

I Mina Trentai Kuáttro Na Liheslaturan
BILL STATUS

| BILL NO. | SPONSOR | TITLE | DATE INTRODUCED | DATE REFERRED | CMTE REFERRED | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | FISCAL NOTES | NOTES |
|--|---------------------|---|----------------------|-----------------------|--|----------------------|--|--|-------|
| 267-34 (COR) As substituted by the Committee on Appropriations and Adjudication. | Mary Camacho Torres | AN ACT TO AMEND §§ 4406 and 4406.2 OF ARTICLE 4, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING PROCEDURAL PROTECTIONS WITHIN THE CIVIL SERVICE COMMISSION IN FAVOR OF INCREASING TIMELINESS, EFFICIENCY, AND DUE PROCESS FOR CLASSIFIED EMPLOYEES OF THE GOVERNMENT OF GUAM. | 3/23/18 2:23 p.m. | 4/2/18 | Committee on Appropriations and Adjudication | 5/17/18 9:00 a.m. | 9/12/18 10:37 a.m. As Substituted by the Committee on Appropriations and Adjudication. | Fiscal Note Request 4/3/18 Fiscal Note 4/13/18 | |
| | SESSION DATE | TITLE | DATE PASSED | TRANSMITTED | DUE DATE | PUBLIC LAW | LAPSED | NOTES | |
| | 11/28/18 | AN ACT TO AMEND §§ 4406 AND 4406.2 OF ARTICLE 4, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING PROCEDURAL PROTECTIONS WITHIN THE CIVIL SERVICE COMMISSION IN FAVOR OF INCREASING TIMELINESS, EFFICIENCY, AND DUE PROCESS FOR CLASSIFIED EMPLOYEES OF THE GOVERNMENT OF GUAM. | 11/30/18 | 11/30/18 7:55 p.m. | 12/12/18 | 34-145 | 12/13/2018 | Received: 12/19/18 Mess and Comm. Doc. No. 34GL-18-2667. | |



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam.

DEC 12 2018

Honorable Therese M. Terlaje
Acting Speaker
I Mina'trentai Kudttro Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Vice Speaker Therese M. Terlaje
34GL-18-2667

DEC 19 2018

Time: 10:42

Received by: Abraham

2018 DEC 19 AM 11:38 AM

Dear Madam Speaker:

Transmitted herewith is Substitute Bill No. 267-34 (COR), "AN ACT TO AMEND §§ 4406 AND 4406.2 OF ARTICLE 4, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING PROCEDURAL PROTECTIONS WITHIN THE CIVIL SERVICE COMMISSION IN FAVOR OF INCREASING TIMELINESS, EFFICIENCY, AND DUE PROCESS FOR CLASSIFIED EMPLOYEES OF THE GOVERNMENT OF GUAM," which lapsed on December 13, 2018, as Public Law 34-145.

Senseramente,


EDDIE BAZA CALVO

2667



Eddie Baza Calvo



@eddiebazacalvo



@governorcalvo

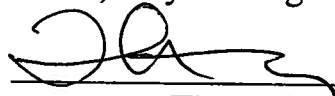


governorofguam

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
2018 (SECOND) Regular Session

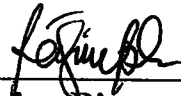
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LÁHEN GUÁHAN

This is to certify that **Substitute Bill No. 267-34 (COR), "AN ACT TO AMEND §§ 4406 AND 4406.2 OF ARTICLE 4, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING PROCEDURAL PROTECTIONS WITHIN THE CIVIL SERVICE COMMISSION IN FAVOR OF INCREASING TIMELINESS, EFFICIENCY, AND DUE PROCESS FOR CLASSIFIED EMPLOYEES OF THE GOVERNMENT OF GUAM,"** was on the 30th day of November 2018, duly and regularly passed.




Therese M. Terlaje
Acting Speaker

Attested:



Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'láhen Guáhan* this 30 day of NOV,
2018, at 7:50 o'clock P.M.



Assistant Staff Officer
Maga'láhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'láhen Guáhan

Date: DEC 13 2018

Public Law No. 34-145

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
2018 (SECOND) Regular Session

Bill No. 267-34 (COR)

As substituted by the Committee
on Appropriations and Adjudication.

Introduced by:

Mary Camacho Torres
Thomas C. Ada
FRANK B. AGUON, JR.
William M. Castro
James V. Espaldon
Fernando Barcinas Esteves
Régine Biscoe Lee
Tommy Morrison
Louise B. Muña
Telena Cruz Nelson
Dennis G. Rodriguez, Jr.
Joe S. San Agustin
Michael F.Q. San Nicolas
Therese M. Terlaje

**AN ACT TO AMEND §§ 4406 AND 4406.2 OF ARTICLE 4,
CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED,
RELATIVE TO ENHANCING PROCEDURAL
PROTECTIONS WITHIN THE CIVIL SERVICE
COMMISSION IN FAVOR OF INCREASING
TIMELINESS, EFFICIENCY, AND DUE PROCESS FOR
CLASSIFIED EMPLOYEES OF THE GOVERNMENT OF
GUAM.**

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

2 **Section 1.** § 4406 of Article 4, Chapter 4, Title 4, Guam Code Annotated,
3 is hereby *amended* to read:

4 **“§ 4406. Adverse Action Procedures and Appeals.**

1 (a) Notice of Adverse Action. An employee in the classified service
2 who is dismissed, demoted, or suspended *shall* be given immediate notice of
3 the action, together with a specific statement of the charges upon which such
4 action is based in the manner required by Article 2 of this Chapter. Copies
5 thereof *shall* be filed with the Commission and, if applicable, with the
6 government entity charged with hearing that person's appeal under the
7 personnel rules governing that person's appointment not later than the
8 working day next following the effective date of the action.

9 (b) Ninety (90) Day Rule.

10 (1) Management *shall* give the employee in the classified
11 service notice and statement of the charges under this Section no later
12 than:

13 (A) ninety (90) calendar days from the date in which
14 management knew or should have known the facts or events
15 which form the alleged basis for the adverse action; or

16 (B) ninety (90) calendar days from the date of entry of
17 a judgment of conviction in any court of competent jurisdiction
18 that forms the alleged basis for the adverse action.

19 (2) As used in this Subsection, "management" means the
20 appointing authority of a government department, agency, or
21 instrumentality, or any deputy, division head, or other senior assistant
22 of the appointing authority, however designated, having administrative
23 power to implement management policy and the supervisory
24 responsibility to directly advise the appointing authority regarding an
25 adverse action or other personnel decision involving an employee of
26 the department, agency, or instrumentality.

1 (3) In situations of emergencies, acts of nature, or disasters,
2 the department, agency, or instrumentality may petition the
3 Commission to suspend or extend the ninety (90) day time limitation
4 provided in this Subsection. The Commission *shall* consider all such
5 petitions expeditiously and may, in its discretion, suspend or reasonably
6 extend the ninety (90) day time limitation after issuing written findings
7 that support the suspension or extension.

8 (4) Any action brought by a government department, agency,
9 or instrumentality in violation of this Subsection is barred and any
10 decision based upon such action is void.

11 (c) Suspension and Reinstatement Pending Appeal. While an
12 employee's appeal is pending before the Commission, the employee may be
13 suspended by the department, instrumentality, or agency. The Commission or
14 appropriate entity may order the employee reinstated to active duty during
15 pendency of the appeal.

16 (d) Twenty (20) Day Rule. The employee, within twenty (20) days
17 of effective date of the action, may appeal to the Commission or appropriate
18 entity by filing that person's written answer to the charges against the
19 employee, regardless of whether the employee has tendered any resignations,
20 which shall have no effect upon the employee's appeal rights. In the event an
21 employee resigns before the issuance of the final notice of adverse action, the
22 employee's twenty (20) day appeal period to the Commission *shall* begin to
23 run at the time the employee submits the resignation, which notice of
24 Proposed Adverse Action *shall* be deemed a final notice of adverse action.
25 Management may not fill the employee's position until:

26 (1) the twenty (20) day period has elapsed and no appeal has
27 been filed; or

1 (2) the right to appeal has been exhausted upon judicial
2 review.

3 (e) Adverse Action Hearing. The Commission or appropriate entity
4 *shall* set an adverse action appeal for hearing as expeditiously as possible and
5 in accordance with the Time Standards provided under this Article. The
6 employee, or that person's representative, *shall* be given the opportunity to
7 inspect any documents relevant to the action that would be admissible in
8 evidence at the hearing, and to depose, interview, or direct written
9 interrogatories to other employees having knowledge of the acts or omissions
10 upon which the dismissal, demotion, or suspension is based. The Commission
11 or appropriate entity may sustain, modify, or revoke the action taken. The
12 decision of the Commission or appropriate entity *shall* be final but subject to
13 judicial review.

14 (f) Judicial Review.

15 (1) The government department, agency, instrumentality, or
16 the employee may petition the Superior Court for judicial review of an
17 adverse action appeal only after:

18 (A) the appeal has been heard by the Commission and a
19 final written or oral decision has been issued; or

20 (B) the Commission has failed to meet the Time
21 Standards provided under this Article.

22 (2) The party who petitions for judicial review is responsible
23 for providing certified transcripts of hearings and *shall* bear associated
24 costs.

25 (g) Reinstatement Pending Judicial Review. Where the Commission
26 has modified or revoked an adverse action in favor of the employee from the
27 classified service, the employee *shall* be reinstated immediately pursuant to

1 the terms of the decision until such time as the decision is overturned by
2 judicial review.

3 (h) Enforcement. Failure to adhere to a decision by the Commission
4 to reinstate an employee *shall* result in reduction in salary by ten percent
5 (10%) for the responsible agency head and his deputy from the date of the
6 decision until the date of reinstatement in full compliance with the decision.
7 The Commission may bring an action in the Superior Court to enforce the
8 reinstatement of the employee and impose any appropriate penalties or
9 remedies available at law or equity.”

10 **Section 2.** § 4406.2 of Article 4, Chapter 4, Title 4, Guam Code Annotated,
11 is hereby *amended* to read:

12 **“§ 4406.2. Time Standards and Case Management.**

13 In order to assist in case management and promote timeliness in the
14 resolution of matters before the Commission, *I Liheslatura* (the Legislature)
15 establishes the following Time Standards, which the Commission *shall* attain
16 in all cases filed with the Commission after the effective date of this Act:

17 (a) For appeals from actions resulting in the termination of an
18 employee, a Hearing on the Merits *shall* commence *no later than* four
19 (4) months from the initial filing of the appeal.

20 (b) For all other appeals from adverse actions, a Hearing on
21 the Merits *shall* commence *no later than* six (6) months from the initial
22 filing of the appeal.

23 (c) For grievances filed before the Commission, a Grievance
24 Hearing *shall* be held *no later than* four (4) months from the initial
25 filing of the grievance.

1 (d) All matters *shall* be adjudicated within twelve (12) months
2 from the filing of a notice of appeal *unless* the Time Standards are
3 waived by the employee.

4 (e) Failure on the part of the Commission to adhere to the
5 Time Standards described in Subsections (a), (b), and (c) *shall* in no
6 way result in the dismissal of the employee's right to appeal an adverse
7 action.

8 (f) The Time Standards described in Subsections (a), (b), and
9 (c) may be waived by the employee.

10 (g) The Time Standards described in Subsections (a), (b), and
11 (c) may be waived by the Commissioners upon finding substantial and
12 compelling reasons to determine that a waiver of the Time Standards is
13 the only option available, and only upon mutual consent of the parties.

14 (h) Following all oral decisions by Commissioners, the
15 prevailing party *shall* present its proposed written decision for
16 Commissioners to sign *no later than* ten (10) working days from the
17 date of the hearing in which the oral decision was rendered.

18 (i) All written decisions following any and all hearings *shall*
19 be signed and ordered within sixty (60) days of the date of the hearing.”

20 **Section 3. Effective Date.** This Act *shall* become effective upon enactment.