

I Mina'Trentai Kuáttro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
301-34 (COR)	FRANK B. AGUON, JR.	AN ACT TO <i>AMEND</i> §§ 4501, 4502, AND SUBSECTION (a) OF § 4503, ALL OF ARTICLE 5, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, TO <i>REPEAL</i> SUBSECTION (b) OF § 4503 OF ARTICLE 5, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, TO <i>AMEND</i> SUBSECTION (a) OF § 4504, SUBSECTION (a) OF § 4504.1, § 4505, AND § 4506, ALL OF ARTICLE 5, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, TO <i>REPEAL</i> § 4706 OF ARTICLE 7, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, TO <i>ADD</i> A NEW § 4509 TO ARTICLE 5 OF CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO PROTECTING PUBLIC EMPLOYEES WHO EXPOSE OR WILL EXPOSE GOVERNMENT CORRUPTION IN ANY FORM.	6/14/18 9:52 a.m.						

I MINA' TRENTAI KUATTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

Bill No. 301-34 (COR)

Introduced by:

FRANK B. AGUON, JR.



AN ACT TO AMEND §§ 4501, 4502, AND SUBSECTION (a) OF § 4503, ALL OF ARTICLE 5, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, TO REPEAL SUBSECTION (b) OF § 4503 OF ARTICLE 5, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, TO AMEND SUBSECTION (a) OF § 4504, SUBSECTION (a) OF § 4504.1, § 4505, AND § 4506, ALL OF ARTICLE 5, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, TO REPEAL § 4706 OF ARTICLE 7, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, TO ADD A NEW § 4509 TO ARTICLE 5 OF CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO PROTECTING PUBLIC EMPLOYEES WHO EXPOSE OR WILL EXPOSE GOVERNMENT CORRUPTION IN ANY FORM.

2018 JUN 14 AM 9:52 

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that a
3 tidal wave of corruption has swept over our government and it is necessary to recognize,
4 encourage, and protect those brave individuals that expose or will expose government
5 corruption in any form. Furthermore, the current statute must be expanded to include
6 protection from retaliatory actions of unfavorable or inequitable treatment against an
7 employee disclosing information of government corruption.

8 Therefore, it is the intent of *I Liheslatura* to expand and protect public employees
9 who expose or will expose government corruption from retaliatory actions of
10 unfavorable or inequitable treatment from a supervisor or Agency.

1 **Section 2.** § 4501 of Article 5, Chapter 4, Title 4, Guam Code Annotated, is
2 hereby *amended*, to read:

3 “I Liheslaturan Guåhan ~~The Guam Legislature~~ finds that the people of
4 Guam are entitled to information about the workings of the government in order
5 to reduce the waste and mismanagement of public funds, to reduce abuses in
6 government authority, and to prevent illegal and unethical practices. *I*
7 Liheslaturan Guåhan ~~The Guam Legislature~~ further finds that employees of the
8 government of Guam are citizens first and have a right and a responsibility to
9 behave as good citizens in our common efforts to provide sound management of
10 governmental affairs. To help achieve these objectives, *I Liheslaturan Guåhan*
11 ~~the Guam Legislature~~ finds that such employees should be encouraged to disclose
12 information on actions of agencies that are not in the public interest and that
13 legislation is needed to ensure that any employee making such disclosures shall
14 not be subject to disciplinary measures or harassment by any public official.
15 *I Liheslaturan Guåhan* further finds that a tidal wave of corruption has swept
16 over our government and it is necessary to recognize, encourage and protect those
17 brave individuals who expose or will expose government corruption in any
18 form.”

19 **Section 3.** § 4502 of Article 5, Chapter 4, Title 4, Guam Code Annotated, is
20 hereby *amended*, to read:

21 “**§ 4502. Definitions.** As used in this Article, unless the context otherwise
22 requires:

23 (a) Agency means any board member or members, commission member
24 or members, department, division, section or other agency of the Executive,
25 Legislative or Judicial Branch of the government of Guam.

1 (b) Disciplinary action means any direct or indirect form of discipline or
2 penalty, including, but not limited to, dismissal, demotion, transfer,
3 reassignment, suspension, corrective action, reprimand, admonishment,
4 unsatisfactory or below standard performance evaluation, reduction in force, or
5 withholding of work, or the threat of any such discipline or penalty.

6 (c) Disclosure of information means the written provision of evidence to
7 any person, or the testimony before any committee of the Guam Legislature,
8 regarding any action, policy, regulation, practice or procedure, including, but not
9 limited to, the waste of public funds, abuse of authority or mismanagement of
10 any agency.

11 (d) Employee or Board member means any person employed or appointed
12 in the classified, unclassified or contractual service of the government of Guam.

13 (e) Personnel Board means the Civil Service Commission, the Judicial
14 Council or other government entity charged with hearing the appeal of a
15 classified employee pursuant to § 4105 of this Chapter or under the personnel
16 rules governing such employee.

17 (f) Supervisor means any board member or members, commission member
18 or members, department head, division head or other person who supervises or is
19 responsible for the work of one (1) or more employees.”

20 **Section 4.** Subsection (a) of § 4503, Article 5, Chapter 4, Title 4, Guam Code
21 Annotated, is hereby *amended*, to read:

22 “**§ 4503. Retaliation Prohibited.** (a) ~~Except as provided in Subsection (b)~~
23 ~~of this Section, n~~No appointing authority or supervisor shall initiate or administer
24 any disciplinary action, or unfavorable or inequitable treatment against an
25 employee on account of the employee’s disclosure of information. This Section
26 shall not apply to:

1 (1) An employee who discloses information that he knows to be false or
2 who discloses information with reckless disregard for the truth or falsity thereof;

3 (2) An employee who discloses information from public records which are
4 closed to public inspection pursuant to Chapter 10 of Title 5, Guam Code
5 Annotated;

6 (3) An employee who discloses information which is confidential under
7 any other provision of law.”

8 **Section 5.** Subsection (b) of § 4503 of Article 5, Chapter 4, Title 4, Guam Code
9 Annotated, is hereby *repealed*.

10 ~~“(b) It shall be the obligation of an employee who wishes to disclose~~
11 ~~information under the protection of this Article to make a good faith effort to~~
12 ~~provide to his supervisor or appointing authority or member of the Guam~~
13 ~~Legislature the information to be disclosed prior to the time of its disclosure.”~~

14 **Section 6.** Subsection (a) of § 4504, Article 5, Chapter 4, Title 4, Guam Code
15 Annotated, is hereby *amended* to read:

16 **“§ 4504. Complaints by Classified Employees.** (a) Any employee in the
17 classified service may file a written complaint with the personnel board alleging
18 a violation of § 4503 of this Article, ~~if the employee demonstrates that reasonable~~
19 ~~communication to his supervisor, appointing authority or member of the Guam~~
20 ~~Legislature has occurred in regard to the alleged violation.~~ The personnel board
21 shall cause an investigation to be made of the charges in the complaint. If the
22 investigation establishes that there is a reasonable basis for the charges, the
23 appointing authority or supervisor shall be given written public notice thereof.
24 Within ten (10) days after he receives such notice, the appointing authority or
25 supervisor may petition the personnel board for a hearing on the matter, and the
26 personnel board shall grant such hearing.”

1 **Section 7.** Subsection (a) of § 4504.1, Article 5, Chapter 4, Title 4, Guam Code
2 Annotated, is hereby *amended* to read:

3 “**§ 4504.1. Complaints by Unclassified Employees.** (a) It shall be a
4 misdemeanor to take any disciplinary action, or unfavorable or inequitable
5 treatment as defined in § 4502(b) of this Chapter, against any unclassified
6 employee who discloses to a superior, a local or federal law enforcement officer,
7 the Attorney General’s Office, or a member or committee of I Liheslaturan
8 Guåhan of any form of waste, abuse of policy, abuse of public trust, fraud or
9 criminal acts by any employee of the government of Guam. If there are two (2)
10 or more violations of this Section, the offense shall be a third degree felony. Any
11 person who is complicit in or abets such disciplinary action commits a violation
12 of Chapter 13 of Title 9, Guam Code Annotated. Any person who obstructs or
13 hinders an investigation of any violation or potential violation of this Section
14 commits a violation of Chapter 55 of Title 9, Guam Code Annotated.”

15 **Section 8.** § 4505 of Article 5, Chapter 4, Title 4, Guam Code Annotated, is
16 hereby *amended* to read:

17 “**§ 4505. Civil Action.** Any employee not in the classified service, or any
18 employee in the classified service who has filed a complaint under § 4504 (a) but
19 no reasonable basis was found for the charges, may bring a civil action in ~~the~~
20 ~~District Court~~ a court of competent jurisdiction alleging a violation of § 4503 of
21 this Article. If the employee prevails, the employee may recover damages,
22 together with court costs, and the court may order such other relief as it deems
23 appropriate.”

24 **Section 9.** § 4506 of Article 5, Chapter 4, Title 4, Guam Code Annotated, is
25 hereby *amended* to read:

1 **“§ 4506. Notice to Public Auditor, and the Treasurer of Guam.**

2 Whenever the personnel board finds that a violation of § 4503 of this Article
3 involving the disclosure of information concerning waste of public funds or
4 mismanagement of an agency has occurred, it shall transmit a copy of the
5 investigation report to the public auditor and the Treasurer of Guam, who shall
6 proceed in accordance with § 1908 and § 1909 of Title 1, Guam Code Annotated.
7 Any person found guilty of violating § 4503 of this Article shall be guilty of a
8 misdemeanor.”

9 **Section 10.** § 4706 of Article 7, Chapter 4, Title 4, Guam Code Annotated, is
10 hereby *repealed*.

11 ~~“§ 4706. Whistle-Blower Protection. No person, including witnesses and~~
12 ~~counselors, and confidants of the victim; who reports any incident of sexual~~
13 ~~harassment, or suspected sexual harassment, to a supervisor, agency head,~~
14 ~~director, the Department of Administration, the Civil Service Commission, the~~
15 ~~Guam Attorney General, or a law enforcement agency of the government of~~
16 ~~Guam, or of the United States, shall suffer any loss of wages, title or position or~~
17 ~~employment as a result of such report.”~~

18 **Section 11.** A new § 4509 hereby *added* to Article 5 of Chapter 4, Title 4, Guam
19 Code Annotated, to read:

20 **“§ 4509. Whistle-Blower Protection.** No person, including witnesses and
21 counselors, and confidants of the victim; who reports or publicly reports any
22 incident of sexual harassment, or suspected sexual harassment, or discloses
23 information of government corruption to a supervisor, agency head, director, the
24 Department of Administration, the Civil Service Commission, the Guam
25 Attorney General, or a law enforcement agency of the government of Guam, or

1 of the United States, shall suffer any loss of wages, title or position or
2 employment as a result of such report.”