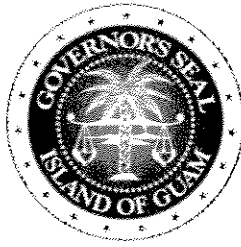


I Mina'Trentai Dos Na Liheslaturan Received
Bill Log Sheet

| BILL NO. | SPONSOR | TITLE | DATE INTRODUCED | DATE REFERRED | CMTE REFERRED | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | FISCAL NOTES |
|----------------------------------|--|---|---------------------|---------------|--|---|-----------------------------|--|
| 253-32 (COR), P.L. 32-137 | Frank B. Aguon, Jr. T.C. Ada Vicente (ben) C. Pangelinan | AN ACT TO AMEND §30113 OF CHAPTER 30, TITLE 5, GUAM CODE ANNOTATED RELATIVE TO THE EXCLUSION OF ATTORNEYS EMPLOYED IN THE DEPARTMENT OF LAW WHO SERVES IN THE GUARD AND/OR RESERVE UNDER TITLE 10 OR TITLE 32 OF THE U.S. CODE. | 1/7/14 4:16 p.m. | 01/07/14 | Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land | 02/10/14 9a.m. | 4/9/14 9:22 a.m. | Fiscal Note Requested 01/08/14 Fiscal Note Waiver Received 2/18/14 |
| | DATE PASSED | TITLE | TRANSMITTED | | DUE DATE | <small>DATE SIGNED BY I MAGA'LAHEN GUAHAN</small> | PUBLIC LAW NO. | NOTES |
| | 4/15/2014 | AN ACT TO REPEAL AND REENACT § 30113 OF CHAPTER 30, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE EXCLUSION OF ATTORNEYS EMPLOYED IN THE DEPARTMENT OF LAW WHO SERVE IN THE GUARD AND/OR RESERVE UNDER TITLE 10 OR TITLE 32 OF THE U.S. CODE. | 4/15/14 | 8:10 p.m. | 4/26/14 | 4/17/2014 | 32-137 | As amended by the committee on Appropriations, Public Debt, Legal Affaris, Retirement, Public Parks, Recreation, Historic Preservation, and Land; and further amended on the Floor. |



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam.

APR 17 2014

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Dos Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

32-14-1542
Date 4.21.14
Time 9:21 am
Received by: J

Dear Madame Speaker:

Transmitted herewith is Bill No. 253-32 (COR) "AN ACT TO REPEAL AND REENACT § 30113 OF CHAPTER 30, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE EXCLUSION OF ATTORNEYS EMPLOYED IN THE DEPARTMENT OF LAW WHO SERVE IN THE GUARD AND/OR RESERVE UNDER TITLE 10 OR TITLE 32 OF THE U.S. CODE" which I signed into law on April 17, 2014 as Public Law 32-137.

Senseramente,


EDDIE BAZA CALVO

2014 APR 21 AM 9:46

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

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

This is to certify that **Bill No. 253-32 (COR)**, "AN ACT TO *REPEAL AND REENACT* § 30113 OF CHAPTER 30, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE EXCLUSION OF ATTORNEYS EMPLOYED IN THE DEPARTMENT OF LAW WHO SERVE IN THE GUARD AND/OR RESERVE UNDER TITLE 10 OR TITLE 32 OF THE U.S. CODE," was on the 15th day of April, 2014, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

Attested:



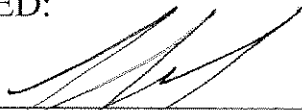
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 15th day of April,
2014, at 8:10 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: APR 17 2014

Public Law No. 32-137

I MINA'TRENTAI DOS NA LIHESLATURAN GUÁHAN
2014 (SECOND) Regular Session

Bill No. 253-32 (COR)

As amended by the Committee on Appropriations,
Public Debt, Legal Affairs, Retirement, Public Parks,
Recreation, Historic Preservation, and Land; and further
amended on the Floor.

Introduced by:

FRANK B. AGUON, JR.
T. C. Ada
Vicente (ben) C. Pangelinan
Judith T. Won Pat, Ed.D.
T. R. Muña Barnes
V. Anthony Ada
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.

**AN ACT TO *REPEAL* AND *REENACT* § 30113 OF
CHAPTER 30, TITLE 5, GUAM CODE ANNOTATED,
RELATIVE TO THE EXCLUSION OF ATTORNEYS
EMPLOYED IN THE DEPARTMENT OF LAW WHO
SERVE IN THE GUARD AND/OR RESERVE UNDER
TITLE 10 OR TITLE 32 OF THE U.S. CODE.**

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

2 **Section 1.** § 30113 of Chapter 30, Title 5, Guam Code Annotated, as
3 amended by Public Law 31-077:XII:39, is hereby *repealed* and *reenacted* to read
4 as follows:

1 “§ 30113. **Outside Employment Regulated.** Neither the Attorney
2 General nor any person employed in the Department of Law shall engage in
3 any outside employment which shall conflict with his duties within the
4 Department of Law. Attorneys employed as classified or unclassified
5 attorneys in the Department of Law, or any attorney employed as classified
6 or unclassified attorneys by any government of Guam agency, department or
7 instrumentality, including semi-autonomous or autonomous agencies or
8 branch of the government of Guam *shall not* engage in the practice of law
9 outside of the Department of Law, or the agency, department,
10 instrumentality or branch of the government of Guam, *unless* the attorney is
11 exempted from this restriction because the attorney is a member of the U.S.
12 military armed forces or U.S. Coast Guard serving actively, or serving in the
13 reserves, or state or territorial guard; or *unless* the attorney is exempted from
14 this restriction because the attorney is performing pro bono service, or
15 teaching or training that is approved by the Attorney General or by the head
16 or director of the agency, department, instrumentality or branch of the
17 government of Guam.”

18 **Section 2. Effective Date.** The repeal and reenactment made by Section 1
19 of this Act *shall* apply to all cases, without exception, that are or may be pending
20 on, or commenced on or after, the date of the enactment of this Act.

21 **Section 3. Severability.** *If* any provision of this law or its application to
22 any person *or* circumstance is found to be invalid or contrary to law, such
23 invalidity *shall not* affect other provisions *or* applications of this law which can be
24 given effect without the invalid provisions or application, and to this end the
25 provisions of this law are severable.



FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

April 15, 2014

The Honorable Edward J.B. Calvo
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear *Maga'lahi* Calvo:

Transmitted herewith is Bill No. 253-32 (COR) which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on April 15, 2014.

Sincerely,

TINA ROSE MUÑA BARNES
Legislative Secretary

Enclosure (1)

8:10pm 4/15/2014

Leonard Reyes

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

FILE

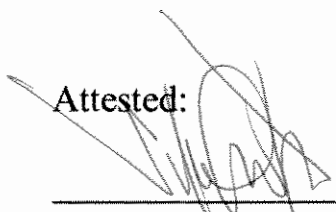
CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Bill No. 253-32 (COR)**, "AN ACT TO *REPEAL AND REENACT* § 30113 OF CHAPTER 30, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE EXCLUSION OF ATTORNEYS EMPLOYED IN THE DEPARTMENT OF LAW WHO SERVE IN THE GUARD AND/OR RESERVE UNDER TITLE 10 OR TITLE 32 OF THE U.S. CODE," was on the 15th day of April, 2014, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this _____ day of _____, 2014, at _____ o'clock _____.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 253-32 (COR)

As amended by the Committee on Appropriations,
Public Debt, Legal Affairs, Retirement, Public Parks,
Recreation, Historic Preservation, and Land; and further
amended on the Floor.

Introduced by:

FRANK B. AGUON, JR.
T. C. Ada
Vicente (ben) C. Pangelinan
Judith T. Won Pat, Ed.D.
T. R. Muña Barnes
V. Anthony Ada
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.

**AN ACT TO *REPEAL* AND *REENACT* § 30113 OF
CHAPTER 30, TITLE 5, GUAM CODE ANNOTATED,
RELATIVE TO THE EXCLUSION OF ATTORNEYS
EMPLOYED IN THE DEPARTMENT OF LAW WHO
SERVE IN THE GUARD AND/OR RESERVE UNDER
TITLE 10 OR TITLE 32 OF THE U.S. CODE.**

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

2 **Section 1.** § 30113 of Chapter 30, Title 5, Guam Code Annotated, as
3 amended by Public Law 31-077:XII:39, is hereby *repealed* and *reenacted* to read
4 as follows:

1 “§ 30113. **Outside Employment Regulated.** Neither the Attorney
2 General nor any person employed in the Department of Law shall engage in
3 any outside employment which shall conflict with his duties within the
4 Department of Law. Attorneys employed as classified or unclassified
5 attorneys in the Department of Law, or any attorney employed as classified
6 or unclassified attorneys by any government of Guam agency, department or
7 instrumentality, including semi-autonomous or autonomous agencies or
8 branch of the government of Guam *shall not* engage in the practice of law
9 outside of the Department of Law, or the agency, department,
10 instrumentality or branch of the government of Guam, *unless* the attorney is
11 exempted from this restriction because the attorney is a member of the U.S.
12 military armed forces or U.S. Coast Guard serving actively, or serving in the
13 reserves, or state or territorial guard; or *unless* the attorney is exempted from
14 this restriction because the attorney is performing pro bono service, or
15 teaching or training that is approved by the Attorney General or by the head
16 or director of the agency, department, instrumentality or branch of the
17 government of Guam.”

18 **Section 2. Effective Date.** The repeal and reenactment made by Section 1
19 of this Act *shall* apply to all cases, without exception, that are or may be pending
20 on, or commenced on or after, the date of the enactment of this Act.

21 **Section 3. Severability.** *If* any provision of this law or its application to
22 any person *or* circumstance is found to be invalid or contrary to law, such
23 invalidity *shall not* affect other provisions *or* applications of this law which can be
24 given effect without the invalid provisions or application, and to this end the
25 provisions of this law are severable.

LEGISLATIVE SESSION

I MINA'TRENTAI DOS NA LIHESLATURAN

2014 (SECOND) Regular Session

Voting Sheet

Bill No. 253-32 (COR)

Speaker Antonio R. Unipingco Legislative Session Hall
April 15, 2014

| NAME | Yea | Nay | Not Voting/ Abstained | Out During Roll Call | Absent |
|--|-----|-----|--------------------------|-------------------------|--------|
| Senator Thomas "Tom" C. ADA | ✓ | | | | |
| Senator V. Anthony "Tony" ADA | ✓ | | | | |
| Senator Frank Blas AGUON Jr. | ✓ | | | | |
| Vice-Speaker Benjamin J.F. CRUZ | ✓ | | | | |
| Senator Christopher M. DUENAS | ✓ | | | | |
| Senator Michael LIMTIACO | ✓ | | | | |
| Senator Brant McCREADIE | ✓ | | | | |
| Senator Thomas "Tommy" MORRISON | ✓ | | | | |
| Senator Tina Rose MUÑA BARNES | ✓ | | | | |
| Senator Vicente (ben) Cabrera PANGELINAN | ✓ | | | | |
| Senator Rory J. RESPICIO | ✓ | | | | |
| Senator Dennis G. RODRIGUEZ, Jr. | ✓ | | | | |
| Senator Michael F. Q.SAN NICOLAS | ✓ | | | | |
| Speaker Judith T. WON PAT, Ed.D. | ✓ | | | | |
| Senator Aline A. YAMASHITA, Ph.D. | ✓ | | | | |

TOTAL

15

Yea

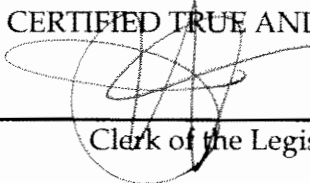
Nay

Not Voting/
Abstained

Out During
Roll Call

Absent

CERTIFIED TRUE AND CORRECT:



Clerk of the Legislature

I = Pass



I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

APR 08 2014

The Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina'trentai Dos Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules

RE: Committee Report on Bill No. 253-32 (COR), As Substituted

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 253-32 (COR), as substituted, "An Act to Repeal and Re-Enact §30113 of Chapter 30, Title 5, Guam Code Annotated Relative to the exclusion of attorneys employed in the Department of Law who serves in the Guard and/or Reserve under Title 10 or Title 32 of the US Code", sponsored by Frank Aguon, Jr., which was referred to the Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land.

Committee votes are as follows:

3 TO PASS

0 NOT TO PASS

4 TO REPORT OUT ONLY

0 TO ABSTAIN

0 TO PLACE IN INACTIVE FILE

Si Yu'os Ma'åse'

Vicente (ben) Cabrera Pangelinan

Chairman

2014 APR -9 AM 9:22
DMP

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

Member
Committee on Health &
Human Services, Health
Insurance Reform, Economic
Development and Senior
Citizens

Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

324 W. Soledad Ave. Suite 100, Hagåtña, Guam 96910

Tel: (671) 473-(4BEN) 4236 - Fax: (671) 473-4238 - Email: office@senbenp.com

Website: <http://senbenp.com>

**COMMITTEE REPORT
ON**

**Bill No. 253-32 (COR), As Substituted
Sponsored by Senator Frank Aguon, Jr.**

**An Act to Repeal and Re-Enact §30113 of
Chapter 30, Title 5, Guam Code Annotated
Relative to the exclusion of attorneys employed in
the Department of Law who serves in the Guard
and/or Reserve under Title 10 or Title 32 of the
US Code.**



I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

APR 08 2014

MEMORANDUM

To: **All Members**
Committee on Appropriations, Public Debt, Legal Affairs, Retirement,
Public Parks, Recreation, Historic Preservation and Land.

From: Senator Vicente (ben) Cabrera Pangelinan
Committee Chairperson

Subject: **Committee Report on Bill No. 253-32 (COR), As Substituted**

Transmitted herewith for your consideration is the Committee Report on Bill No.253-32 (COR), as substituted, "An Act to Repeal and Re-Enact §30113 of Chapter 30, Title 5, Guam Code Annotated Relative to the exclusion of attorneys employed in the Department of Law who serves in the Guard and/or Reserve under Title 10 or Title 32 of the US Code.", sponsored by Senator Frank Aguon, Jr.

This report includes the following:

1. Committee Voting Sheet
2. Committee Report Narrative
3. Copy of Bill No. 253-32 (COR) As Introduced
4. Copy of Bill No. 253-32 (COR), As Substituted
5. Public Hearing Sign-in Sheet
6. Copies of Written Testimonies
7. Copy of Fiscal Note
8. Copy of COR referral Bill No. 253-32 (COR)
9. Notices of Public Hearing
10. Copy of the Public Hearing Agenda

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact my office.

Si Yu'os Ma'åse',



Vicente (ben) Cabrera Pangelinan
Chairman

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

Member
Committee on Health &
Human Services, Health
Insurance Reform, Economic
Development and Senior
Citizens




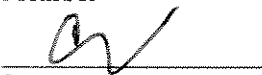
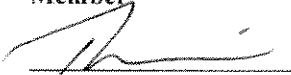

Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

I MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN

Committee Voting Sheet

Committee on Appropriations, Public Debt, Legal Affairs, Retirement,
Public Parks, Recreation, Historic Preservation and Land

Bill No. 253-32 (COR), as substituted "An Act to Repeal and Re-Enact §30113 of Chapter 30, Title 5, Guam Code Annotated Relative to the exclusion of attorneys employed in the Department of Law who serves in the Guard and/or Reserve under Title 10 or Title 32 of the US Code.

| Committee Members | To Pass | Not To Pass | Report Out Only | Abstain | Inactive File |
|---|---------|-------------|-----------------|---------|---------------|
|  Senator Vicente (ben) Cabrera Pangelinan Chairman | ✓ | | | | |
|  Vice Speaker B.J. Cruz Vice Chairperson | 7-8-14 | | ✓ | | |
|  Speaker Judith T. Won Pat Member | ✓ | | | | |
| Senator Tina Rose Muña-Barnes Member | | | ✓ | | |
|  Senator Dennis Rodriguez, Jr. Member | | | ✓ | | |
| Senator Michael San Nicolas Member | | | | | |
|  Senator Tommy Morrison Member | | | ✓ | | |
|  Senator Michael Limtiaco Member | ✓ | | | | |



Office of

the People

I Mina'trentai Dos na Liheslaturan Guahan

Senator Vicente (ben) Cabrera Pangelinan (D)

Committee Report

Bill No. 253-32 (COR), An Act to amend §30113 of Chapter 30, Title 5, Guam Code Annotated Relative to the exclusion of attorneys employed in the Department of Law who serves in the Guard and/or Reserve under Title 10 or Title 32 of the US Code.

I. OVERVIEW

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land convened a public hearing on Monday, February 10, 2014 at 9:00 am in I Liheslatura's public hearing room.

Public Notice Requirements

Notices were disseminated via hand-delivery and e-mail to all senators and all main media broadcasting outlets on February 3, 2014 (5-Day Notice), and again on February 8, 2014 (48 Hour Notice).

(a) Committee Members and Senators Present

Senator Vicente (ben) C. Pangelinan, Chairman
Senator Frank B. Aguon, Jr.
Senator Thomas C. Ada
Senator Aline Yamashita, Ph.D.
Senator Tony Ada
Senator Chris Duenas

(b) Appearing before the Committee

Attorney General Leonardo Rapadas
Deputy Attorney General Phil Tydingco
Mr. Michael Pangelinan
Mr. Graham Botha
Attorney Mitch Thompson

(c) Written Testimonies

Attorney General Leonardo Rapadas
Mr. David J. Sablan, Chairman, Guam-CnMI ESGR
Mr. Benny M. Paulino, Major General, Guam National Guard, The Adjutant General
Mr. Andrew S. Quenga
Mr. Michael A. Pangelinan

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

Member
Committee on Health &
Human Services, Health
Insurance Reform, Economic
Development and Senior
Citizens

Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

Jonathan R. Quan, Esq.

II. COMMITTEE PROCEEDINGS

Chairman Vicente Pangelinan: The next item on our agenda is Bill 253-32, a bill introduced by Senator Frank B. Aguon, Jr., An act to amend Section 30113 relative to the exclusion of attorneys employed in the Department of Law who serve in the guard or the reserve under Title 10 or Title 32 of the U.S. Code.

I have signed up: Mr. Michael Pangelinan, Mr. Graham Botha, Mr. Mitch Thompson, and Mr. Phil Tydingco from the Attorney General's Office.

Gentlemen, if you're going to present oral testimony, please come forward to the witness table. Before you begin presenting your testimony, I'm going to ask the author of the legislation to give us a short synopsis of the bill.

Sponsor Statement

Senator Frank Aguon, Jr.: Thank you very much, Mr. Chairman. Mr. Speaker, certainly, I'd like to extend my appreciation to you for expediting the public hearing on this particular measure. This legislation is a direct result of recommendations that were forwarded by the Office of the Attorney General.

I believe the title is self-explanatory, relative to the exclusion of attorneys employed by the Department of Law who serve in the Guard and/or Reserve under Title 10 or Title 32 of the U.S. Code. Mr. Speaker, we're here, more or less, to listen to some of the comments and the testimonies that are going to be provided on this legislation, but I'd like to close by thanking you and Senator Tom Ada for the co-sponsorship of this measure. Thank you, Mr. Speaker.

Chairman Vicente Pangelinan: You're welcome, Senator Aguon. Mr. Pangelinan, we'll just start with you.

Please identify yourself for the record. Make sure the light is on, and then you may proceed.

Mr. Michael Pangelinan: Thank you, Mr. Chairman. My name is Michael Pangelinan, and I appreciate Mr. Chairman, Senator Ada, Senator Aguon, Senator Ada, and Senator Yamashita, [proceeds to deliver oral/written testimony].

Chairman Vicente Pangelinan: Thank you very much, Mr. Pangelinan. Mr. Botha?

Mr. Graham Botha: Thank you very much. Good morning, Mr. Chairman... good morning, Senators. I'd like to thank you for introducing the bill here and allowing the public to provide testimony in support of the bill. I'd like to say that I'm here in my personal capacity, but as many of the senators may know, I am a colonel in the Guam Air National Guard. As such, I'm the

senior IDT part-time attorney there. I do supervise Captain Quan, Major Perez, and Captain Leon Guerrero.

I, myself, am a government attorney, and of course, I ensure that anything I do with regard to my practice of law providing that for the National Guard does not conflict with my duties as a government attorney. Captain Leon Guerrero is an assistant U.S. Attorney. Previously, he was an assistant A.G. Mitch Perez is, as you know, a judge. We have ethic rules that we're required to follow both as a JAG and as a member of the Guam Bar, and as such, we ensure that there aren't conflicts. If there are, we take steps necessary to wall off those attorneys as would any law firm to make sure that there aren't any conflicts--potential or otherwise--that would impact their obligations to do that.

I think that the bill, as written now, as the testimonies indicated with a minor tweak, take care of the retroactive nature should ensure that it's tailored carefully enough that the attorneys can still do their government function as a government lawyer and as well not conflict with their job as a reserve or guard JAG.

With that, I think that should take care of it. Obviously, the Attorney General as the supervisor of the Assistant A.G. or others will make sure that from that perspective there are no conflicts. Senators, we expect that either myself or Colonel David Oriano who is unfortunately off-island who is the senior supervisory attorney to make sure that the JAG attorneys do the same. I think, certainly, as the testimonies indicated there is nothing that really was intended in the original law, but I think the amendments as made here would take care of any potential impacts to Captain Quan or others who may be in that same position.

Chairman Vicente Pangelinan: Thank you, and Si Yu'os ma'åse', Mr. Botha. Mr. Thompson?

Mr. Mitch Thompson: Thank you, Mr. Chair, and Committee. My name is Mitch Thompson, I am an attorney in private practice, and while I currently chairman of the Guam Bar Ethics Committee, I'm here solely in a personal capacity, and I am not speaking on behalf of the committee but rather speaking on behalf of myself as a private citizen.

I'd like to say that I think that the proposed change to Section 30113 is necessary, and I'm glad the legislature is taking it up. We've heard the reasons why the law as originally written was well-intentioned to focus the attorneys that work for the attorney general's office who represent the people of Guam to have them focus on representing the people of Guam. But again, the reasons for this minor tweaking of the law have been well stated by the other panelists here. I would like to add just one suggestion: there has been some concern raised about how Section 30113 was originally enacted. I think that one way with dealing with that concern is for the legislature--rather than just simply to amending section 30113 to repeal and then re-enact the proposed amended section. I think that would take care of that concern; otherwise, I would be happy to answer any questions the committee may have.

Chairman Vicente Pangelinan: Thank you very much, Mr. Thompson. Senator Aguon, do you have any questions for this panel?

Senator Frank Aguon, Jr.: Thank you very much, Gentlemen, for your testimonies this morning. I appreciate that perspective in terms of the repeal and re-enact, but can you clarify exactly from a legal perspective what that implication may be?

Mr. Mitch Thompson: Okay, and I am not a specialist as far as legislative law so I hope I don't misstate it, but I think there was some concern in the way that Section 30113 was originally adopted. The Bill 253 as I read it proposes to amend Section 30113. My suggestion is, again I think the Committee should double-check with Legal Counsel to make sure that I'm not opening up a can of worms here, but I think that one way of dealing with that concern would be to have the legislature--assuming that the proposed language of Bill 253 is acceptable--is to repeal the current Section 30113 and re-adopt and re-enact the proposed bill in its place. Then that, I think, takes care of the concern about how Section 30113 was adopted in the first place.

Senator Frank Aguon, Jr.: I guess my question was more aligned in terms of would that address a proposal on the idea about applying the provision retroactively?

Mr. Mitch Thompson: That, I'm not sure about. I'd have to defer to legislative counsel on that one.

Senator Frank Aguon, Jr.: I appreciate your testimony this morning, Gentlemen. Thank you Mr. Speaker.

Chairman Vicente Pangelinan: Thank you very much. Senator Ada?

Senator Tom Ada: My question would be to Attorney Botha here. Would it be accurate to say that a lot of the legal work that the JAG officers do really more deal within the realm of the UCMJ or matters related to compliance with the DOD regulations and not so much with issues related to violations of Guam's civil law?

Mr. Graham Botha: That's correct, Senator, and we do provide assistance for domestic cases and legal assistance in that term. But we also--being mindful of what their other obligations are and their other jobs are--we do screen those attorneys from that. Two of the attorneys, Major Perez and Captain Quan, are members of the trial defense services. Generally, they provide--their services are generally limited to providing assistance to members who are charged with an administrative thing or some violation under the Guam Code of Military Justice. That's what their service is generally limited to. Others may do briefings on USERRA or Service Member Civil Rights Act, but we don't generally deal with any involving the government regulations for the most part.

Senator Tom Ada: Would it be accurate to say, then, that for example the work that an assistant A.G. does on a day-to-day basis is really pretty much separate and apart from the sort of legal issues that the JAG officer would deal with?

Mr. Graham Botha: That would be correct, Senator.

Chairman Vicente Pangelinan: Thank you very much, Senator Ada. Mr. Pangelinan, or Graham --you mentioned that Captain Leon Guerero is an Assistant U.S. Attorney?

Mr. Graham Botha: That is correct. Formerly, he was an assistant A.G. in the same office as Captain Quan and now, he works for Alicia Limtiaco as an Assistant U.S. Attorney.

Chairman Vicente Pangelinan: In addition to his service?

Mr. Graham Botha: That's correct.

Chairman Vicente Pangelinan: I was looking at the prohibitions on outside employment of U.S. attorneys, and from my reading, I thought that there was almost a blanket prohibition on the U.S. attorneys--even working for other federal agencies.

Mr. Graham Botha: Well, Senator, that would be the case if it were anything other than--to my understanding--a JAG reserve or guard service. I would note that, in fact, that there is a Senator in the United States who is also an Air Force Reserve JAG. I think it's limited to that, because obviously, they don't want it to conflict with their duties as U.S. Attorney. In some of the cases that we handle, he is conflicted from handling those cases, not because he handles them in the U.S. Attorney's Office, but because he works there. In cases involving OHA, even though he doesn't handle those, the U.S. Attorney's Office is prosecuting that so we don't allow him to provide any assistance or guidance regarding those cases. It's not really a conflict, because he doesn't work on them, but we want to make sure that there's no question to any of the folks that there could be a conflict there.

Chairman Vicente Pangelinan: Could I ask you to provide me with those guidelines on the U.S. Attorneys?

Mr. Graham Botha: Yes.

Chairman Vicente Pangelinan: Thank you very much. Senator Duenas? Senator Tony Ada? Senator Yamashita?

Senator Aline Yamashita: Thank you very much, Speaker Ben. Gentlemen, thank you for being with us this morning. My question goes to you, Mr. Thompson. So you said you're here as a private attorney and not necessarily representing the Ethics Committee of which you chair?

Mr. Mitch Thompson: Yes, that's correct, Senator.

Senator Aline Yamashita: And is there a particular reason why you are not making a statement for the ethics committee?

Mr. Mitch Thompson: Well, I suppose to represent the committee, you'd have to consult with all the members and talk about this and whether or not--I'm not sure that it's necessarily appropriate for that committee to make a public statement, one way or the other, on pending

legislation. I've felt it more appropriate for me to come down here and speak my own personal view.

Senator Aline Yamashita: Is your sense that most in the Bar would be supportive of this measure? Or you cannot say?

Mr. Mitch Thompson: Senator, my gut sense is that I think that most people would realize that this is a sensible tweaking of an important piece of legislation.

Senator Aline Yamashita: Thank you very much. Thank you, Mr. Chairman.

Chairman Vicente Pangelinan: Thank you very much. This panel will be dismissed. Thank you for your time this morning. I have Mr. Phil Tydingco and the Attorney General of Guam, Mr. Leonard Rapadas. Gentlemen? You may begin.

Attorney General Leonardo Rapadas: Buenas yan hãfa dei. Good morning, Mr. Chair and Senators of the 32nd Guam Legislature. Thank you, and we appreciate this time to speak on this amendment. Before we get into my opinion about the amendment, I want to talk a little bit about the history of where we are. The prior law allowed assistant attorneys general to engage in outside employment, not specifically employment in law, but so long as the employment did not conflict with their present duties, importantly the assistant attorney general had to seek written authorization from the A.G.

That presupposed that there was going to be vetting by the upper management that there are no conflicts. You had Attorney Botha talk about conflicts. Attorneys are restricted in many ways when it comes to conflicts. We are very sensitive to that, and a simple conflict can destroy our livelihoods so we are very sensitive to that. We make sure that the conflicts that exist when we are representing clients that there are no conflicts. What essentially happens is the employee does his own conflict check, but he or she goes to the attorney general and supervisors to double vet this. At some point, it's yay or nay.

I've been the beneficiary--when I was an assistant--and was also told not to work--do some outside work by the attorney general. So I was vetted, and it worked. It was a system that worked. I know several assistants, presently, or in the past that have worked at the University of Guam. I also know a lot of assistants who do pro bono work and would like to do pro bono work, and present law could possibly change that. Chief Deputy Tydingco will talk a little about that, and in fact, he's put together an amendment to take care of those issues of teaching and pro bono work.

Last July 26, we wrote and sent the speaker an opinion expressing several legal problems with 5 GCA 30113. Just briefly, I think it was discussed a little bit earlier about the inorganicity of the bill and where and when it was passed. That was one of the issues that we'd believed would cause it to have legal problems. And then there's the Supremacy Clause--the problem that we believe also infirms the statute.

There are a couple of other issues that don't necessarily apply to Captain Quan, but we did provide the legislature a fairly complete discussion of our issues with the statute. We could provide the panel and the committee with other copies of our opinion. We have it, but we will also provide that.

While our office was discussing this, last week, there was also--this was something that we thought of also--the potential equal protection challenges, because assistant attorneys general are singled out. What about other attorneys in the government--public defenders or alternate public defenders... judges? That was alluded to today. Our position was and still remains regarding this law. It's unenforceable based on the--I think there are four or five legal infirmities.

We're here because of an interpretation of this present statute, that even this body could not have envisioned, that is the prevention of one of my assistant attorneys general who is proudly serving our people, prosecuting criminals, and keeping our streets and homes safe... preventing him from also proudly serving our nation. You could not have meant that as an assistant attorney general, he could not also assist our men and women in uniform as they transition from Iraq, Afghanistan, or the Horn of Africa, back to Guam--back home.

You could not have meant that he would have to choose between being an assistant attorney general at the Office of the Attorney General or a captain or a Judge Advocate General's Corps. I will tell you, if he chose one of our organizations we would lose a valuable asset. While this amendment would clarify the issue of military service, and we also have--if the senators aren't inclined to repeal the statute whole as suggested by one of the speakers, we do have a proposed amendment.

I feel the better result to go back to the prior statute, where barring a conflict of interest, barring a destruction of the mission of the office, and having the express written authorization of the attorney general, employee of the attorney general's office, staff, investigators or lawyers may engage in outside work.

I think the question was asked about whether or not there were guidelines regarding assistant U.S. attorneys from serving as a guard member. I don't know there's any--being a prior U.S. attorney, I'm not certain that there is one, and if there is, we'll also research that. During my time as a United States attorney, we've had several U.S. attorneys deployed to go off to Iraq or Afghanistan. We've had several assistant United States attorneys, nationwide, go off and serve our country.

And the Department of Justice did not lift a finger. In fact, the Department of Justice supports these men and women as they go into the line of fire. Sometimes, when they're deployed, they don't leave, they are still on their home base, but they're technically deployed--they're supported.

In fact, the United States Attorneys' Offices serve to help defend the service members when they come back from deployment and protect them under the auspices of the USERRA that we've been talking about so I don't believe that there is a restriction so long as there isn't a conflict of interest with the member and so long as the mission of the United States Attorney's Office is compromised much like the prior statute that this statute amended.

Thank you, again, for the opportunity to speak on this.

Chairman Vicente Pangelinan: Thank you very much, Mr. Attorney General. Mr. Tydingco, were you going to provide additional testimony?

Deputy Attorney General Phil Tydingco: Good morning, Mr. Chairman Senator Pangelinan, Senator Ada, Senator Frank Aguon, Senator Tom Ada, Senator Aline Yamashita.

Thank you, Senator Frank Aguon, for proposing to amend Section 30113 of Chapter 30, Title 5 GCA. I can only speak for myself, personally, I was--even though this statute had been amended, our department--the Department of Law, the Office of the Attorney General had believed that--we submitted an Attorney General opinion July 26, 2013 that Ref AG 13-0587 that was submitted to the Honorable Speaker Judith Won Pat that essentially analyzed this bill. We have determined that the unconditional prohibition on the outside practice of law by department attorneys contained in Chapter 12, Section 39 of Public Law 31-77 suffered from a number of defects, which made it unenforceable when it was enacted - number one, in violation of the Organic Act.

I believe Mr. Thompson alluded to that, and that's why he recommended that you, perhaps, re-enact the entire law in order to address that defect. Because of that defect, we believe it's a nullity not a law. Again, the Attorney General's opinion is that this law also impaired constitutionally protected rights; three, exceeded the territorial jurisdiction of the laws to the extent that it may be applied to assistant attorneys general who are licensed to practice law in other jurisdictions like myself--licensed to practice in three jurisdictions even before the 9th Circuit--some of us, before the U.S. Supreme Court--that would be an outside practice of law--we would be prohibited.

If you interpret it broadly, then it also violates federal law, in our opinion, specifically USERRA, and it prohibits attorneys from fulfilling their obligations or at least the aspiration to provide pro bono service. I think that what, at least personally, the fact that Mr. Jonathan Quan was being investigated ethically by the ethics prosecutor, may--clearly, the AG opinion did not have any effect on that. So perhaps we have to meet this head-on and bring this to your attention. Again, nobody believes that the intent for the law was to restrict any member who serves in the government of Guam--whether he's an attorney or otherwise--serving actively in the guard or in the reserves or even serving. If I understand, part of the investigation, according to Mr. Quan, the ethics bar thought that it was a distinction between guard versus the reserve.

Well, I think serving the territory or your state is very American, very patriotic, and a good thing. Not necessarily just only the country where you're being activated. Your governor has to activate the guard to help with natural disasters or things that are pertinacious. Once again, I don't think the intent was to bar any government of Guam attorney--much less those who work in the Attorney General's office.

I would like to submit, for the record, a proposed amendment to Senator Frank Aguon's amendment. I'll read it into the record.

The amended language that I'm proposing is to make certain that attorneys focus on their work, and of course, we have the conflict rules that control those procedures. It should apply to all government of Guam attorneys so I would propose that the amendment read--keep the current language if you want:

"That neither the attorney general nor any person employed in the Department of Law shall engage in any outside employment which shall conflict with any of his duties and/or the Department of Law."

It simply just says that neither the attorney general nor any attorney employed as a classified or unclassified attorney shall engage in outside employment, which should conflict within his duties within the department or any agency.

"An attorney who is employed as a classified or unclassified attorney in the Department of Law or any attorney as a classified or unclassified attorney by any government of Guam agency, department, or instrumentality, including semi-autonomous or autonomous branches of the government of Guam, shall not engage in the practice of law outside that department or agency or instrumentality or branch of government unless the attorney is exempted from this restriction, because the attorney is a member of the U.S. Military Armed Forces or U.S. Coast Guard, serving actively or serving in the reserves or state or territorial guard."

Or - that wouldn't require anybody's approval. That's simply an exemption by virtue of your membership in the guard or active duty or in the reserves.

Or - the attorney is exempted from this restriction unless the attorney is performing pro bono service or teaching or training that is approved by the attorney general or by the head or director of the agency, department, instrumentality, or branch of the government of Guam. ✓
Again, we don't want this law to put a chill on pro bono service--pro bono includes everything from helping out with certain agencies or non-profits. Why do I bring up teaching and training? It's been raised in the civil service context. Some people don't want to count teaching law as the practice of law; others say it is a practice of law. Just like some say teaching in medical school, you must not be a doctor--you're teaching, or you must not be an educator, because you're only teaching. We've had that argument so I'm trying to cover all those circumstances that have actually occurred.

We've had some people who taught law school, and when our HR was under department of administration, they would not count as experienced in law - teaching in law school or teaching law courses. Which, again I think that's why we want to address it. I have this amendment if you'd be willing to consider it.

I think that the three major areas that exemption should be required for is essentially for serving in the military--whether reserves, active duty, or guard--pro bono service, and teaching or training. Again, I think that common sense would prevail and that have been read into the law, but clearly, that is not always the case. I respectfully ask that you accept this amendment. I know I emailed it this morning to Senator Frank Aguon's office and ask that you consider the

amendment as proposed by Senator Frank Aguon as well as the amendment we're proposing to expand that to meet those common sense exemptions or exceptions. Thank you.

Chairman Vicente Pangelinan: Thank you very much, Mr. Tydingco. Senator Aguon, any additional comments or questions for this panel?

Senator Frank Aguon, Jr: Thank you very much Mr. Chair. Mr. Speaker, just a couple of questions with regard to your proposed amendment, Mr. Deputy Chief Attorney General.

Obviously, we understand that the exception clause will be applicable to those who are serving in the U.S. Armed Forces. The aspect in this--I'm looking at the Code 30113, and I understand that, in fact, that's a code that directly impacts and reflects the Department of Law and the Office of the Attorney General. You're coming up with a proposal that could conceivably be viewed as carte blanche government, general government operations. Wouldn't it be more appropriate if that same concept was taken and put in a separate part of the code so that, in fact, it's clear that this provision would be applicable to the entire government of Guam rather than incorporating it into the code that directly deals with the Department of Law? That's the first question.

Second question is performing pro bono. I could, possibly, concede to performing pro bono for civic/non-profit organizations but to make it a carte blanche provision may be a little bit of a concern, because obviously, this may be another way of trying to--not circumvent--but legally provide services to an entity other than those who really need it on a pro bono basis and that's the civic and non-profit organizations and some other entities.

Those are the two questions that I would like to pose, because we can take this, isolate it to the issue at hand, and then take the general provision and try to really incorporate it into another code into the government of Guam that would be applicable to all government agencies. So, please, if you can just respond to those.

Deputy Attorney General Phil Tydingco: To answer your first question, directly, yes - Section 30113 in Chapter 30 of 5GCA, which is the Attorney General chapter. I suppose you could put it in the 4 GCA outside employment section, which escapes me right now--the specific one. You could do that to make it broader. It's just that there are not very many GCA chapters that are just attorneys.

By the way, the Compiler of Laws under their own authority and power move that if they thought it was broad and belonged in Guam 4 GCA, there's an outside employment provision there. To answer your first question, yes, that would probably be ideal.

As to your second question about the pro bono service, the check, of course, is not only our ethics. Our rules of professional responsibility and the conflict of interest rules but also the pro bono rules would require the approval of the agency head or the attorney general and the Department of Law. As it stands right now, the statute on its face is silent, so people are free to interpret the silence as to what pro bono--whether pro bono service is restricted or not. But pro bono service is the outside practice of law - I have that been asked by different non-profits like

Make a Wish if I could look at some of their contracts. Of course, it doesn't conflict with my work; for example reviewing a contract with a hotel for having a gala event.

That pro bono service would require you to get approval from your boss or your work. As it stands, there's none of that right now. Lawyers are free to make that decision on their own. I would say that this is a check on that. Actually, we had an attorney whose mother has a small claims case. He wanted to help her, and he asked us, "What do you think about it?"

We said, "Well, the statute is silent, look at our opinion that we issued, but we think that pro bono service if the ethics prosecutor took an overbroad view of it, would say that you helping your mom in small claims--even though it's pro bono, and she's not paying you--(I would hope she's not paying you)." We said that that might very well be covered, but because we knew that we never thought that anybody serving in the military would be investigated, possibly prosecuted because of this statute, he decided he couldn't help his mother.

Again, I think right now, it's silent. He could have decided to help his mother, and I think it would have been defensible, but if you had language that says I can do it if I get approval, that would be a practical check for you. Especially if he asked could I help my mom.

Attorney General Leonardo Rapadas: Unfortunately the silence could cause an overbroad interpretation. It's going to cause the attorney to have to go through hearings that he doesn't need to. We don't believe that he needs to. This, of course, would take care of that. Attorneys--every time they make a decision, they do a conflict check--it's automatic within them. That's something that we alluded to. Regarding putting it in a different section, we could leave it up to the Compiler to put it where it should, where it probably fits.

One of the issues that we brought up in our opinion was that it was inorganically enacted. To amend the statute, itself, would be amending an inorganically enacted law within that budget bill that it was in. So it would be better as proposed by one of our attorneys to repeal it and re-enact it on its own so that it's a separate, considered bill. That would be the short answer at this point.

Senator Frank Aguon, Jr.: In regards to that, I'll work with the chairman, Speaker Pangelinan with regards to the re-enactment. It goes back to this idea that the Compiler of Laws would have that discretion, I would prefer to have it at least clearer in whatever code it should be incorporated in. In this particular case, the provision that applies directly to the Department of Law rightfully should be in 30113. The provision that, perhaps, would be carte blanche and applicable to all attorneys in the government of Guam should be appropriately be placed in 4 GCA or whatever that code is. I would like to yield to Speaker Pangelinan in terms of how the committee would like to proceed with this.

One closing comment, Mr. Speaker. There were a couple of testimonies that were submitted by Attorney Quenga and General Paulino. I just want to note, for the record, that there was an incorrect address to my office and we requested that it be corrected so the general was able to correct that. It's the second version that's directed to yourself, Mr. Chair that really should

be part of the record. I just wanted to make that public statement, because there's two testimonies provided. But aside from that, thank you very much, everyone for your testimonies.

Attorney General Leonardo Rapadas: Just one more comment. We have a National Association of Attorneys General organization that my office is a member of. The director of that association is a retired admiral, and he is also in support of making sure that our assistant attorneys general and assistant attorneys general around the nation are able to serve in the different branches as a reserve member or guard member in whatever shape or form or capacity.

Chairman Vicente Pangelinan: Thank you very much. Can you tell me what the bill was, in your opinion, passed inorganically that this bill was on?

Attorney General Leonardo Rapadas: It was a section of a budget bill, I believe. Public Law 31-77, Section 39.

Chairman Vicente Pangelinan: Have you moved to invalidate that law?

Deputy Attorney General Phil Tydingco: No, we first submitted an Attorney General opinion that was submitted in the summer of July 26, 2013 to the speaker.

Chairman Vicente Pangelinan: So you're saying that every single section of that bill, Public Law ...

Attorney General Leonardo Rapadas: No, only Section 39.

Deputy Attorney General Phil Tydingco: That's not what the opinion says - only that section under the germaneness rule. We cited the cases that talked about the inclusion of irrelevant provisions in the budget bill, which violates the single subject rule.

Chairman Vicente Pangelinan: I got it.

Deputy Attorney General Phil Tydingco: It was just that provision, not the entire bill.

Chairman Vicente Pangelinan: Thank you very much, Gentlemen. That being the conclusion of the presentation, we will declare Bill 253-32 publically heard.

This concludes the testimony on Bill No. 253-32 (COR). There being no additional individuals to present any additional testimony, this Committee will continue to remain open for the acceptance of any additional information or public testimony on the bill discussed. You can submit those testimonies to my office directly on Soledad Avenue, as well as the Guam Legislature or through any of the electronic processes either email at office@guam.net or through our website at senbenp.com

This hearing is adjourned.


III. FINDINGS & RECOMMENDATIONS


The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land, hereby reports Bill No. 253-32 (COR), as substituted with the recommendation TO REPORT OUT ONLY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÁHAN
2014 (Second) Regular Session

Bill No. 253-32 (COR)

Introduced by:

FRANK B. AGUON, JR. 

T.C. ADA 

V.C. PANGELINAN 

AN ACT TO AMEND §30113 OF CHAPTER 30, TITLE 5,
GUAM CODE ANNOTATED RELATIVE TO THE
EXCLUSION OF ATTORNEYS EMPLOYED IN THE
DEPARTMENT OF LAW WHO SERVES IN THE GUARD
AND/OR RESERVE UNDER TITLE 10 OR TITLE 32 OF
THE U.S. CODE.

2014 JAN - 9
PH 4:16


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

2 **Section 1.** §30113 of Chapter 30, Title 5, Guam Code Annotated, as
3 amended by Public Law 31-077:XII:39 is hereby amended to read as follows:

4 “§30113. Outside Employment Regulated. *Neither* the Attorney
5 General *nor* any person employed in the Department of Law *shall* engage in any
6 outside employment which *shall* conflict with his duties within the Department of
7 Law. Attorneys in the Department of Law *shall not* engage in the practice of law
8 outside of the Department of Law. Attorneys employed in the Department who
9 serve in the guard and/or reserve, either under Title 10 or Title 32 of the U.S. Code
10 and whose service does not conflict with the duties within the Department of Law,
11 shall be excluded from the application of this provision, subject to the approval of
12 the Attorney General.”

13 **Section 2.** Severability. *If* any provision of this law or its application to
14 any person or circumstance is found to be invalid or contrary to law, such

1 invalidity *shall not* affect other provisions or applications of this law which can be
2 given effect without the invalid provisions or application, and to this end the
3 provisions of this law are severable.”

I MINA'TRENTAI DOS NA LIHESLATURAN GUÁHAN
2014 (Second) Regular Session

Bill No. 253-32(COR)

As substituted by Committee on Appropriations, Public Debt,
Legal Affairs, Retirement, Public Parks, Recreation,
Historic Preservation, and Land

Introduced by:

FRANK B. AGUON, JR.
T.C. ADA
V.C PANGELINAN

**AN ACT TO REPEAL AND RE-ENACT §30113 OF
CHAPTER 30, TITLE 5, GUAM CODE ANNOTATED
RELATIVE TO THE EXCLUSION OF ATTORNEYS
EMPLOYED IN THE DEPARTMENT OF LAW WHO
SERVES IN THE GUARD AND/OR RESERVE UNDER
TITLE 10 OR TITLE 32 OF THE U.S. CODE.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. §30113 of Chapter 30, Title 5, Guam Code Annotated, as amended by Public Law 31-077:XII:39 is hereby ~~amended~~ repealed and re-enacted to read as follows:

“§30113. **Outside Employment Regulated.** *Neither* the Attorney General *nor* any person employed in the Department of Law *shall* engage in any outside employment which *shall* conflict with his duties within the Department of Law. Attorneys employed as classified or unclassified attorneys in the Department of Law or any attorney employed as classified or unclassified attorneys by any government of Guam agency, department or instrumentality including semi-autonomous or autonomous agencies or branch of the government of Guam shall not engage in the practice of law outside of the Department of Law or the agency,

1 department, instrumentality or branch of the government of Guam unless the
2 attorney is exempted from this restriction because the attorney is as a member of
3 the U.S. military armed forces or U.S. Coast Guard serving actively or serving in
4 the reserves or state or territorial guard, or the attorney is exempted from this
5 restriction unless the attorney is performing pro bono service or teaching or
6 training that is approved by the Attorney General or by the head or director of the
7 agency, department, instrumentality or branch of the government of Guam.”

8 **Section 2. Effective Date.** The repeal and re-enactment made by Section 1
9 of this Act shall apply to all cases, without exception, that are or may be pending
10 on, or commenced on or after, the date of the enactment of this Act.

11 **Section 3. Severability.** *If* any provision of this law or its application to any
12 person or circumstance is found to be invalid or contrary to law, such invalidity
13 *shall not* affect other provisions or applications of this law which can be given
14 effect without the invalid provisions or application, and to this end the provisions
15 of this law are severable.



Mina'trentai Dos na Liheslaturan Guahan
32ND GUAM LEGISLATURE
Senator Vicente "ben" Cabrera Pangelinan

**COMMITTEE ON APPROPRIATIONS, PUBLIC DEBT, LEGAL AFFAIRS, RETIREMENT,
 PUBLIC PARKS, RECREATION, HISTORIC PRESERVATION AND LAND**

February 10, 2014
 Bill No. 253
 SIGN UP SHEET

| NAME | ADDRESS | PHONE | EMAIL | WRITTEN | ORAL | SUPPORT Yes No |
|--------------------|-----------|----------|----------------------------|---------|------|-------------------|
| Michael Pangelinan | Dededo | 646-9355 | mpangelinan@calmfisher.com | ✓ | ✓ | Yes |
| Erickson Botta | Barrigada | 646-3203 | gbotta@ite.net | | ✓ | Yes |
| Mitch Thompson | S. Migin | 472-2088 | withompson@tqplaw.net | | ✓ | Yes |
| Paul Tydings | Barrigada | | | | ✓ | Yes |
| | | | | | | |



Mina'trentai Dos na Liheslaturan Guahan
32ND GUAM LEGISLATURE
Senator Vicente "ben" Cabrera Pangelinan

**COMMITTEE ON APPROPRIATIONS, PUBLIC DEBT, LEGAL AFFAIRS, RETIREMENT,
 PUBLIC PARKS, RECREATION, HISTORIC PRESERVATION AND LAND**

February 10, 2014
 Bill No. 253
SIGN UP SHEET

| NAME | ADDRESS | PHONE | EMAIL | WRITTEN | ORAL | SUPPORT | |
|---------------|---------|-------|-------|---------|------|---------|----|
| | | | | | | Yes | No |
| Lenny Rapadas | | | | | ✓ | | |
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OFFICE OF THE ATTORNEY GENERAL

January 6, 2014

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THE HONORABLE VICENTE C. PANGELINAN
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Re: Request to Amend 5 G.C.A. 830113 to Allow Service in the Guam Army National Guard

Dear Senators Aguon, Ada and Pangelinan:

As you know, as citizens of Guam, we enjoy freedoms guaranteed by the Constitution and as embodied in our Organic Act. What makes that “guarantee” something upon which we all can rely is the fact that men and women everyday serve in our Nation and our Island’s armed forces. Whether they are in harm’s way or serving in a support role, they all serve. As an employer, I do what I can to assist any of my staff members who are in the guard or reserve. When they are deployed, they should not have to worry about what is happening “back home.” That is why I am extremely dismayed at the actions being taken against one of my Assistant Attorneys General, Captain Jonathan Quan, Guam Army National Guard by the ethics prosecutor after consultation with the ethics committee.

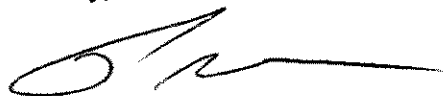
590 S. Marine Corps Dr. ITC Bldg. Ste. 706, Tamuning, Guam 96913
Phone: (671) 475-3324 • Fax: (671) 472-2493 • www.guamag.org

Letter to Senator Frank B. Aguon, Jr., Senator Thomas C. Ada
and Senator Vicente (ben) C. Pangelinan
dated January 6, 2014
page 2

I believe the ethics prosecutor has taken an overly broad interpretation of 5 GCA §30113. I have no doubt that his interpretation was not what you had envisioned. Might I make a suggestion? Please amend the law to make it absolutely clear that service in the guard and/or reserve, either under Title 10 or Title 32 of the U.S. Code, shall be unaffected. Any one of these brave men and women should not have to chose between serving as an assistant attorney general or serving in the guard or reserve as AAG/Captain Quan may have to do. As you know, we believe that §30113 suffers from various legal and constitutional defects and he intends to defend himself on those various grounds. We are also willing to work with you and your committees to amend the law.

As you can see from AAG/Captain Quan's letter, he is passionate about his service and my office is just as passionate about protecting his rights to serve our Nation and our island. I am looking forward to hearing from you on this matter. Also, please feel free to contact AAG/Captain Quan.

Sincerely,



LEONARDO M. RAPADAS
Attorney General of Guam



Outside Practice of Law Restriction Amenment 5 GCA 30113.docx

STAKEHOLDER NOTIFICATION: Second Notice of Public Hearing scheduled for Bill No. 253-32 (COR) on Monday, February 10, 2014 at 9:00AM

Phil Tydingco <ptydingco@guamag.org>

Mon, Feb 10, 2014 at 8:47 AM

To: Senator Aguon Communications <media@frankaguonjr.com>

Cc: "Frank B. Aguon, Jr." <aguon4guam@gmail.com>, "Office of Senator Frank B. Aguon, Jr." <admin@frankaguonjr.com>, "cipo@guamlegislature.org" <cipo@guamlegislature.org>, nsantos <nsantos@guamlegislature.org>, "Senator Frank B. Aguon, Jr. Legislative Policy" <policy@frankaguonjr.com>, "Lenny M. Rapadas" <lrappadas@guamag.org>, Basil O'Mallan <bomallan@guamag.org>, Jonathan Quan <jquan@guamag.org>, Patrick Mason <pmason@guamag.org>, Rob Weinberg <rweinberg@guamag.org>, Marianne Woloschuk <mwoloschuk@guamag.org>, Phil Tydingco <phillitydingco@yahoo.com>, Zerlyn Velez <zvelez@guamag.org>

Hafa Adai All

Please see attached proposed amendment for Bill 253-32.

Phil

From: Senator Aguon Communications [mailto:media@frankaguonjr.com]

Sent: Thursday, February 06, 2014 12:07 PM

To: Phil Tydingco

Cc: Frank B. Aguon, Jr.; Office of Senator Frank B. Aguon, Jr.; cipo@guamlegislature.org; nsantos; Senator Frank B. Aguon, Jr. Legislative Policy

Subject: STAKEHOLDER NOTIFICATION: Second Notice of Public Hearing scheduled for Bill No. 253-32 (COR) on Monday, February 10, 2014 at 9:00AM

[Quoted text hidden]

 **Outside practice of law restriction amenment 5 GCA 30113.docx**
12K

Section 1. §30113 of Chapter 30, Title 5, Guam Code Annotated, as amended by Public Law 31-077:XII:39 is hereby amended to read as follows:

§30113. Outside Employment Regulated. *Neither* the Attorney General *nor* any person employed in the Department of Law *shall* engage in any outside employment which *shall* conflict with his duties within the Department of Law. Attorneys employed as classified or unclassified attorneys in the Department of Law or any attorney employed as classified or unclassified attorneys by any government of Guam agency, department or instrumentality including semi-autonomous or autonomous agencies or branch of the government of Guam shall not engage in the practice of law outside of the Department of Law or the agency, department, instrumentality or branch of the government of Guam unless the attorney is exempted from this restriction because the attorney is as a member of the U.S. military armed forces or U.S. Coast Guard serving actively or serving in the reserves or state or territorial guard, or the attorney is exempted from this restriction unless the attorney is performing *pro bono* service or teaching or training that is approved by the Attorney General or by the head or director of the agency, department, instrumentality or branch of the government of Guam.

Section 2. Effective Date. The amendments made by Section 1 of this Act or amendment of §30113 of 5 G.C.A. shall apply to all cases, without exception, that are or may be pending on, or commenced on or after, the date of the enactment of this Act.”



EMPLOYER SUPPORT OF THE GUARD AND RESERVE
 GUAM-CNMI COMMITTEE
 430 ARMY DRIVE, BLDG 300
 BARRIGADA, GUAM 96913-4421
 (671) 735-0456

02-24-14 *AB*

February 24, 2014

The Honorable Vicente C. Pangelinan, Chairman
 Committee on Appropriations, Public Debt, Legal Affairs, Retirement,
 Public Parks, Recreation, Historic Preservation, and Land
 32ND GUAM LEGISLATURE
 155 Hesler Place
 Hagatna, Guam 96910

**Re: Bill No. 253-32
 An Act to Amend §30113, Chapter 30, Title 5 of the Guam Code Annotated**

Dear Mr. Chairman and Members of the Committee:

Thank you for the opportunity to submit testimony as the Guam Employer Support of the Guard and Reserve (ESGR) Chairman with regard to Bill 253-32, which is intended to amend §30113, Chapter 30, of GCA Title 5.

While we clearly appreciate the effort of the Guam Legislature to exempt/exclude attorneys within the Department of Law who are members of the Armed Forces of the United States, its Reserve Components, and the nonfederalized National Guard, we conclude that the Bill, as drafted, may not adequately address §30113's inconsistency with the Uniformed Services Employment and Reemployment Rights Act (USERRA).

USERRA protects service members' reemployment rights when returning from a period of service in the uniformed services, including those called up from the reserves or National Guard, and prohibits employer discrimination based on military service or obligation. As you are likely aware, the law has been broadly construed in favor of service members. We recommend that any amendment to §30113 permit service in the Armed Forces of the United States, its Reserve Components, and the nonfederalized National Guard without condition.

Thank you again for the opportunity to submit testimony on this important matter.

Sincerely,

David J. Sablan
 David J. Sablan, Chairman
 Guam-CNMI ESGR



cc: HQ, ESGR, Washington, DC





GOVERNMENT OF GUAM
DEPARTMENT OF MILITARY AFFAIRS
(DIPATTAMENTON ASUNTON MILITAT)
430 Army Drive, Building 300, Room 113
Barrigada, Guam 96913-4421

NGGU-TAG

4 February 2014

Senator Frank B. Aguon, Jr.
Thirty-Second Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

Re: Bill No. 253-32 (COR)

Dear Senator Aguon:

Thank you for this opportunity to provide written comments on the above subject bill. In sum, I am in complete support of this bill, which provides a fix to a very inequitable situation for attorneys in the Guard/Reserve who are employed by the Guam Department of Law.

My position has always been that membership in the Guard/Reserve is selfless service to the island and nation. Furthermore, I have always believed that if one were qualified for military membership, no state law could offset those qualifications. Because Guam currently has a law that technically opposes Department of Law attorneys from serving as Judge Advocates, the situation has become muddled and the law needs to be addressed. Your bill would settle this lack of clarity in the matter.

I do not believe it was ever the intent of the present law to exclude attorneys from serving as military Judge Advocates. Be that as it may, the present law is a technical stumbling block and needs to be amended. As such, I wholeheartedly support your bill.

Please do not hesitate to contact me should you have questions.

Sincerely,

Benny M. Paulino
Major General, Guam National Guard
The Adjutant General

Testimony of Andrew S. Quenga
on
Bill 253-32 an Act to Amend §30113 of Chapter 30, Title 5, Guam code
Annotated Relative to the Exclusion of Attorneys Employed in the
Department of Law Who Serve in the Guard and/or Reserve Under
Title 10 or Title 32 of the U.S. Code

Before the 32nd Guam Legislature
Committee on Appropriation, Public Debt, Legal Affairs, Retirement, Public Parks,
Recreation, Historic Preservation, and Land

Hafa Adai Chairman Pangelinan:

My name is Andrew Sergio Quenga, a former Assistant Attorney General for Guam, former Staff Attorney in Judiciary of Guam, former Guam Compiler of Laws and member of the Guam Bar Association since 1996. I thank you and Senators Frank Aguon and Tom Ada for introducing this bill to allow Assistant Attorneys General (AAGs) to serve as JAG officers in the National Guard and Reserves and I submit this testimony in support of Bill 253-32.

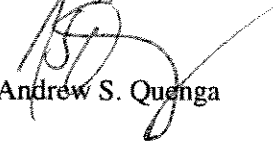
Preemption issues presupposed, 5 GCA § 30113 as presently written creates a comprehensively unfair result for a small class of government of Guam employees who desire to serve both the people of Guam and the United States of America. One of the arguments I have heard in support of the restriction is that an attorney cannot serve two masters. While this may be true in a general sense if conflicts can or may arise from an attorney's service to two clients, the potential for a conflict in the case of a government of Guam prosecutor of criminal offenses also serving in the National Guard is de minimus at best. Moreover, it is common practice for law firms, even government legal offices, to create conflict walls to shield an attorney from any involvement in cases where there is an actual or perceived conflict of interest. Such conflict walls are designed to preempt conflicts before they arise. Multiple attorneys in the service of the Office of the Attorney General reduce inconvenience to the office.

Application and enforcement of 5 GCA § 30113, in its present form, has resulted in serious ethical consequences for an AAG who has wanted nothing more than to work as a prosecutor in Guam and who has demonstrated time after time his legal acumen in successful prosecutions of serious criminal offenses. While the enforcement of laws must be applied uniformly the effect of the law cannot be ignored. It is difficult to imagine that this was the intent of the drafters. The Uniformed Services Employment and Reemployment Rights Act (USERRA) allows other citizens to serve two employers. Under USERRA, an attorney in a private law firm could also serve as a JAG. Guam AAGs should not be treated differently.

The amendments to 5 GCA § 30113 would allow AAGs to serve in Reserve and National Guard legal position capacities without fear of ethical consequences. I would like to point out that the amendments as written would have prospective effect. The amendments must be given retrospective effect to eliminate any potential ethics actions from the effective date of 5 GCA § 30113 in its present form.

Thank you for the opportunity to submit this testimony in support of Bill 253-32.

Sincerely,


Andrew S. Quenga

MICHAEL A. PANGELINAN
P.O. Box 5381
Hagatna, GU 96932
mpangelinan@calvofisher.com

February 8, 2014

VIA EMAIL(office@senbenp.com)

Honorable Vicente C. Pangelinan
Senator

MINA' TRENTAI UNO NA LIHESLATURAN GUAHAN
Chairman, Committee on Appropriations, Public Debt, Legal Affairs,
Retirement, Public Parks, Recreation, Historic Preservation and Land
Suite 101, Quan SBuilding, 324 West Soledad
Hagåtña, Guam 96910

RE: Bill No. 253-32

Dear Chairman Pangelinan:

I appreciate this opportunity to present written testimony in support of Bill 253-32 which amends the prohibition on outside law practice by Assistant AG's contained within 5 G.C.A. § 30113 and creates an exception to allow Assistant AG's to serve as JAG officers in the National Guard and Reserves. As an attorney in private practice in Guam for the past 17 years, but more importantly, as a member of our community and resident of Guam, I strongly support Bill 253-32.

I would like to start by thanking you Mr. Chairman and also Senators Frank Aguon and Tom Ada for introducing this Bill. When a law like 5 G.C.A. § 30113, enacted with good intentions and an admirable purpose, turns out to have some unforeseen consequences that are harmful to our community, I believe it is up to Guam's elected leaders to take action to fix this. And this is exactly what you have done in introducing Bill 253-32. You recognized that while § 30113 benefits our community by requiring attorneys at the AG's Office to avoid outside professional commitments so that they may stay focused on their heavy government workload and so that they may avoid potential conflicts of interest and divided loyalties, the law needs some minor adjustment in order to avoid punishing attorneys who choose to serve their Island and their Country as National Guardsmen and Reservists.

All that is needed here is a minor tweak of the existing law to allow for National Guard and Reserve service and that's all that Bill 253-32 does. It carves out from § 30113's blanket prohibition a very narrow military service exception which is made even more narrow by requiring that JAG officer service must not conflict with the attorneys' duties within the AG's Office and by further requiring that such JAG officer service be approved by the Attorney General.

Senator Vicente C. Pangelinan
February 8, 2014
Page 2 of 2

It's a minor adjustment to a well-intentioned law, but an adjustment that is badly needed so that we may encourage, not discourage, military service, and in order to prevent injustice and avoid dismantling the professional careers of men and women who have chosen to apply their legal training in the service of both our Island and our Country. These men and women deserve to be honored and revered, not prosecuted and punished, for their service.

I will not pretend to be an objective observer with respect to the effect of the existing law. My cousin, Jonathan Quan, is a JAG officer and a Captain in the Guam Army National Guard. He's not only my cousin, but he's Nino to my youngest daughter and one of my closest friends. We even attended law school together. I can truthfully say that he is one of the most, if not the most, honest, disciplined, law abiding, and principled people I have ever known. He has served our Island well for many years as an Assistant AG successfully prosecuting numerous criminal cases during his career to help make our Island a safer place. A few years ago, Jon finally made the decision to realize his lifelong dream of joining the United States armed forces. It has definitely been the right decision for him as I've never seen him so fulfilled and content with his life as he has been these last two years since joining the guard. The fact that there is a law on the books that could possibly be used as a basis to punish a person like Jon who has done, and continues to do, so much to protect and serve our community cries out for prompt action and I thank you Mr. Chairman and Senators for recognizing this.

There may be further minor adjustments needed to the language of Bill 253-32 to ensure that its scope is sufficient to protect Assistant AG's like Jon who may have unknowingly fallen within the purview of § 30113 due to their guard or reserve service (in fact, Jon was sworn into the guard before the blanket prohibition in § 30113 had even been enacted), but I trust that those kinds of details will be worked out as this Bill moves through the process toward passage and enactment into law.

Once again, thank you Mr. Chairman, Mr. Vice Chairman, and Senators for doing the right thing by taking prompt action to pass this important Bill.

Very sincerely,



MICHAEL A. PANGELINAN

JONATHAN R. QUAN, ESQ.

719 Route 2, Hagåt, Guam
P.O. Box 3554, Hagåtña, Guam 96932
Cellular: (671) 689-0076 / E-Mail: jq13.144@gmail.com

04 January 2014

VIA HAND DELIVERY / E-MAIL: aguon4guam@gmail.com

THE HONORABLE FRANK BLAS AGUON, JR.
Senator
Chairman – Committee on Veterans Affairs
I Mina'Trentai Dos Na Liheslaturan Guåhan
Suite 104
155 Hesler Street
Hagåtña, Guam 96910

VIA HAND DELIVERY / FACSIMILE: 473-3303 / E-MAIL: office@senatorada.org

THE HONORABLE THOMAS C. ADA
Senator – Assistant Majority Leader
Chairman – Committee on Public Safety
I Mina'Trentai Dos Na Liheslaturan Guåhan
Suite 207 Ada Plaza Center
173 Aspinall Avenue
Hagåtña, Guam 96910

VIA HAND DELIVERY / FACSIMILE: 473-4238 / E-MAIL: senbenp@guam.net

THE HONORABLE VICENTE C. PANGELINAN
Senator
Chairman – Committee on Legal Affairs
I Mina'Trentai Dos Na Liheslaturan Guåhan
Suite 101, Quan Building
324 West Soledad Avenue
Hagåtña, Guam 96910

**Re: *Request to Amend 5 G.C.A. §30113 to Allow
Service in the Guam Army National Guard***

Dear Senator Aguon, Senator Ada, and Senator Pangelinan:

I am currently an Assistant Attorney General serving as the First Assistant in the Prosecution Division of the Office of the Attorney General of Guam. I am proud to be a member of law enforcement engaged in the protection of our people. I am also currently a Captain in the Guam Army National Guard serving as a Judge Advocate. It is a privilege and an honor to serve the United States and the Territory of Guam.

After a lengthy two (2) year application process, I took my oath on 30 August 2011. On 20 September 2011, twenty-one (21) days later, P.L. 31-077:XII:39 was enacted, revising Title 5 G.C.A. §30113 to state:

§ 30113. Outside Employment Regulated.

Neither the Attorney General nor any person employed in the Department of Law shall engage in any outside employment which shall conflict with his duties within the Department of Law. Attorneys in the Department of Law shall not engage in the practice of law outside of the Department of Law.

SOURCE: GC § 7012 repealed/reenacted by P.L. 13-117. Amended by P.L. 31-077:XII:39 (Sep. 20, 2011).

The Guam Bar Ethics Committee and Ethics Prosecutor construe the last sentence to mean an Assistant Attorney General may serve in the Army / Air Force / Navy Reserves (Title 10 U.S.C. Status) **BUT NOT** the Guam Army / Air National Guard (Title 32 U.S.C. Status). (“Attachment A”).

The Office of the Attorney General of Guam issued a formal Legal Opinion dated 26 July 2013 (“Attachment B”) indicating that the law (1) was passed improperly and (2) in violation of Federal Statute (USERRA) and (by extrapolation) the U.S. Supremacy Clause. Despite this, the Guam Bar Ethics Committee and the Ethics Prosecutor refuse to accept and honor the legal opinion, continuing to assert that Title 5 G.C.A. §30113 is an absolute prohibition to serve in the Guam Army / Air National Guard – Title 32 U.S.C. (but not the Army / Air Force / Navy Reserves – Title 10 U.S.C.) if you are an Assistant Attorney General. Consequently, they are continuing with an investigation, alleging a violation of Title 5 G.C.A. §30113 (“Attorneys in the Department of Law shall not engage in the practice of law outside of the Department of Law.”).

It took two (2) years of preparation, to include passing physical tests, the ASVAB exam, multiple medical tests and completing numerous applications to “land” a billet in the Guam Army National Guard during time of war. My maternal grandfather served in the Philippine Army as a Captain during World War II. My father served in the United States Army Reserves as a Captain. I am proud to serve our Country and our Island in the Guam Army National Guard. I have signed a seven (7) year commitment and my promotion to Captain was federally recognized by the United States Senate (“Attachment C”).

Because of this local law, however, I am now forced to choose between either serving our Country and Island or keeping my job (performing my calling – seeking justice and protecting the People of Guam). **If forced to choose, my Country and my Island must come first.** I hope, however, I will not be forced to make that choice.

As you are aware, a battalion of our Soldiers is currently in the process of returning from deployment from Afghanistan. I want to be able to do my duty and help my Brothers and Sisters in arms upon their return. I simply ask that you allow me to do so.

Serving one's Country, State or Territory as an active, guard or reserve member of the military service should not ever be considered a form of misconduct nor should one be discriminated against on the basis of such an inorganic or unconstitutional law.

In keeping with this, I respectfully request that the Guam Legislature repeal the amendment to Title 5 G.C.A. §30113 contained in P.L. 31-077:XII:39 in order that I, and others who follow after me, are not forced to choose between serving the Country and the Island in the Guam Army / Air National Guard or Prosecuting Crime on behalf of the People of Guam.

Although Guam Bar Association ethics letters of investigation are confidential, I specifically authorize release and dissemination of this letter and the attachments to whomever you deem necessary.

Thank you for your time and attention to this matter. I patiently await your response.

Very Respectfully,



JONATHAN R. QUAN

Cc: The Honorable Eddie Baza Calvo, Governor of Guam
The Honorable Raymond S. Tenorio, Lieutenant Governor of Guam
The Honorable Judith Won Pat Borja, Speaker – 32nd Guam Legislature
Major General Benny F. Paulino, The Adjutant General – Guam Army National Guard
COL David B. Riano, Staff Judge Advocate – Guam Army National Guard
LTC Matthew Edwards, Regional Defense Counsel – 629 JAG Det., CA National Guard
MAJ(P) Larry Minasian, Senior Defense Counsel – 629 JAG Det., CA National Guard
Cynthia V. Ecube, President – Guam Bar Association
David Sablan, President – Employers Support of the Guard and Reserve (“E.S.G.R.”)
The Honorable Benjamin J.F. Cruz, Senator – 32nd Guam Legislature
I Mina’ Trentai Dos Na Liheslaturan Guahan

Attachment A



GUAM BAR ASSOCIATION
OFFICE OF THE ETHICS PROSECUTOR
Guam Judicial Center, Second Floor
120 West O'Brien Drive
Hagåtña, Guam 96910
Office: [671] 475-3167; Secure Fax: [671] 475-3400

PERSONAL & CONFIDENTIAL

December 2, 2013

Jonathan Quan, Esq.
Office of the Attorney General – Prosecution Division
590 S. Marine Corps Drive, Ste. 706
Tamuning, Guam 96913

RE: Ethics Matter EC13-034

Dear Mr. Quan:

Please be advised that the Guam Bar Ethics Committee ("GBEC") has authorized an investigation regarding information that has come to its attention regarding possible misconduct. Pursuant to Rule 12 of the Bar of Guam Ethics Committee Rules of Procedure – Disciplinary Proceedings ("GBEC Rules"), a preliminary screening of the information was undertaken. It has been determined that the facts, if true, appear to constitute misconduct under the applicable rules. Preliminary findings were presented to the GBEC which determined that the information warranted further investigation.

Please note that this letter is written as part of an investigation pursuant to Rule 13 of the GBEC Rules in order to give you an opportunity to provide information that might assist my office and the GBEC to more fully understand this matter prior to it possibly advancing to a more formal stage. This letter is not the "formal notice" you must be provided pursuant to Rule 14 of the GBEC Rules prior to the filing of formal "specification of charges." While we look forward to your input in response to this letter, you are not required to respond at this time. If this matter remains open and formal charges are later considered, you will be given formal Rule 14 notice prior to the filing of formal charges. A Rule 14 notice must be responded to, and failure to respond may be considered a "failure to cooperate," which can result in a separate allegation of misconduct.

ORIGINAL

EC13-034; Rule 13 Letter
December 2, 2013
Page 2

Guam law was amended through PL 31-077 on September 20, 2011 such that Title 5 GCA § 30113 now states as follows (underlined emphasis added):

§ 30113. Outside Employment Regulated.

Neither the Attorney General nor any person employed in the Department of Law shall engage in any outside employment which shall conflict with his duties within the Department of Law. Attorneys in the Department of Law shall not engage in the practice of law outside of the Department of Law.

Notwithstanding section 30113, the GBEC understands that you are employed as a JAG officer with the military. The GBEC further understands that a JAG officer's duties typically include the practice of law. If these understandings are accurate, it will be helpful to the GBEC if you can explain how your "practice of law" as a JAG officer does not run afoul of section 30113.

We are aware of the Supremacy Clause issue in this context. However preliminary research indicates that only certain activity would trigger its applicability. It appears that unless a service member is activated pursuant to federal orders (referred to as "Title 10" duty) they are likely serving local duty (pursuant to Title 32). While support seems to exist for the notion that the Supremacy Clause would trump applicability of section 30113 in the Title 10 context to allow the outside practice of law by an AAG/JAG officer notwithstanding section 30113, service pursuant to Title 32 would not seem to enjoy the same protection. Indications are that a significant portion of a JAG officer's work is performed pursuant to Title 32 orders, which causes the GBEC concern.

We look forward to your thoughts on the issues addressed above. Please reply by Friday, December 27, 2013 if you intend to do so. Thank you.

Sincerely,



Bruce A. Bradley
GBA Ethics Prosecutor

Attachment B

Leonardo M. Rapadas
Attorney General



Phillip J. Tydingco
Chief Deputy Attorney General

OFFICE OF THE ATTORNEY GENERAL

July 26, 2013

OPINION

Ref: AG 13-0587

Judith T. Won Pat, Ed.D., Speaker
Mina' Trentai Dos Na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

RE: Organicity, Constitutionality, and Interpretation of Amendments to 5 GCA § 30113,
P.L. 31-077:XII:39 (Sept. 20, 2011)

Dear Madam Speaker:

A number of issues have arisen concerning the organicity, constitutionality, and interpretation of Chapter XII, § 39 of Public Law 31-077 (Sept. 20, 2011) which amended 5 GCA § 30113 governing the outside practice of law by Department of Law attorneys. After careful consideration this Office has determined that the unconditional prohibition on the outside practice of law by Department attorneys contained in Chapter XII, § 39 suffers from the following defects which render it unenforceable, specifically that it (1) was enacted in violation of the Organic Act; (2) impairs constitutionally protected rights; (3) exceeds the territorial jurisdiction of the laws of Guam to the extent it may be applied to assistant attorneys general licensed to practice law in other jurisdictions; (4) violates federal law, specifically USERRA which renders it unenforceable as applied to members of this Office who serve in the armed forces; and (5) prohibits attorneys from fulfilling their obligations as officers of the court and members of the Guam Bar to perform *pro bono publico* service. We have prepared the following legal opinion which we invite the Legislature to consider.

Introduction

Prior to September 20, 2011, 5 GCA § 30113 read as follows:

Neither the Attorney General nor any person employed in the Department of Law shall engage in any outside employment which shall conflict with the duties of the Department of Law. Prior to engaging in any outside employment, the Attorney General shall obtain written authorization for such activities from the Governor. Any other person employed in the Department of Law shall, prior to engaging in any outside employment, obtain written authorization to engage in such activities from the Attorney General. Any person who engages in outside employment without first obtaining the required written approval may be suspended or dismissed from government service. [SOURCE: P.L. 13-117]

Section 30113 was amended by P.L. 31-077:XII:39 (Sept. 20, 2011), and now reads in its entirety:

Neither the Attorney General nor any person employed in the Department of Law shall engage in any outside employment which shall conflict with his duties within the Department of Law. Attorneys in the Department of Law shall not engage in the practice of law outside of the Department of Law.

Applying the third sentence of the original statute, “Any other person employed in the Department of Law shall, prior to engaging in any outside employment, obtain written authorization to engage in such activities from the Attorney General,” upon making a determination that there was no conflict with their duties within the Department of Law the Office of the Attorney General had previously authorized Department of Law employees to engage in outside employment including the practice of law. We immediately note that with the deletion of that sentence, as well as the next sentence, “Any person who engages in outside employment without first obtaining the required written approval may be suspended or dismissed from government service,” excepting the private practice of law which is prohibited in its entirety, the Attorney General’s written approval is no longer a requirement before Department of Law employees may engage in other forms of outside employment.

DISCUSSION

Legislative History of Public Law 31-077:XII:39 Amending 5 GCA § 30113

Public Law 31-077 originated in Substitute Bill No. 1 (2-S) which was passed by the Legislature on September 7, 2011 during the second special session of the 31st Legislature. The Legislature was called into special session by Governor Eddie Calvo on September 5, 2011, specifically to address the 2012 budget in a proposed bill titled, *An act making appropriations for the operations of the Executive, Legislative, and Judicial branches of the Government of Guam for Fiscal Year ending September 30, 2012, making other appropriations, and establishing miscellaneous and administrative provisions*. In his transmittal letter calling the Legislature into special session, the Governor stated, “I am calling this special session for the sole purpose that *I Mina’ Trentai Unu na Liheslaturan Guåhan* consider and vote upon the proposed legislation I am introducing, which you will find attached to this letter. It is my solemn opinion that the public interest requires I call this special session for *I Liheslaturan Guåhan* to consider and vote upon the attached proposed budget bill.”

There is, notably, no legislative history associated with Section 39, so there is no reflection as to what “general social or economic problem” the Governor or Legislature intended to address by amending 5 GCA § 30113 that was not already being addressed by existing law. Although a statement of legislative findings and intent or other indicia reflected in a record of the proceedings may not have been required,¹ it would certainly have been helpful.

¹ Compare, *Vacco v. Quill*, 521 U.S. 793, 799 (1997) (“If a legislative classification or distinction ‘neither burdens a fundamental right nor targets a suspect class, we will uphold [it] so long as it bears a rational relation to some legitimate end.’”) (quoting *Romer v. Evans*, 517 U.S. 620, 631 (1996)); *Heller v. Doe*, 509 U.S. 312, 320-21 (1993) (under rational basis review, a legislature is not required to “actually articulate” its purpose, so long as “there is any reasonably conceivable state of facts that could provide a rational basis for the classification”) (internal quotation marks omitted).

Organic Act Concerns

Guam's Organic Act contains what is familiarly known in other jurisdictions as a single subject restriction on bills passed in special session. Title 48 U.S.C. § 1423h provides, "No legislation shall be considered at any special session other than that specified in the call therefor or in any special message by the Governor to the legislature while in such session." If Substitute Bill No. 1 (2-S) had been passed during a regular session of the Legislature, the Organic Act's single subject restriction would not apply. However, because the call of the special session was called "for the sole purpose" of addressing the Governor's proposed budget bill, § 1423h does apply.

The purpose of the single subject provision in a state constitution is to encourage an open, deliberative, and accountable government by limiting the practice of inserting a number of distinct and independent subjects into a single bill. It is intended to ensure that legislation is not passed without adequate consideration by the legislature and to prevent passage of a bill containing unrelated subjects and prevents a single enactment from becoming a "cloak" for dissimilar legislation having no necessary or appropriate connection with the subject matter. **The single subject requirement seeks to prevent grouping of incompatible measures, as well as pushing through unpopular legislation by attaching it to popular or necessary legislation. It prevents "logrolling," combining several proposals in a single bill so that legislators, by combining their votes, obtain a majority for a measure which would not have been approved if divided into separate bills....**

The mere fact that a bill embraces more than one topic is not fatal, for purposes of the state constitution's one-subject requirement for legislation, as long as a common purpose or relationship exists between the topics. Neither the act's length nor the number of provisions in the act is determinative of its compliance with the single subject rule; **what is dispositive is whether the provisions in the act have a natural and logical connection to a single subject. A piece of legislation violates the single subject rule when it contains unrelated provisions that by no fair interpretation have any legitimate relation to a single subject. An act may include all matters germane to the general subject, including the means reasonably necessary or appropriate to accomplishment of the legislative purpose without violating the single subject requirement.**

One-Subject Requirement, 73 Am.Jur.2d Statutes § 53 (emphasis added; citations in footnotes omitted).

"Multi-subject bills by their nature are subject to a greater susceptibility of smuggling and logrolling. They intermingle a variety of unrelated legislation which singly may not have the support of the majority and, thus, tend to reduce accountability to the public." *Davis v. Grover*, 166 Wis.2d 501, 519-29, 480 N.W.2d 460, 465 (Wis. 1992). "The single subject clause has as its 'primary and universally recognized purpose' the prevention of log-rolling by the Legislature, i.e., combining several proposals in a single bill so that legislators, by combining their votes, obtain a majority for a measure which would not have been approved if divided into separate bills." *Harbor v. Deukmejian*, 43 Cal.3d 1078, 1096, 742 P.2d 1290, 1300 (Cal. 1987) (citations omitted). "The constitutional requirement that every act embrace but one subject and matters properly connected therewith which shall be expressed in the title was designed to enable legislators and the public upon reading the title to know what to expect in the body of the act so that no one would be surprised as to the subjects dealt with by the act. **The title must be worded so that it puts people on notice as to the contents of the act. This does not mean, however, that the title must be a complete index to the act. Any provision having a natural connection with**

the title of the act is properly embraced in the act.” *White v. Kaibab Road Improvement Dist.*, 113 Ariz. 209, 211, 550 P.2d 80, 82 (Ariz. 1976) (emphasis added; citations omitted).²

Section 39 of Chapter of XII of P.L. 31-077 which amends 5 GCA § 30113 is perhaps the quintessential violation of the single-subject rule. Its subject matter purporting to govern outside employment and the practice of law by employees of the Department of Law has nothing to do with revenue collection or appropriations. When viewed in comparison to the bill’s title, the surrounding sections within Chapter XII, and the bill as a whole, Section 39’s limitation on outside employment and prohibition on the outside practice of law by government attorneys is conspicuously out of place. The subject of Section 39 was in no way identified in the Governor’s transmittal letter calling for a special session, the sole purpose of which was to addressing his proposed budget bill, and cannot credibly be argued to have been “specified in the call therefor or in any special message by the Governor to the legislature while in such session,” 48 U.S.C. § 1423h. It is not germane to the purpose for which the special session was called. Having been passed in violation the Organic Act Section 39 was not duly enacted and is void.³

² California and other jurisdictions have taken this principle a step further and apply it directly to all budget bills whether or not considered in special session. “Substantive law cannot be made in a budget bill. ‘Budget bills that substantively change existing law violate the single-subject rule.’” *California School Boards Ass’n v. Brown*, 192 Cal.App.4th 1507, 1525-26, 122 Cal.Rptr.3d 674 (Cal.App. 2011) (quoting *San Joaquin Helicopters v. Department of Forestry*, 110 Cal.App.4th 1549, 1558, 3 Cal.Rptr.3d 246 (2003)) “[A] budget bill may deal only with the subject of appropriations and may not ... substantively amend and change existing statutory law.” *Brown v. Chiang*, 198 Cal.App.4th 1203, 1219 n. 8, 132 Cal.Rptr.3d 48 (Cal.App. 2011) (citing *Planned Parenthood Affiliates v. Swoap*, 173 Cal.App.3d 1187, 1198–1199, 219 Cal.Rptr. 664 (1985). Compare, *United Auto Workers, Local Union 1112 v. Brunner*, 182 Ohio App.3d 1, 911 N.E.2d 327 (Ohio App. 2009) (affirming trial court’s determination that inclusion of irrelevant provisions in a budget bill violated the single-subject rule); and *Washington State Legislature v. State*, 139 Wash.2d 129, 145, 985 P.2d 353, 362 (Wash. 1999) (“by their omnibus nature, budget bills offer too tempting a target for legislative logrolling”).

³ Canvassing cases from across the nation, the Florida Supreme Court has held that “when the legislature approves unconstitutional statutory language and simultaneously repeals its predecessor, then the judicial act of striking the new statutory language automatically revives the predecessor unless it, too, would be unconstitutional.” *B.H. v. State*, 645 So.2d 987, 995 (Fla. 1994). “The apparently unanimous view of the jurisdictions addressing the problem is that a revival is proper and does not violate due process when the loss of constitutionally invalid statutory language will result in an intolerable hiatus in the law.” *Id.*; accord, *Tucson Elec. Power Co. v. Apache County*, 185 Ariz. 5, 23, 912 P.2d 9, 27 (Ariz.App. 1995) (“It has long been recognized that an amendment of a statute, covering the same subject matter, implicitly repeals the earlier version. However, when a law that repeals a former law is found to be unconstitutional, and therefore void, the operative repeal of the former constitutional law also falls, with the effect that the prior version of the amending statute is automatically reinstated by operation of law....”) (citation omitted) (also citing 1 Sutherland, *Statutory Construction*, § 2033 at 508 (3d ed. 1943) and 1A Sutherland, *Statutory Construction*, § 23.24 (5th ed. 1993) (“A legislative enactment which is unconstitutional cannot repeal by implication a prior statute, since a judicial declaration of invalidity eliminates the conflict which is the essential element of the repeal”). See also 1A Sutherland, *Statutory Construction*, § 23.37 (7th ed. 2011) (“If an amendatory act is wholly invalid, the statute sought to be amended remains in full force and effect.”) (citations omitted); *Cookson v. Price*, 239 Ill.2d 339, 341, 941 N.E.2d 162, 164 (Ill. 2010) (“The effect of declaring a statute unconstitutional is to revert to the statute as it existed before the amendment.”); *Ross v. Goshi*, 351 F.Supp. 949, 954 (D. Hawaii 1972) (“It is a general rule of application that, where an act purporting to amend and re-enact an existing statute is void, the original statute remains in force.”); *State v. Bloss*, 64 Haw. 148, 637 P.2d 1117 (Hawaii 1981) (same);

Constitutional Concerns

Even if Section 39 of Chapter of XII of P.L. 31-077 amending 5 GCA § 30113 had been passed in a regular session and therefore did not violate the single-subject restriction contained in 48 U.S.C. § 1423h, it would likely be found to violate the United States Constitution. Retroactive application of the amended statute to lawyers who have already been approved by the Attorney General to engage in the outside practice of law before the law was amended will be subject to attack as a violation of the Contract Clause of the Constitution, Article I, Section 10, Clause 1 (“No State shall ... pass any ... Law impairing the Obligation of Contracts.”).

Whether a regulation violates the Contract Clause is governed by a three-step inquiry: “The threshold inquiry is ‘whether the state law has, in fact, operated as a substantial impairment of a contractual relationship.’ ” *Id.* at 411, 54 S.Ct. 231 (quoting *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, 244, 98 S.Ct. 2716, 57 L.Ed.2d 727 (1978)). If this threshold inquiry is met, the court must inquire whether “the State, in justification, [has] a significant and legitimate public purpose behind the regulation, such as the remedying of a broad and general social or economic problem,” to guarantee that “the State is exercising its police power, rather than providing a benefit to special interests.” *Id.* at 411-12, 54 S.Ct. 231 (citation omitted). Finally, the court must inquire “whether the adjustment of ‘the rights and responsibilities of contracting parties is based upon reasonable conditions and is of a character appropriate to the public purpose justifying the legislation’s adoption.’ ” *Id.* at 412-13, 54 S.Ct. 231 (quoting *United States Trust Co. v. New Jersey*, 431 U.S. 1, 22, 97 S.Ct. 1505, 52 L.Ed.2d 92 (1977)).

RUI One Corp. v. City of Berkeley, 371 F.3d 1137, 1147 (9th Cir. 2004) (quoting *Home Bldg. & Loan Ass’n v. Blaisdell*, 290 U.S. 398, 54 S.Ct. 231 (1934)).

Even if a legislative purpose could be articulated, unless made retroactive expressly or by necessary implication it is presumed that the law is intended to be applied prospectively only. *See*, 1 GCA § 702 (“No part of this Code is retroactive, unless expressly so declared.”).

There is a presumption against the retroactive application of statutes. *Immigration & Naturalization Serv. v. St. Cyr*, 533 U.S. 289 (2001). The “presumption against retroactive legislation is deeply rooted in our jurisprudence, and embodies a legal doctrine centuries older than our Republic. Elementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly.” *Id.* at 316.

We have embraced this principle, stating that generally, there is a “presumption against retroactive application of new laws to pending cases.” *Bank of Guam v. Reidy*, 2001 Guam 14 ¶ 16 n. 2. “As a rule, a statute is presumed to have only prospective effect unless it is made expressly retroactive or is retroactive by ‘necessary implication.’ ” *In re Request of Twenty-Fourth Guam Legislature for Declaratory Judgment*, 1997 Guam 15 ¶ 15 (citation omitted).

accord, Copp v. Redmond, 858 P.2d 1125, 1127 (Wyo. 1993); and see *Lily Lake Road Defenders v. County of McHenry*, 156 Ill.2d 1, 8, 619 N.E.2d 137, 140 (Ill. 1993) (“the repeal of the preempting statute revives or reinstates the preempted statute without express reenactment by the legislature”).

Jenkins v. Montallana, 2007 Guam 12 ¶¶ 12,13. Therefore, the amendments to the statute do not, indeed cannot, apply to existing contractual relations that have already been approved by the Attorney General because retroactive application would violate the Contracts Clause.

Statutory Limitations on Extra-Territorial Application

“The authority and jurisdiction of the government of Guam extends to all places within its boundaries and, in certain circumstances specified in the Criminal and Correctional Code (Title 9 of this Code), to actions occurring outside of Guam’s boundaries.” 1 GCA § 401. This means that before and after it was amended 5 GCA § 30113 can only be applied to outside employment and the practice of law occurring within the territorial boundaries of Guam designated by 1 GCA § 402. Therefore, an attorney serving in the Department of Law who is licensed to practice law in jurisdictions beyond Guam is not prohibited from practicing law in those jurisdictions because the authority and jurisdiction of the government of Guam does not extend beyond its territorial boundaries.

Application of 5 GCA § 30113 to Members of the Armed Services Violates Federal Law and Conflicts with Guam Law

As amended, 5 GCA § 30113 provides for no exceptions. Thus, an attorney in the Department of Law who also serves in the Judge Advocate General’s Corps of the National Guard or reserves would also run afoul of its prohibition on the outside practice of law. As applied to attorneys in Department of Law who also practice law on behalf of the uniformed services,⁴ the absolute prohibition on the outside practice of law in 5 GCA § 30113 as amended violates the Uniformed Services Employment and Reemployment Rights Act (“USERRA”), Pub.L. 103-353, codified as amended at 38 U.S.C. §§ 4301-4335.

The purpose of USERRA is three-fold:

- (1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;
- (2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service; and
- (3) to prohibit discrimination against persons because of their service in the uniformed services.

38 U.S.C. § 4301(a). “States and their political subdivisions, such as counties, parishes, cities, towns, villages, and school districts, are considered employers under USERRA. The District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and territories of the United States, are also considered employers under the Act.” 20 C.F.R. § 1002.39.

⁴ See, 20 C.F.R. § 1002.6 (“USERRA’s definition of ‘service in the uniformed services’ covers all categories of military training and service, including duty performed on a voluntary or involuntary basis, in time of peace or war. Although most often understood as applying to National Guard and reserve military personnel, USERRA also applies to persons serving in the active components of the Armed Forces. Certain types of service specified in 42 U.S.C. 300hh-11 by members of the National Disaster Medical System are covered by USERRA.”)

Section 4302(b) of USERRA provides, "This chapter supersedes any State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit." *See*, 20 C.F.R. § 1002.7:

(a) USERRA establishes a floor, not a ceiling, for the employment and reemployment rights and benefits of those it protects. In other words, an employer may provide greater rights and benefits than USERRA requires, but no employer can refuse to provide any right or benefit guaranteed by USERRA.

(b) USERRA supersedes any State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by USERRA, including the establishment of additional prerequisites to the exercise of any USERRA right or the receipt of any USERRA benefit.

We note as well that as applied to attorneys in the Department of Law who serve as attorneys in the armed forces 5 GCA § 30113 now conflicts with other parts of Guam law which guarantee that government employees will not be discriminated against as a result of their military service. *See*, 10 GCA § 63105 ("Any person who deprives a member of the National Guard of Guam of his employment, or attempts to prevent his being employed by himself or another, because said member of the Guam National Guard is such a member, or dissuades any person from enlisting in, or joining the Guam National Guard by threat of any sort, shall be deemed guilty of a violation and upon conviction thereof, shall be fined a sum not to exceed One Thousand Dollars (\$1,000)."); and 4 GCA § 4119 ("All employees of the government of Guam who are members of the reserve components of the Department of Defense or Transportation, including, but not limited to, the United States Army, the United States Navy, the United States Marine Corps, the United States Air Force, the Army National Guard, the Air National Guard and the United States Coast Guard, shall be entitled to leaves of absence from their respective duties with the government of Guam without losses of time or efficiency ratings on all days during which they are engaged in active military duty ordered or authorized under the laws of United States.").

An Absolute Prohibition on the Practice of Law Outside the Department of Law Conflicts With Lawyers' Ethical Duties to Render Pro Bono Publico Service

What constitutes "the practice of law" is not defined by statute or court rule except by negative implication of those activities listed in 7 GCA § 9A215. Most of 7 GCA § 9A215 appears focused on providing services for compensation, direct or indirect. It is unclear whether the Legislature intended that "practice of law" in the amendments to 5 GCA § 30113 is limited to those matters where remuneration or compensation, direct or indirect, is involved or whether the Legislature intended it to mean everything that might conceivably come within the definition of the practice of law without regard to remuneration, including by way of example only, preparation of a will or power of attorney or deed for a family member, or preparation of documents and the provision of legal advice to non-profit organizations.

On its face, 5 GCA § 30113 as amended is an outright prohibition on provision of any legal service outside the Department of Law including those rendered *pro bono publico*, even if those services do not conflict with the lawyer's duties within the Department of Law. Assuming that no remuneration or compensation is involved, and assuming further that no government lawyer would be offering services where direct representation of a client requiring appearance on a client's behalf before a court or tribunal is required, § 30113 as amended is considerably broader than the prior law and has consequences we do

not imagine the Legislature intended. A literal reading of § 30113 directly conflicts with every attorney's professional obligations expressed in the Guam Rules of Professional Conduct, Rule 6.1 ("Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of *pro bono publico* legal services per year."). Without deciding the question here it is sufficient to note that the amended statute not only raises serious separation of powers concerns, but places every Department of Law attorney in the untenable position of having to choose between his and her continued employment and fulfilling his and her ethical and professional responsibilities as officers of the court and members of the Guam Bar.

5 GCA § 30113 As Amended Cannot Be Saved By Any Limiting Construction

Courts may impose a limiting construction on a statute "only if it is readily susceptible to such a construction." *Reno v. ACLU*, 521 U.S. 844, 884 (1997) (internal quotation marks and citation omitted). *See, also, Board of Airport Com'rs of Los Angeles v. Jews for Jesus, Inc.*, 482 U.S. 569, 575 (1987) (refusing to adopt a limiting construction because "the words of the resolution simply leave no room for a narrowing construction"); *Valle Del Sol Inc. v. Whiting*, 709 F.3d 808, 818 n. 3 (9th Cir. 2013) ("We will not apply a limiting construction that is contrary to the plain language of the statute."); and *Comite de Jornaleros de Redondo Beach v. City of Redondo Beach*, 657 F.3d 936, 947 (9th Cir. 2011) (en banc) ("It is true that, when analyzing a facial challenge, we must consider the [government's] authoritative constructions of the ordinance, including its own implementation and interpretation of it. Although we must consider the [government's] limiting construction ... we are not required to insert missing terms into the statute or adopt an interpretation precluded by the plain language of the ordinance.") (internal quotation marks and citations omitted), *cert. denied*, 132 S.Ct. 1566 (2012). Accordingly, we do not believe that 5 GCA § 30113 as amended can be salvaged by a limiting construction that carves out exceptions – for lawyers licensed to practice in jurisdictions beyond Guam's territorial borders; for lawyers engaged in the practice of law as part of their military service; or for lawyers who wish to fulfill their professional obligations to perform *pro bono public* service – that are not supported by the plain wording of the statute.

That is not to say that limitations on the outside practice of law by government or publicly funded attorneys will not be upheld *provided* they are reasonably tailored to the legitimate needs of the government. *See, e.g., Gibson v. Office of Attorney General, State of California*, 561 F.3d 920, 927-28 (9th Cir. 2009) ("Like the policy in *Williams*, which required an employee to obtain written permission from the agency before engaging in outside employment or business activities, 919 F.2d at 745, the OAG's policy here does not unduly restrict the constitutional rights of a state-employed lawyer. The policy does not prohibit all outside practice of law. The requirement to seek written permission before engaging in outside representation allows the OAG to assess whether the requested outside employment creates any conflict of interest or impedes any other legitimate interest of the state. There is a close and rational relationship between the policy and legitimate governmental interests: The OAG has a legitimate interest in regulating practice-related conduct of its lawyers to avoid any conflict of interest and to avoid any potential prejudice to the OAG and its clients, as well as a legitimate interest in ensuring that its employees are devoting their full attention to the business of the OAG. Further, the OAG's policy is even more permissive than the policy upheld in *Williams* in that the OAG's policy requires pre-approval only for the private practice of law, not for all outside employment and business activities.) (citing *Williams v. IRS*, 919 F.2d 745 (D.C.Cir.1990) (per curiam)).⁵ Whereas the restriction on outside employment in 5

⁵ *See, also, Legal Aid Soc. of Hawaii v. Legal Services Corp.*, 145 F.3d 1017, 1029 (9th Cir. 1998) ("It is true that longstanding LSC regulations generally prohibit the outside practice of law. *See* 45 C.F.R. pt. 1604 (1976). The purpose of this provision, which is common in government agencies, is to ensure that outside demands 'do not hinder fulfillment of the attorney's overriding responsibility to serve those eligible for assistance under the Act.' 45 C.F.R. § 1604.1. According to the LSC, the provision 'is

GCA § 30113 as originally enacted was limited to "outside employment which shall conflict with the duties of the Department of Law," the determination of which was committed to the sound discretion of the Attorney General and would therefore likely withstand muster if challenged in court, as amended the absolute prohibition on the private practice of law without limitation likely would not survive.

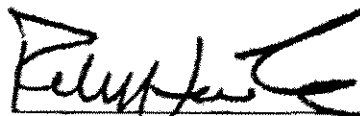
CONCLUSION

Section 39 of Chapter of XII of P.L. 31-077 is wholly unrelated to the purpose of the call of the special session in which it was introduced, specifically, to pass a proposed budget bill. It therefore violates the single-subject requirement of 48 U.S.C. § 1423h and is inorganic in its entirety. Even if the amendments to Guam law contained in section 39 were not inorganic, the statute can only be applied prospectively because if applied retroactively it would violate the Contracts Clause of the United States Constitution. As amended, 5 GCA § 30113 cannot be applied beyond the territorial limits of Guam's jurisdiction. If applied to military personnel within the Department of Law it would violate federal law and would conflict with Guam law guaranteeing the rights of government of Guam employees who serve in the military. And it conflicts with ethical duties and obligations imposed by a coordinate branch of government of Guam upon all lawyers admitted to practice before the courts of Guam. Finally, the present statute cannot be salvaged by any limiting construction not supported by its plain language.

OFFICE OF THE ATTORNEY GENERAL



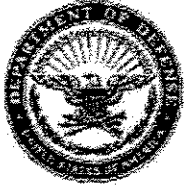
LEONARDO M. RAPADAS
Attorney General



ROBERT M. WEINBERG
Assistant Attorney General

essential to insure that a legal services lawyer does not compete with lawyers in private practice, is not burdened by excessive court appointments,' and does not accept other commitments that might interfere with rendering quality full-time legal assistance to eligible clients. 41 Fed.Reg. 18,511, 18,512 (1976).")
See generally, 45 C.F.R. § 1604.4 (defining circumstances in which the private practice of law by Legal Services Corporation lawyers is permitted).

Attachment C



NATIONAL GUARD BUREAU

111 SOUTH GEORGE MASON DRIVE
ARLINGTON VA 22204-1382

ARNG-HRP

10 July 2013

MEMORANDUM THRU

THE ADJUTANT GENERAL, GUAM
622 E. HARMON IND PK RD
TAMUNING, GU 96911-4421

A- 03 Jul 2013

B- 03 Jul 2013

FOR QUAN, JONATHAN REGINO
629TH JAG DET

CPT JA ARNGUS

SUBJECT: Promotion as a Reserve Commissioned Officer of the Army

1. The President of the United States has reposed special trust and confidence in your patriotism, valor, fidelity and abilities. In view of these qualities and your demonstrated potential for increased responsibility, you are, therefore, promoted in the Reserve of the Army for service in the Army National Guard of the United States.
2. Your Reserve of the Army promotion and authorization for pay and allowances in the higher grade are effective on the date shown after A above. Time in grade for promotion to the next grade will be computed from your Promotion Eligibility Date (which is your Date of Rank) of this promotion shown after B above.
3. If this promotion is a result of a recommendation by a special selection board, the date of rank, effective date for pay and allowances and position on the reserve active-status list is the same as if you had been recommended by the selection board which did not recommend or consider you (10 USC 14502(e) (2)).
4. No acceptance or oath of office is required. This promotion is not valid and will be revoked if you are not in a promotable status on the effective date of the promotion or you expressly decline this promotion within 60 days.

Roberta Niedt
COL, AG
Chief, Personnel Division

SPECIAL ORDERS

DATE

DEPARTMENTS OF THE ARMY AND THE AIR FORCE

NUMBER 169 AR

10 July 2013

NATIONAL GUARD BUREAU

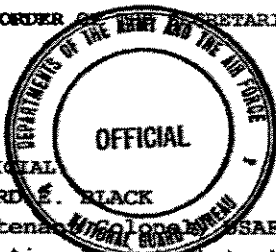
WASHINGTON, D.C. 20310-2500

EXTRACT

B. Announcement is made of the extension of Federal recognition in the Army National Guard for the services indicated, to TFN individuals who have qualified under sections 305 and 307 or 308 of Title 32, United States Code.

| NAME, GRADE, BRANCH SN (MOS IF WO) | UNIT & STATE | EFFECTIVE DATE | PURPOSE |
|---------------------------------------|-------------------------------|-------------------|---------|
| POPOVICH SAMUEL L. JR CPT OM | HHC 328TH SUPPORT BN PA | 03 JUL 2013 | PRM |
| POWERS CHRISTOPHER E. MAJ MP | HHC 110TH MEB MO | 03 JUL 2013 | PRM |
| PRIDY JASON W. MAJ FA | AR ARNG ELEMENT JF HQ AR | 03 JUL 2013 | PRM |
| QUAN JONATHAN R. CPT JA | 629TH JAG DET GU | 03 JUL 2013 | PRM |
| RANDOLPH CHARLES H. LTC IM | WA ARNG ELEMENT JF HQ WA | 03 JUL 2013 | PRM |
| REHRER JUSTIN R. CPT EN | TMARNG ELEMENT JF HQ TN | 03 JUL 2013 | PRM |
| RIVERS CARLYLE P. CPT OD | CO A 122D ENGR BN SC | 03 JUL 2013 | PRM |
| ROBERTS WADE A. CPT OM | CO A DIST CO 271ST BSB OK | 03 JUL 2013 | PRM |
| ROGERS JEFFREY C. CPT OM | CO G 181ST BSB WA | 03 JUL 2013 | PRM |
| ROSS SAMUEL G. CPT MI | 53D DIGITAL LIAISON DET NY | 03 JUL 2013 | PRM |
| RUSSELL WILLIAM J. CPT AV | HQ 81ST BCT WA | 03 JUL 2013 | PRM |
| RUTH JASON F. CPT OM | CO E 3D BN 126TH AV MA | 03 JUL 2013 | PRM |
| SANDS DANIEL B. CPT IN | 2D BN 19TH SFG RI | 03 JUL 2013 | PRM |

BY ORDER OF THE SECRETARIES OF THE ARMY AND THE AIR FORCE:



OFFICIAL
EDWARD E. BLACK
Lieutenant Colonel, USAF
Executive Assistant to the Chief, National Guard Bureau

FRANK J. GRASS
General, USA
Chief, National Guard Bureau



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
Dennis G. Rodriguez, Jr.
Member

Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

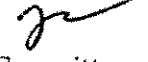
Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

February 17, 2014

Memorandum

To: Rennae Meno
Clerk of the Legislature

From: Senator Thomas C. Ada 
Acting Chairperson of the Committee on Rules

Subject: Fiscal Notes /Waivers

Hafa Adai!

Attached please find the fiscal notes and waivers for the bill numbers listed below.

Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

FISCAL NOTES:

- Bill No. 216-32(LS)
- Bill No. 228-32(LS)
- Bill No. 229-32(COR)
- Bill No. 230-32(COR)
- Bill No. 258-32(COR)
- Bill No. 260-32(COR)

WAIVERS:

- Bill No. 253-32(COR)
- Bill No. 261-32(COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!

2014 FEB 18 AM 9:52

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932EDDIE BAZA CALVO
GOVERNORJOHN A. RIOS
DIRECTORRAY TENORIO
LIEUTENANT GOVERNORJOSE S. CALVO
DEPUTY DIRECTOR

FEB 13 2014

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Dos na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96932

Hafa Adai Senator Respicio:

Transmitted herewith is Fiscal Note on the following Bill Nos.: 216-32(LS), 228-32(LS), 229-32(COR), 230-32(COR), 258-32(COR), 260-32(COR) and Fiscal Note Waiver on the following Bill Nos.: 253-32(COR), and 261-32(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.



JOHN A. RIOS
Director

Enclosures

cc: Senator Vicente (ben) Pangelinan



BUREAU OF BUDGET & MANAGEMENT RESEARCH

OFFICE OF THE GOVERNOR

Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

RAY TENORIO
LIEUTENANT GOVERNOR

JOHN A. RIOS
DIRECTOR

JOSE S. CALVO
DEPUTY DIRECTOR

FEB 13 2014

The Bureau requests that Bill No. 253-32(COR) be granted a waiver pursuant to Public Law 12-229 as amended for the following reason(s):

The above referenced Bill is administrative in nature and does not have any potential impact upon the revenues or the expenditure of any funds of the Government of Guam.



JOHN A. RIOS
DIRECTOR

Attachment(s)



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
Dennis G. Rodriguez, Jr.
Member

Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

January 7, 2014

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio**
Chairperson of the Committee on Rules

Subject: **Referral of Bill No. 253-32(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 253-32(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

I Mina Trentai Dos Na Lihelaturon Guahan
Bill Log Sheet

| BILL NO. | SPONSOR | TITLE | DATE INTRODUCED | DATE REFERRED | CMTE REFERRED | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | FISCAL NOTES |
|-----------------|---|---|---------------------|---------------|--|---------------------|-----------------------------|-----------------------------------|
| 253-32 (COR) | Frank B. Aguon, Jr. T.C. Ada Vicente (ben) C. Pangelinan | AN ACT TO AMEND §30113 OF CHAPTER 30, TITLE 5, GUAM CODE ANNOTATED RELATIVE TO THE EXCLUSION OF ATTORNEYS EMPLOYED IN THE DEPARTMENT OF LAW WHO SERVES IN THE GUARD AND/OR RESERVE UNDER TITLE 10 OR TITLE 32 OF THE U.S. CODE. | 1/7/14 4:16 p.m. | 01/07/14 | Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, and Historic Preservation, and Land | | | Fiscal Note Requested 01/08/14 |



Nichole Santos <nsantos@guamlegislature.org>

Public Hearing - FIRST NOTICE

Nicole Santos <nsantos@guamlegislature.org>
To: PHrg Notice <phnotice@guamlegislature.org>

Mon, Feb 3, 2014 at 1:54 PM

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at **9:00 am** on **Monday, February 10, 2014** at the Guam Legislature's Public Hearing Room.

The following is on the agenda:

Bill No. 259-32 (COR) – Introduced by Senator Vicente C. Pangelinan: An act to authorize *I Maga'lahen Guahan* to exchange on a value for value basis privately owned property located in the municipality of Barrigada upon certification by the Department of Public Works for use of a ponding basin for flood mitigation for government of Guam owned property located in the municipality of Dededo.

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Nicole Santos
Policy Research Analyst
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3 attachments

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 **First Notice PH_Senators 021014.pdf**
115K




I Mina'trentai Dos na Liheslaturan Guahan

Senator Vicente (ben) Cabrera Pangelinan (D)

February 3, 2014

Memorandum

To: All Senators

From: Senator Vicente (ben) Cabrera Pangelinan 

Re: Public Hearing Notice – FIRST NOTICE

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
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Member
Committee on Municipal
Affairs, Tourism, Housing and
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Development Authority

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Insurance Reform, Economic
Development and Senior
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Letter to All Senators
February 3, 2014
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Public Hearing - FIRST NOTICE

Nicole Santos <nsantos@guamlegislature.org>

Mon, Feb 3, 2014 at 1:54 PM

To: frank@mvguam.com, Jason Salas <jason@kuam.com>, Clynt Ridgell <clynt@spbg Guam.com>, Gaynor Daleno <gdumat-ol@guampdn.com>, Guam PDN <news@guampdn.com>, Janela Buhain <janela@gmail.com>, K57 <news@k57.com>, Ken Quintanilla <kenq@kuam.com>, Kevin Kemigan <kevin@k57.com>, Mar-vic Cagurangan <marvic.cagurangan@yahoo.com>, Maria Louella Losinio <louella@mvguam.com>, Oyaol Ngirairikl <odngirairikl@guampdn.com>, Steve Limtiaco <slimtiaco@guampdn.com>

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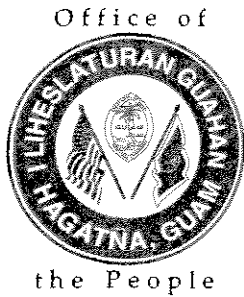
—
Nicole Santos
Policy Research Analyst
Office of Senator Vicente (ben) Cabrera Pangelinan
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I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

February 3, 2014

Memorandum

To: All Media

From: Senator Vicente (ben) Cabrera Pangelinan 

Re: Public Hearing Notice – FIRST NOTICE

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

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Committee on Health &
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Insurance Reform, Economic
Development and Senior
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Letter to All Media
February 3, 2014
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3 attachments

-  **Agenda_Feb 10-Amended_48hourNotice.pdf**
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-  **Second PH Notice-Amended_Senators 021014.pdf**
110K




I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

February 6, 2014

Memorandum

To: All Senators

From: Senator Vicente (ben) Cabrera Pangelinan 

Re: Public Hearing Notice – SECOND NOTICE (AMENDED)

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Member
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Public Libraries
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Public Hearing - SECOND NOTICE (AMENDED)

Nicole Santos <nsantos@guamlegislature.org>

Thu, Feb 6, 2014 at 1:18 PM

To: frank@mvguam.com, Jason Salas <jason@kuam.com>, Clynt Ridgell <clynt@spbguam.com>, Guam PDN <news@guampdn.com>, "Daleno, Gaynor D" <gdumat-ol@guam.gannett.com>, Janela Buhain <janela@gmail.com>, K57 <news@k57.com>, Ken Quintanilla <kenq@kuam.com>, Kevin Kerigan <kevin@k57.com>, Mar-vic Cagurangan <marvic.cagurangan@yahoo.com>, Maria Louella Losinio <louella@mvguam.com>, Oyaol Ngirairikl <odngirairikl@guampdn.com>, Steve Limtiaco <slimtiaco@guampdn.com>

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I Mina'trentai Dos na Liheslaturan Guahan

Senator Vicente (ben) Cabrera Pangelinan (D)

February 6, 2014

Memorandum

To: All Media

From: Senator Vicente (ben) Cabrera Pangelinan 

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Yanggen un nisisita spesiât na setbision, put fabot âgang i Ifisinin Sinadot Vicente (ben) Cabrera Pangelinan gi 473-4236/7. Yanggen un nisisita kopian i priniponi siha ginen este na tareha, hâlom gi i uepsait i Liheslaturan Guâhan gi www.guamlegislature.com Yanggen para un na'hâlom testigu-mu, chule' para i ifisinin-mâmi gi 324 West Soledad Avenue gi iya Hagâtña, pat guatto gi i Kwatton Katta gi i Liheslatura, pat faks gi 473-4238, patsino imel gi office@senbenp.com Este na nutisiu inapâsi nu i fendon gubetnamento.

If you require any special accommodations, auxiliary aids or other special services or for further information, please call the Office of Senator Vicente (ben) Cabrera Pangelinan at 473-4236/7. For copies of any of the Bills listed on this agenda, you may log on to the Guam Legislature's website at www.guamlegislature.com Testimonies may be submitted directly to our office at 324 West Soledad Avenue in Hagâtña or at the Mail Room of the Guam Legislature, via fax at 473-4238, or via email at office@senbenp.com



Public Hearing - 48-hour Notice (AMENDED)

Nicole Santos <nsantos@guamlegislature.org>
To: PHrg Notice <phnotice@guamlegislature.org>

Sat, Feb 8, 2014 at 8:33 AM

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at **9:00 am** on **Monday, February 10, 2014** at the Guam Legislature's Public Hearing Room.

Please see attached notice & agenda.

—
Nicole Santos
Policy Research Analyst
Office of Senator Vicente (ben) Cabrera Pangelinan
I Mina'trentai Dos Na Liheslaturan Guáhan - 32nd Guam Legislature
(671) 473-4236 (office)
(671) 473-4238 (fax)
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Policy Research Analyst
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I Mina'trentai Dos na Liheslaturan Guahan

Senator Vicente (ben) Cabrera Pangelinan (D)

February 8, 2014

Memorandum

To: All Senators

From: Senator Vicente (ben) Cabrera Pangelinan 

Re: Public Hearing Notice – SECOND NOTICE (AMENDED)

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

Member
Committee on Health &
Human Services, Health
Insurance Reform, Economic
Development and Senior
Citizens

Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at **9:00 am on Monday, February 10, 2014** at the Guam Legislature's Public Hearing Room.

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Letter to All Senators
February 8, 2014
Page 2

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Public Hearing - 48-hour Notice (AMENDED)

Nicole Santos <nsantos@guamlegislature.org>

Sat, Feb 8, 2014 at 8:33 AM

To: frank@mvguam.com, Jason Salas <jason@kuam.com>, Clynt Ridgell <clynt@spbguam.com>, Guam PDN <news@guampdn.com>, "Daleno, Gaynor D" <gdumat-ol@guam.gannett.com>, Janela Buhain <janela@gmail.com>, K57 <news@k57.com>, Ken Quintanilla <kenq@kuam.com>, Kevin Kerrigan <kevin@k57.com>, Mar-vic Cagurangan <marvic.cagurangan@yahoo.com>, Maria Louella Losinio <louella@mvguam.com>, Oyaol Ngirairinkl <odngirairinkl@guampdn.com>, Steve Limtiaco <slimtiaco@guampdn.com>

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Policy Research Analyst
Office of Senator Vicente (ben) Cabrera Pangelinan
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the People


I Mina'trentai Dos na Liheslaturan Guahan

Senator Vicente (ben) Cabrera Pangelinan (D)

February 8, 2014

Memorandum

To: All Media

From: Senator Vicente (ben) Cabrera Pangelinan 

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Chairman
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Public Debt, Legal Affairs,
Retirement, Public Parks,
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Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
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Hagåtña Restoration and
Development Authority

Member
Committee on Health &
Human Services, Health
Insurance Reform, Economic
Development and Senior
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Transportation, Regulatory
Concerns and Future
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POSTPONED

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Listserv: phnotice@guamlegislature.org
As of March 13, 2014

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32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt,
Legal Affairs, Retirement, Public Parks, Recreation,
Historic Preservation, and Land

**INEKUNGOK PUPBLEKO
(PUBLIC HEARING)**

*gi Lunes, gi diha 10 gi Fibreru, 2014
(Monday, February 10, 2014)*

*Kuåtton Inekungok Pubbleko gi Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)*

**TINILAIKAN TAREHA
(AMENDED AGENDA)**

*alas nuebi gi egga'an
(9:00 AM)*

**Priniponi Siha:
(Bills)**

Bill No. 259-32 (COR) – Introduced by Senator Vicente C. Pangelinan: An act to authorize *I Maga'lahaen Guahan* to exchange on a value for value basis privately owned property located in the municipality of Barrigada upon certification by the Department of Public Works for use of a ponding basin for flood mitigation for government of Guam owned property located in the municipality of Dededo.

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 32nd GUAM LEGISLATURE
 Senator Vicente (ben) Cabrera Pangelinan
 Committee on Appropriations, Public Debt, Legal Affairs, Retirement,
 Public Parks, Recreation, Historic Preservation, and Land

**INEKUNGOK PUPBLEKO
 (PUBLIC HEARING)**

*gi Lunes, gi diha 10 gi Fibreru, 2014
 (Monday, February 10, 2014)*

*Kuåtton Inekungok Pubbleko gi I Liheslaturan Guåhan
 (Guam Legislature Public Hearing Room)*

**TINILAIKAN TAREHA
 (AMENDED AGENDA)**

*alas nuebi gi egga'an
 (9:00 AM)*

**Priniponi Siha:
 (Bills)**

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Yanggen un nisisita spesiåt na setbision, put fabot ågang i Ifsinan Sinadot Vicente (ben) Cabrera Pangelinan gi 473-4236/7. Yanggen un nisisita kopian i priniponi siha ginen este na tareha, hålom gi i uepsait i Liheslaturan Guåhan gi www.guamlegislature.com Yanggen para un na'hålom testigu-mu, chule' para i ifsinan-måmi gi 324 West Soledad Avenue gi iya Hagåtña, pat guatto gi i Kuatton Katta gi i Liheslatura, pat faks gi 473-4238, patsino imel gi office@senbenp.com Este na nutisiu inapåsi nu i fendon gubetnamanto.

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Pacific Daily News, Saturday, February 8, 2014 guampdn.com



I Mina'trentai Dos na Liheslaturan Guåhan

32nd GUAM LEGISLATURE

Senator Vicente (ben) Cabrera Pangelinan

Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

**INEKUNGOK PUPBLEKO
(PUBLIC HEARING)**

**gi Lunes, gi diha 10 gi Fibreru, 2014
(Monday, February 10, 2014)**

**Kuåtton Inekungok Pubbleko gi I Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)**

**TAREHA
(AGENDA)**

**alas nuebi gi egga'an
(9:00 AM)**

**Priniponi Siha:
(Bills)**

Bill No. 259-32 (COR) – Introduced by Senator Vicente C. Pangelinan: An act to authorize *I Maga'lahaen Guahan* to exchange on a value for value basis privately owned property located in the municipality of Barrigada upon certification by the Department of Public Works for use of a ponding basin for flood mitigation for government of Guam owned property located in the municipality of Dededo.

Bill No. 265-32 (COR) – Introduced by Senator Vicente C. Pangelinan: An act to authorize the Chamorro Land Trust Commission to enter into economic leases by adding a new Section 75122, Chapter 75, Title 21 Guam Code Annotated.

Bill No. 253-32 (COR) – Introduced by Senator Frank B. Aguon, Jr.: An act to amend §30113 of Chapter 30, Title 5, Guam Code Annotated relative to the exclusion of attorneys employed in the Department of Law who serves in the Guard and/or reserve under Title 10 or Title 32 of the U.S. Code.



I Mina'trentai Dos na Liheslaturan Guåhan

32nd GUAM LEGISLATURE

Senator Vicente (ben) Cabrera Pangelinan

Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public
Parks, Recreation, Historic Preservation, and Land

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32nd GUAM LEGISLATURE

Senator Vicente (ben) Cabrera Pangelinan

Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

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**gi Lunes, gi diha 10 gi Fibreru, 2014
(Monday, February 10, 2014)**

**Kuåtton Inekungok Pubbleko gi I Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)**

**TINILAIKAN TAREHA
(AMENDED AGENDA)**

**alas nuebi gi egga'an
(9:00 AM)**

**Priniponi Siha:
(Bills)**

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32nd GUAM LEGISLATURE

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COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
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CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
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MINORITY LEADER

Senator
Aline Yamashita
Member

February 17, 2014

Memorandum

To: Rennae Meno
Clerk of the Legislature

From: Senator Thomas C. Ada 
Acting Chairperson of the Committee on Rules

Subject: Fiscal Notes /Waivers

Hafa Adai!

Attached please find the fiscal notes and waivers for the bill numbers listed below.

Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

FISCAL NOTES:

- Bill No. 216-32(LS)
- Bill No. 228-32(LS)
- Bill No. 229-32(COR)
- Bill No. 230-32(COR)
- Bill No. 258-32(COR)
- Bill No. 260-32(COR)

WAIVERS:

- Bill No. 253-32(COR)
- Bill No. 261-32(COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!

2014 FEB 18 AM 9:52

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932EDDIE BAZA CALVO
GOVERNORJOHN A. RIOS
DIRECTORRAY TENORIO
LIEUTENANT GOVERNORJOSE S. CALVO
DEPUTY DIRECTOR

FEB 13 2014

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Dos na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96932

Hafa Adai Senator Respicio:

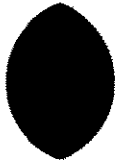
Transmitted herewith is Fiscal Note on the following Bill Nos.: 216-32(LS), 228-32(LS), 229-32(COR), 230-32(COR), 258-32(COR), 260-32(COR) and Fiscal Note Waiver on the following Bill Nos.: 253-32(COR), and 261-32(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.

A handwritten signature in black ink, appearing to read "John A. Rios".

JOHN A. RIOS
Director

Enclosures
cc: Senator Vicente (ben) Pangelinan

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

RAY TENORIO
LIEUTENANT GOVERNOR

JOHN A. RIOS
DIRECTOR

JOSE S. CALVO
DEPUTY DIRECTOR

FEB 13 2014

The Bureau requests that Bill No. 253-32(COR) be granted a waiver pursuant to Public Law 12-229 as amended for the following reason(s):

The above referenced Bill is administrative in nature and does not have any potential impact upon the revenues or the expenditure of any funds of the Government of Guam.



JOHN A. RIOS
DIRECTOR

Attachment(s)



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MINORITY LEADER

Senator
Aline Yamashita
Member

January 8, 2014

VIA E-MAIL

john.rios@bbmr.guam.gov

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Notes– Bill Nos. 253-32 (COR) through 256-32(COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson of the Committee on Rules

Attachment (1)

Cc: Clerk of the Legislature

| Bill Nos. | Sponsor | Title |
|---------------------|--|---|
| 253-32 (COR) | Frank B. Aguon, Jr. T.C. Ada Vicente (ben) C. Pangelinan | AN ACT TO AMEND §30113 OF CHAPTER 30, TITLE 5, GUAM CODE ANNOTATED RELATIVE TO THE EXCLUSION OF ATTORNEYS EMPLOYED IN THE DEPARTMENT OF LAW WHO SERVES IN THE GUARD AND/OR RESERVE UNDER TITLE 10 OR TITLE 32 OF THE U.S. CODE. |
| 254-32 (COR) | Brant T. McCreadie | AN ACT TO AMEND §3102 OF CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED RELATIVE TO DRIVER'S LICENSE RENEWALS. |
| 255-32 (COR) | Brant T. McCreadie | AN ACT TO AMEND §70117 OF CHAPTER 70, TITLE 11, GUAM CODE ANNOTATED RELATIVE TO BUSINESS LICENSES. |
| 256-32 (COR) | Brant T. McCreadie | AN ACT TO ADD A NEW §7178 TO CHAPTER 7, TITLE 16, GUAM CODE ANNOTATED RELATIVE TO MOTOR VEHICLE REGISTRATION. |



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January 7, 2014

MEMORANDUM

To: Rennae Meno
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Chairperson of the Committee on Rules

Subject: Referral of Bill No. 253-32(COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 253-32(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

I MINA'TRENTAI DOS NA LIHESLATURAN GUÁHAN
2014 (Second) Regular Session

Bill No. 253-32 (COR)

Introduced by:

FRANK B. AGUON, JR. 
T.C. ADA 
V.C. PANGELINAN 

AN ACT TO AMEND §30113 OF CHAPTER 30, TITLE 5,
GUAM CODE ANNOTATED RELATIVE TO THE
EXCLUSION OF ATTORNEYS EMPLOYED IN THE
DEPARTMENT OF LAW WHO SERVES IN THE GUARD
AND/OR RESERVE UNDER TITLE 10 OR TITLE 32 OF
THE U.S. CODE.

2014 JAN - 7 PM 4:16 

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

2 **Section 1.** §30113 of Chapter 30, Title 5, Guam Code Annotated, as
3 amended by Public Law 31-077:XII:39 is hereby amended to read as follows:

4 “§30113. Outside Employment Regulated. *Neither* the Attorney
5 General *nor* any person employed in the Department of Law *shall* engage in any
6 outside employment which *shall* conflict with his duties within the Department of
7 Law. Attorneys in the Department of Law *shall not* engage in the practice of law
8 outside of the Department of Law. Attorneys employed in the Department who
9 serve in the guard and/or reserve, either under Title 10 or Title 32 of the U.S. Code
10 and whose service does not conflict with the duties within the Department of Law,
11 shall be excluded from the application of this provision, subject to the approval of
12 the Attorney General.”

13 **Section 2.** Severability. *If* any provision of this law or its application to
14 any person or circumstance is found to be invalid or contrary to law, such

1 invalidity *shall not* affect other provisions or applications of this law which can be
2 given effect without the invalid provisions or application, and to this end the
3 provisions of this law are severable.”