6 the salary level established for the Chief positions. Consequently, despite a
7 desire to serve in the capacity of Fire or Police Chief, the prospective
8 candidate would incur a significant loss of income if nominated and
9 confirmed. The loss of pay is a factor sufficient to deter most (active)
10 eligible candidates from wanting to even be considered.

11 *I Liheslaturan Guåhan* further finds that an active employee selected
12 to fill the position of Chief is not guaranteed reinstatement to his previous
13 classified position upon expiration of his appointment. This would be
14 another significant economic disincentive for prospective candidates who
15 have not yet satisfied service requirements for retirement, and would deter
16 qualified candidates from considering a nomination.

17 *I Liheslaturan Guåhan* intends to authorize the use of a 3-year
18 income average as the compensation level for an active classified employee
19 who is nominated for Fire Chief or Police Chief, if it is higher than the
20 established compensation level for the position of Chief. Additionally, a
21 new §3104 will be added to address the reinstatement issue.

22
23 **Section 2. §3105 of Chapter 3, Title 5 of the Guam Code**
24 **Annotated is hereby amended as follows:**

25 “§ 3105. Guam Fire Department.

26 There is within the Executive Branch of the government of Guam a
27 Guam Fire Department. The Fire Chief is the head of the Department.

28 1. The Fire Chief is appointed by the Governor with the advice and
29 consent of the Legislature. The Fire Chief shall meet the following
30 qualifications:

1 (a) ~~(1)~~ Must have a bachelor's degree in Fire Science or Public
2 Administration or closely related field or discipline at an accredited
3 institution; and

4 ~~(b)(2)~~ Have at least ten years of experience in fire control including
5 control and extinguishment of fires and fire prevention, of which two
6 years must be served in a position equivalent to Battalion Chief or
7 higher; or

8 ~~(b)(1)~~ (c) Must have an associate's degree in Fire Science or closely
9 related field or discipline at an accredited institution; and

10 ~~(2)~~ (d) Have at least 15 years experience in fire control, including
11 control and extinguishment of fires and fire prevention, of which four
12 years must be served in a position equivalent to Battalion Chief or
13 higher.

14 2. Compensation of Fire Chief. Notwithstanding any other provision
15 of law, a person appointed by the Governor and confirmed by the
16 Legislature, to be Fire Chief, and who at the time of appointment is an active
17 member of the classified service shall receive a salary established by the
18 Government of Guam compensation schedule for heads of agencies, or a
19 salary equivalent to the three (3) year average of the annual income earned
20 immediately prior to appointment as Fire Chief, whichever is greater.

21
22 **Section 3. A new §3104 is hereby *added* to Chapter 3 of Title 5 of**
23 **the Guam Code Annotated, to read:**

24 **“§3104. Reinstatement of Fire Chief to Previous Position or**
25 **Position Qualified for.**

1 Notwithstanding any other provision of law, a person who is an
2 active classified employee of the Guam Fire Department immediately
3 prior to appointment by the Governor and confirmation by the
4 Legislature to be Fire Chief shall, if not removed for cause, be
5 reinstated to the position he or she previously held immediately prior
6 to such appointment, or to an equivalent position, or to a position for
7 which he or she qualifies for upon the expiration of their appointment
8 as Fire Chief.”

9
10 **Section 4. §77109 of Chapter 77, Title 10 of the Guam Code**
11 **Annotated is hereby amended to read:**

12 **“§ 77109 Appointment of the Chief of Police.**

13 1. The Chief of Police shall be appointed by I Maga’lahen
14 Guåhan with the advice and consent of I Liheslaturan Guåhan and
15 shall meet the following qualifications:

16 (a) be at least thirty-five (35) years of age;

17 (b) have no less than fifteen (15) years of progressive
18 experience in a government law enforcement position,
19 including at least five (5) years at the supervisory command
20 level, and five (5) years in a senior position with law
21 enforcement management responsibilities, or equivalent
22 executive management experience in the field of Public
23 Administration, Criminal Justice Administration, or Law, or a
24 closely related field or discipline;

25 (c) graduated with a Bachelor’s Degree or higher in
26 Police Science, Criminal Justice Administration, Public

1 Administration, Law, or closely related field or discipline from
2 an accredited institution recognized by the Council for Higher
3 Education Accreditation (CHEA) or its successors;

4 (d) have no felony, domestic or family violence
5 convictions;

6 (e) have no misdemeanor convictions involving moral
7 turpitude;

8 (f) submit to and pass a drug screening test, including,
9 but not limited to, urinalysis testing, unless the appointee is a
10 current employee of the Guam Police Department occupying a
11 Test-Designated Position (TDP) pursuant to the Department's
12 Drug-Free Workplace Program; (g) be of good health and good
13 moral character;

14 (h) submit to psychological testing;

15 (i) submit to a polygraph examination; and

16 (j) submit to a thorough investigation of his or her
17 background
18 and moral character.

19 2. Compensation of Police Chief. Notwithstanding any other
20 provision of law, a person appointed by the Governor and confirmed
21 by the Legislature, to be Chief of Police, and who at the time of
22 appointment is an active member of the classified service shall receive
23 a salary established by the Government of Guam compensation
24 schedule for heads of agencies, or a salary equivalent to the three (3)
25 year average of the annual income earned immediately prior to
26 appointment as Chief of Police, whichever is greater. ”

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Section 5. A new §77109.1 is hereby added to Chapter 77 of Title 10 of the Guam Code Annotated to read as follows:

“77109.1. Reinstatement of Police Chief to Classified Service. A person who is an active classified employee of the Guam Police Department immediately prior to appointment by the Governor and confirmation by the Legislature, to be Police Chief, shall be reinstated to the position he or she previously held immediately prior to such appointment or to an equivalent position or position qualified for, upon expiration of appointment as Police Chief, and if not removed for cause.”

Section 6. Severability. If any provision of this Law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Law which can be given effect without the invalid provisions or application, and to this end the provisions of this Law are severable.

Section 7. Effective Date. Notwithstanding any other provision of law, upon enactment, this Act shall be effective retroactively to January 1, 2011.