

2011 NOV 22 AM 8:58 - *De*



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

November 21, 2011

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

31-11-1121
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 11/21/11
Time 4:49 PM
Received by *CR*

Dear Madame Speaker:

Transmitted herewith is Bill No. 238-31 (COR) "AN ACT TO AMEND §4502(d), AND TO ADD NEW §§4504.1 AND 4508 TO CHAPTER 4 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING WHISTLE-BLOWER PROTECTION TO ALL EMPLOYEES OF THE GOVERNMENT OF GUAM", which I signed into law on November 17, 2011 as Public Law 31-138.

Senseramente,


EDDIE BAZA CALVO

Attachment: copy of Bill

1121

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

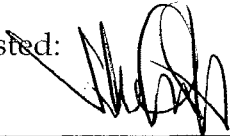
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 238-31 (COR), "AN ACT TO AMEND §4502(d), AND TO ADD NEW §§4504.1 AND 4508 TO CHAPTER 4 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING WHISTLE-BLOWER PROTECTION TO ALL EMPLOYEES OF THE GOVERNMENT OF GUAM,"** was on the 8th day of November, 2011, 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'lahaen Guåhan* this 9th day of Nov., 2011, at 4:25 o'clock P.M.



Assistant Staff Officer
Maga'laha's Office

APPROVED:



EDWARD J.B. CALVO
I Maga'lahaen Guåhan

NOV 17 2011

Date: _____

Public Law No. 31-138

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 238-31 (COR)

As substituted by the Committee on Youth, Cultural Affairs,
Procurement, General Government Operations and
Public Broadcasting; and amended on the Floor.

Introduced by:

V. Anthony Ada
Adolpho B. Palacios, Sr.
Judith P. Guthertz, DPA
T. C. Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Dueñas
Sam Mabini, Ph.D.
T. R. Muña Barnes
v. c. pangelinan
R. J. Respicio
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

**AN ACT TO *AMEND* §4502(d), AND TO *ADD* NEW
§§4504.1 AND 4508 TO CHAPTER 4 OF TITLE 4, GUAM
CODE ANNOTATED, RELATIVE TO EXPANDING
WHISTLE-BLOWER PROTECTION TO ALL
EMPLOYEES OF THE GOVERNMENT OF GUAM.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**
2 **Section 1.** §4502(d) of Article 5, Chapter 4 of Title 4, Guam Code
3 Annotated, is *amended* to read:

1 “(d) *Employee* means any person employed in the classified,
2 unclassified or contractual service of the government of Guam.”

3 **Section 2.** A new §4504.1 is *added* to Article 5, Chapter 4 of Title 4,
4 Guam Code Annotated, to read:

5 “**§ 4504.1. Complaints by Unclassified Employees.**

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

18 (b) For purposes of this Section, the Civil Service Commission
19 *shall* have the same authority authorized by §4504 of this Chapter to
20 investigate complaints of unclassified employees. If the Commission finds
21 that any public employee, either directly or through a third party, caused any
22 form of disciplinary action as defined by §4502(b) of this Chapter to be
23 taken against an unclassified employee for filing such complaint, the matter
24 *shall* be directed to the Office of the Attorney General’s Prosecution
25 Division.

26 (c) Any unclassified employee who files a complaint known to be
27 false or untrue commits a petty misdemeanor.”

1 **Section 3.** A new §4508 is *added* to Article 5, Chapter 4 of Title 4, Guam
2 Code Annotated, to read:

3 “§ 4508. **Employee Email Accounts Protected.** Public access of
4 electronic mail (email) messages sent to and from an employee’s
5 government of Guam email account *shall* be subject to the provisions of
6 Chapter 10 of Title 5, Guam Code Annotated (Freedom of Information Act).
7 Any email messages regarding information *not* authorized to be public by
8 the Freedom of Information Act *shall* continue to be non-public information.
9 Searches of files, messages and files contained in an employee’s government
10 of Guam email account may be conducted by investigatory personnel if
11 authorized by a warrant issued by a court of competent jurisdiction. If a
12 warrantless search, without probable cause, is conducted of the messages
13 and files in an employee’s government of Guam email account, no
14 information may be used against the employee in a civil or criminal
15 proceeding. Any warrantless searches of an employee’s government of
16 Guam email accounts, and the purposes of such searches, *shall* be reported
17 to the Office of the Attorney General prior to conducting the search.”

I MINA' TRENTAI UNU NA LIHESLATURAN GUAHAN

2011 (FIRST) Regular Session

Date: 11/07/11⁸

VOTING SHEET

SBill No. 238-31 (COR)

Resolution No. _____

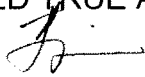
Question: _____

NAME	<u>YEAS</u>	<u>NAYS</u>	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	<u>ABSENT</u>
ADA, Thomas C.	✓				
ADA, V. Anthony	✓				
BLAS, Frank F., Jr.	✓				
CRUZ, Benjamin J. F.	✓				
DUENAS, Christopher M.	✓				
GUTHERTZ, Judith Paulette	✓				
MABINI, Sam	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓				
RESPICIO, Rory J.	✓				
RODRIGUEZ, Dennis G., Jr.	✓				
SILVA TAIJERON, Mana	✓				
WON PAT, Judith T.	✓				
YAMASHITA, Aline A.	✓				

TOTAL

15

CERTIFIED TRUE AND CORRECT:



Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



November 1, 2011

The Honorable Judith T. Won Pat
Speaker
I Mina' Trentai Unu Na Liheslatuaran Guahan
31st Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

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

RE: Committee Report on Bill No. 238-31 (COR) As Substituted

Handwritten notes and signature on the right margin.

Dear Speaker Won Pat:

Transmitted herewith is the Report of Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting the on Bill No. 238-31 (COR) "An act to amend §4502(d) and to add a new §§4504.1 and 4508 to Chapter 4 of 4GCA relative to expanding Whistle-Blower Protection to all employees of the government of Guam." sponsored by Senator Anthony V. Ada and substituted by the Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting.

Committee votes are as follows:

- 7 TO DO PASS
- _____ TO NOT PASS
- 2 TO REPORT OUT ONLY
- _____ TO ABSTAIN
- _____ TO PLACE IN INACTIVE FILE

Sincerely,

BENJAMIN J.F. CRUZ
Chairperson



COMMITTEE REPORT

ON

Substitute Bill No. 238-31 (COR)

“An act to amend §4502(d) and to add a new §§4504.1 and 4508 to Chapter 4 of 4GCA relative to expanding Whistle-Blower Protection to all employees of the government of Guam.”



OCT 25 2011

MEMORANDUM

TO: All Members
Committee on Youth, Cultural Affairs, Procurement, General
Government Operations and Public Broadcasting

FROM: Vice Speaker Benjamin J.F. Cruz

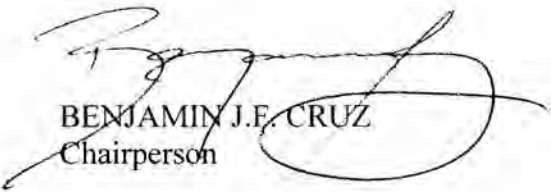
SUBJECT: Committee Report on Bill No. 238-31(COR) As Substituted

Transmitted herewith for your consideration is the Committee Report on Substitute Bill No. 238-31 (COR) "An act to amend §4502(d) and to add a new §§4504.1 and 4508 to Chapter 4 of 4GCA relative to expanding Whistle-Blower Protection to all employees of the government of Guam." This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Bill No. 238-31(COR)
- Substitute Bill No. 238-31
- Public Hearing Sign-in Sheet
- Written Testimony
- COR Referral of Bill No. 238-31(COR)
- Fiscal Note Requirement
- Notices of Public Hearing
- 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 me.

Very truly yours,


BENJAMIN J.F. CRUZ
Chairperson



COMMITTEE VOTING SHEET

Substitute Bill No. 238-31 (COR) “An act to amend §4502(d) and to add a new §§4504.1 and 4508 to Chapter 4 of 4GCA relative to expanding Whistle-Blower Protection to all employees of the government of Guam.”

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
CRUZ, BENJAMIN J.F. Chairperson		10/23/11				
MUÑA BARNES, TINA ROSE Vice-Chairperson		✓				
WON PAT, JUDITH T. Speaker and Ex-Officio Member						
ADA, THOMAS C. Member		11/1/11				
GUTHERTZ, JUDITH P. Member		11/1/11				
RESPICIO, RORY J. Member						
RODRIGUEZ, DENNIS G. JR. Member				4/1/11		
ADA, V. ANTHONY Member		11/1/11				
DUENAS, CHRISTOPHER Member		11/1/11				
MABINI, SAM Member				11/1/11		
YAMASHITA, ALINE Member		11/1/11				



Committee Report Digest

I. OVERVIEW

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting convened a public hearing on Friday, July 15th, 2011 at 9:00 a.m. in the Public Hearing Room of *I Liheslatura*. Among the items on the agenda was the consideration of Bill No. 238-31 (COR) "An act to amend §4502(d) and to add a new §§4504.1 and 4508 to Chapter 4 of 4GCA relative to expanding Whistle-Blower Protection to all employees of the government of Guam."

Substitute Bill No. 238-31(COR) would expand the protection of whistleblowers to cover all employees of the government of Guam including but not limited to non-classified employees.

Public Notice Requirements

All legal requirements for public notices were met, with requests for publication sent to all media and all senators on July 8th and 13th via email. Copies of the hearing notices are appended to the report.

Senators Present

Vice Speaker Benjamin J.F. Cruz, Chairperson
Senator V. Anthony Ada, Committee Member
Senator Aline A. Yamashita, Ph.D., Committee Member
Senator Chris Duenas, Committee Member
Senator Thomas Ada, Committee Member
Senator Mana Silva, Committee Member
Senator Sam Mabini Ph.D., Committee Member

The public hearing was called to order at 9:05 a.m.

II. SUMMARY OF TESTIMONY AND DISCUSSION

Vice Speaker Benjamin J.F. Cruz called the public hearing to order at 9:05 a.m. and announced the morning's agenda and public hearing notices.

Senator Tony Ada, Sponsor- Explained that while Guam has whistleblower protection, it is not clearly defined as in other states and municipalities across the country. This measure would allow for those with Government contracts and those who are unclassified to be protected under



the whistleblower protection act. He went on to further discuss that this legislation would aid in the deterrence of wasting government resources, use of government resources for personal gain or procurement rigging.

Senator Alberto Lamorena V, Director Civil Service Commission- went on to read a prepared statement which is appended to this report.

Senator Tony Ada, Sponsor- Asked despite the employee being classified or not, isn't it our responsibility to protect them under the whistleblower act?

Senator Alberto Lamorena V, Director Civil Service Commission- Explained that the role of the Civil Service Commission is to protect the Government workers who had been hired through the merit system, and that unclassified employees had not gone through the same process to get hired and to keep their respective jobs. He went on to explain that unclassified employees and contractual workers have other avenues such as the AG's office to file grievances and complaints with.

Senator Tony Ada, Sponsor- Then asked what of a contractual accountant who finds erroneous transactions yet fears reporting it for fear of losing a contract, and what kind of protections should we as a government offer to these employees?

Senator Alberto Lamorena V, Director Civil Service Commission- Answered that the role of the CSC is to protect classified workers, and if there was another avenue for unclassified employees he would be in support of the measure. His concern is that by passing this legislation, we are creating a hybrid employee that is doing a job that he did not compete for and that it is unfair to the classified employees that operate under the merit system.

Senator Tony Ada, Sponsor- Said he would not be opposed to working alongside the CSC to come up with a bill that will be amiable to all.

Vice Speaker Cruz- Asked Senator Lamorena, so your specific testimony is that as long as we provide protection other than the CSC you are fine with the legislation?

Senator Alberto Lamorena V, Director Civil Service Commission- Answered yes.

Senator Chris Duenas- Said your position is clear and I understand it, but you may want to reconsider your position because many of the employees were speaking of are not hired in the political process and that many fall under professional services.



Senator Alberto Lamorena V, Director Civil Service Commission- Reasserted his position that the CSC is there to protect the rights of the classified employees of the government and that an alternate venue should be sought for unclassified employees and contractual workers. He went on to reiterate his point of creating a hybrid employee in the government,

Senator Chris Duenas- Said he understands and thanked Senator Lamorena.

Vice Speaker Cruz- Thanks Senator Lamorena for his testimony and declared Bill 238-31 heard. He then adjourned the hearing.

III. FINDINGS AND RECOMMENDATIONS

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting finds there is a need for an amendment to the bill the proposed amendment is as follows:

Section 3. A new Section 4508 is *added* to Chapter 4 of 4GCA to read:

§4508. Employee Email Accounts Protected. Public access of electronic mail (email) messages sent to and from an employee's Government of Guam email account shall be subject to the provisions of the Chapter 10 of 5GCA (Freedom of Information Act) any email messages regarding information not authorized to be public by the Freedom of Information Act shall continue to be non-public information. Searches of files messages and files contained in an employee's Government of Guam email account may be conducted by investigatory personnel if authorized by a warrant issued by a court of competent jurisdiction. Any searches of employees Government of Guam email accounts and the purposes of such searches shall be reported to the office of the Attorney General prior to conducting the search.

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER

Chairman, Committee on Youth, Cultural Affairs, Procurement,
General Government Operations, and Public Broadcasting.
Web Address: www.senatorbjcruz.com



I MINA' TRENTAI UNU NA LIHESLATURAN GUAHAN

The 31st Guam Legislature • senator@senatorbjcruz.com
155 Hesler Place, Hagatna, Guam 96910
Telephone: (671) 477-2520/1 • Fax: (671) 477-2522

This change makes it mandatory for the FOIA request be made public if any search of a government issued email is requested.

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting to which was referred Bill No. 238-31 (COR), hereby submits these findings to *I Mina' Trentai Unu na Liheslaturan Guahan* and reports out Substitute Bill No. 238-31(COR) with the recommendation TO PASS.

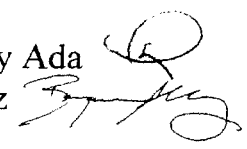
I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

2011 JUN 14 AM 9:49
Mun

Bill No. 238.31(cov)

Introduced by:

V. Anthony Ada
B.J.F. Cruz



AN ACT TO AMEND §4502(d) AND TO ADD A NEW
§§4504.1 AND 4508 TO CHAPTER 4 OF 4GCA
RELATIVE TO EXPANDING WHISLTE-BLOWER
PROTECTION TO ALL EMPLOYEES OF THE
GOVERNMENT OF GUAM.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2

3 Section 1. Section 4502(d) of Chapter 4 of 4GCA is *amended* to read:

4

5 “(d) *Employee* means any person employed ~~by an agency~~ in the classified,
6 unclassified or contractual service of the Government of Guam.”

7

8 Section 2. A new Section 4504.1 is *added* to Chapter 4 of 4GCA to read:

9

10 “§4504.1. **Complaints by unclassified employees.**

11 (a) It shall be a misdemeanor to take any disciplinary action as defined in
12 §4502(b) of this Chapter against any unclassified employee who discloses to a
13 superior, local or federal law enforcement officer, the Attorney General’s Office or
14 a member or committee of I Liheslaturan Guåhan any form of waste, abuse of
15 policy, abuse of public trust, fraud or criminal acts by any employee of the
16 Government of Guam. If there are two or more violations of this section the

1 offense shall be a third degree felony. Any person who is complicit in or abets
2 such disciplinary action commits a violation of Chapter 13 of 9GCA. Any person
3 obstructs or hinders an investigation of any violation or potential violation of this
4 section commits a violation of Chapter 55 of 9GCA.

5 (b) For purposes of this Section, the Civil Service Commission shall have
6 the same authority authorized by §4504 this chapter to investigate complaints of
7 unclassified employees. If the Commission finds that any public employee either
8 directly or through a third party caused any form of disciplinary action as defined
9 by §4502(b) of this chapter to be taken against an unclassified employee for filing
10 such complaint, the matter shall be directed to the Office of the Attorney General's
11 Prosecution Division.

12 (c) Any unclassified employee who files a complaint known to be false or
13 untrue commits a petty misdemeanor.”

14

15 **Section 3.** A new Section 4508 is *added* to Chapter 4 of 4GCA to read:

16

17 **§4508. Employee Email Accounts Protected.** No appointing authority,
18 supervisor or other official of the Government may gain access to an employee's
19 email account without a warrant, court order or order by the Civil Service
20 Commission (Judicial Counsel for Judiciary employees). Subject to an order of the
21 Civil Service Commission (Judicial Counsel for Judiciary employees), an
22 appointing authority may gain access to an employee's email account if probable
23 cause exists that the employee committed a crime, fraud or other activity contrary
24 to the personnel rules and regulations of the government of Guam and the Laws of
25 Guam.

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 238-31 (COR)

As Substituted by the Committee on
Youth, Cultural Affairs, Procurement,
General Government Operations and
Public Broadcasting

Introduced by:

V. Anthony Ada
B.J.F. Cruz

**AN ACT TO AMEND §4502(d) AND TO ADD A NEW
§§4504.1 AND 4508 TO CHAPTER 4 OF 4GCA
RELATIVE TO EXPANDING WHISTLE-BLOWER
PROTECTION TO ALL EMPLOYEES OF THE
GOVERNMENT OF GUAM.**

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

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3 **Section 1.** Section 4502(d) of Chapter 4 of 4GCA is *amended* to read:

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11 (a) It shall be a misdemeanor to take any disciplinary action as defined in
12 §4502(b) of this Chapter against any unclassified employee who discloses to a
13 superior, local or federal law enforcement officer, the Attorney General’s Office or
14 a member or committee of I Liheslaturan Guåhan any form of waste, abuse of

1 policy, abuse of public trust, fraud or criminal acts by any employee of the
2 Government of Guam. If there are two or more violations of this section the
3 offense shall be a third degree felony. Any person who is complicit in or abets
4 such disciplinary action commits a violation of Chapter 13 of 9GCA. Any person
5 obstructs or hinders an investigation of any violation or potential violation of this
6 section commits a violation of Chapter 55 of 9GCA.

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9 unclassified employees. If the Commission finds that any public employee either
10 directly or through a third party caused any form of disciplinary action as defined
11 by §4502(b) of this chapter to be taken against an unclassified employee for filing
12 such complaint, the matter shall be directed to the Office of the Attorney General's
13 Prosecution Division.

14 (c) Any unclassified employee who files a complaint known to be false or
15 untrue commits a petty misdemeanor.”

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17 **Section 3.** A new Section 4508 is *added* to Chapter 4 of 4GCA to read:

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19 **§4508. Employee Email Accounts Protected.** Public access of electronic
20 mail (email) messages sent to and from an employee's Government of Guam email
21 account shall be subject to the provisions of the Chapter 10 of 5GCA (Freedom of
22 Information Act) any email messages regarding information not authorized to be
23 public by the Freedom of Information Act shall continue to be non-public
24 information. Searches of files messages and files contained in an employee's
25 Government of Guam email account may be conducted by investigatory personnel
26 if authorized by a warrant issued by a court of competent jurisdiction. Any
27 searches of employees Government of Guam email accounts and the purposes of

- 1 such searches shall be reported to the office of the Attorney General prior to
- 2 conducting the search.



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

**I Gobiernon Guahan
CIVIL SERVICE COMMISSION
KUMISION I SETBISION SIBIT**

7TH Floor International Trading Center (ITC)
Marine Corp Drive, Tamuning 96913
P.O. Box 3156 Hagatna, Guahan 96932
Tel: 647-1855/57 Fax: 647-1867



Alberto "Tony" Lamorena V
Director

CSC No: 2011-041

July 12, 2011

Benjamin J.F. Cruz
Vice Speaker
Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

Buenas Yan Hafa Adai,

Vice Speaker Benjamin J. Cruz and members on the Committee on Procurement, Cultural Affairs, Public Broadcasting, Youth and General Government Operations, my name is Alberto "Tony" Lamorena V, Executive Director of the Guam Civil Service Commission. I am appearing before you today to testify on Bill 238-31.

I want to thank you for the opportunity to provide input with regard to Bill 238-31, which is entitled "An Act to Amend §45029d) and to Add a New §§4504.1 and 4508 to Chapter 4 of 4 G.C.A. Relative to Expanding Whistle-Blower Protection to All Employees of the Government of Guam."

First, please know that the Civil Service Commission (the "Commission") takes its work in protecting classified government employees from retaliation for reporting abuse in the government very seriously. The Commission understands how important it is that classified employees feel confident in their ability to report the misuse of government funds with fear of retribution from superiors. That being said, however, the Commission is concerned that Bill 238-31 attempts to provide classified employee protection to government servants who have not participated in the merit system. A main difference between employees in the classified and unclassified services is that those in the classified service competed on the basis of merit for their jobs. The protections afforded such classified servants are the direct result of their participation in the merit system, which exists, at least in part, to ensure that there is a consistent and steady government workforce in place even when there are changes in executive administration.

The Commission is concerned that Bill 238-31's unintended effect would be to create a situation where even unclassified employees can claim classified protections despite not having had to compete in the regular merit system for their respective positions. Unclassified employees serve at the pleasure of their appointing authority and are thus, are at-will employees. These, largely political, appointments allow such administrations or other appointing authorities to place

individuals in positions where their policy agendas may be advanced. Additionally, unclassified employees, and indeed, members of the public generally, are already able to submit allegations of abuse to such offices as those of the Public Auditor and the Attorney General. The Commission therefore does not see a need for whistleblower protections to be expanded to unclassified employees.

With regard to the proposed §4508 protecting employee email accounts, such accounts are intended for the conduction of government business. With this in mind, the Commission does not see a reason to offer such email accounts privacy protections when only official business should be conducted through their use. At present, such email correspondence is subject to Freedom of Information requests and the Commission does not see a need to protect such accounts from view.

Should you have any questions with regard to the above, please feel free to contact me.

Si Yu'us Ma'ase,

A handwritten signature in black ink, appearing to read 'ALC' followed by a long horizontal stroke.

Alberto "Tony" Lamorena V

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 238-31**

AN ACT TO AMEND §4502(d) AND TO ADD §§4504.1 AND 4508 TO CHAPTER 4 OF 4GCA RELATIVE TO EXPANDING WHISLTER-BLOWER PROTECTION TO ALL EMPLOYEES OF THE GOVERNMENT OF GUAM.

Department/Agency Appropriation Information

Dept./Agency Affected: Department of Administration		Dept./Agency Head: Benita A. Manglona, Acting Director	
Department's General Fund (GF) appropriation(s) to date:		41,281,957	
Department's Other Fund (Specify) appropriation(s) to date:		8,196,091	
Total Department/Agency Appropriation(s) to date:		\$49,478,048	

Fund Source Information of Proposed Appropriation

	General Fund:	(Specify Special Fund):	Total:
FY 2010 Unreserved Fund Balance ¹		\$0	\$0
FY 2011 Adopted Revenues	\$0	\$0	\$0
FY 2011 Appro. (P.L. 30-196)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2011 (if applicable)	FY 2012	FY 2013	FY 2014	FY 2015
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? /x/ Yes // No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /x/ N/A // Yes // No
If no, what is the additional amount required? \$ _____ /x/ N/A
- Does the Bill establish a new program/agency? // Yes /x/ No
If yes, will the program duplicate existing programs/agencies? // N/A // Yes /x/ No
Is there a federal mandate to establish the program/agency? // Yes /x/ No
- Will the enactment of this Bill require new physical facilities? // Yes /x/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: // Yes /x/ No*
// Requested agency comments not received by due date // Other: _____

*Due to other Budgetary priorities and deadline of review of fiscal note, insufficient time to coordinate with the affected dept/agency.

Analyst: Dino P. Rivera Date: 7/19/11 Director: John A. Rios, Acting Director Date: 7/25/11

Footnotes:

The Bill has a potential to generate revenues for any fines or fees that may be imposed to an offender of Chapter 4 of 4GCA based on the amendment and added sections of 4GCA of the proposed Bill. However, this impact is undetermined at this time.



COMMITTEE ON RULES

I Mina'trentai Unu na Liheslaturan Guåhan • The 31st 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
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

MAJORITY MEMBERS:

Speaker
Judith T. Won Pat

Vice Speaker
Benjamin J. F. Cruz

Senator
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LEGISLATIVE SECRETARY
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Senator
Dennis G. Rodriguez, Jr.
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Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

June 14, 2011

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Chairperson, Committee on Rules

Subject: Referral of Bill Nos. 233-31 (COR) to 238-31 (COR)

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 233-31(COR) to 238-31 (COR).

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

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

Si Yu'os ma'åse!

(3) Attachments

2011 JUN 15 AM 11:33

I Mina'Trentai Unu Na Liheslaturan Guåhan

Bill Log Sheet

June 14, 2011

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date) Passed? Failed? Vetoed? Overridden? Public Law?
237-31 (COR)	V. Anthony Ada	AN ACT ADD A NEW §70.45 TO CHAPTER 70 OF 9GCA RELATIVE TO BLACKLISTING.	6/14/11 9:49 a.m.	6/14/11		Committee on Public Safety, Law Enforcement & Judiciary			
238-31 (COR)	V. Anthony Ada, B. J.F. Cruz	AN ACT TO AMEND §4502(d) AND TO ADD A NEW §§4504.1 AND 4508 TO CHAPTER 4 OF 4GCA RELATIVE TO EXPANDING WHISTLE-BLOWER PROTECTION TO ALL EMPLOYEES OF THE GOVERNMENT OF GUAM.	6/14/11 9:49 a.m.	6/14/11		Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting.			

Chris Carillo

From: Chris Carillo [chris.carillo@senatorbjcruz.com]
Sent: Friday, July 08, 2011 8:30 AM
To: 'speaker@judiwonpat.com'; 'Senator Tom Ada'; 'senatortonyada@guamlegislature.org'; 'senator@tinamunabarnes.com'; 'Senator Frank F. Blas, Jr.'; 'senator@senatorbjcruz.com'; 'duenasenator@gmail.com'; 'judiguthertz@gmail.com'; 'senatorsam@senatormabini.com'; 'Senator Ben C. Pangelinan'; 'cor@guamlegislature.org'; 'senatordrodriguez@gmail.com'; 'senatormana@gmail.com'; 'Aline Yamashita'; 'phnotice@guamlegislature.org'; 'dmgeorge@guampdn.com'; 'hottips@kuam.com'; 'Sabrina Salas'; 'mindy@kuam.com'; 'dcrisostomo@guampdn.com'; 'Janela'; 'thebigshow@k57.com'; 'therese.hart.writer@gmail.com'; 'Therese Hart'; 'Ray Gibson'; 'bmkelman@guampdn.com'; 'William Gibson'; 'krystal@kuam.com'
Cc: 'clerks@guamlegislature.org'; 'Pat Santos'; 'Rennae Perez'; 'Atty. Therese Terlaje'; 'yong@guamlegislature.org'; 'mis@guamlegislature.org'; 'sgtarms@guamlegislature.org'; 'Steven A. Dierking'; 'cyrus@senatorada.org'; 'louise_atalig@yahoo.com'; 'chelsea@tinamunabarnes.com'; 'Mary Fejeran'; 'garrett.duenas@senatorbjcruz.com'; 'joshua.tenorio@senatorbjcruz.com'; 'leonguerrero.angela@gmail.com'; 'leslie.g@senatormabini.com'; 'cipo@guamlegislature.org'; 'Stephanie Mendiola'; 'cherbert.senatordrodriguez@gmail.com'; 'chechsantos@gmail.com'; 'alerta.jermaine@gmail.com'; 'evelyn4families@gmail.com'; 'phnotice@guamlegislature.org'
Subject: 1st Notice of Public Hearing- July 15th, 2011
Attachments: 1st notice of Public Hearing- July 15th 2011.pdf

Hafa Adai All,

Please see the attached...

July 8, 2011

MEMORANDUM

TO: All Members/All Senators

FROM: Vice Speaker Benjamin J.F. Cruz

RE: First Notice of Public Hearing – July 15th, 2011

Hafa Adai! Please be advised that the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting will conduct a Public Hearing on Friday July 15th, 2011 at 9:00 A.M. in *I Liheslaturan's* Public Hearing Room with the following agenda:

- Bill No. 186-31 (LS)- J.T. Won Pat, Ed.D. / T.R. Muna-Barnes- “An act to add a new §43119 to Chapter 43 of Title 5 Guam Code Annotated, relative to protecting the rights of persons to petition a public board, public commission, or public corporation of the government of Guam for redress of grievances by establish a grievance policy, rules, and procedures.”
- Bill No. 256-31 (COR)- B.J.F. Cruz / M.S. Taijeron- “An act add a *new* § 10313 to Article 3 of Chapter 10 of Title 5 of the Guam Code; relative to the public disclosure of temporary labor certifications.”
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- Bill No. 238-31 (COR)- V.A. Ada / B.J.F. Cruz-“ An act to amend §4502(d) and to add a new §§4504.1 and 4508 to Chapter 4 of 4GCA relative to expanding Whistle-Blower Protection to all employees of the government of Guam.”

Please provide written testimonies at least one day prior to the hearing to the Office of the Vice Speaker Benjamin J.F Cruz, 155 Hesler Place, Hagatna Guam 96910. They may be sent via facsimile to 477-2522, or via email to chris.carillo@senatorbjcruz.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or special accommodations, please contact Garrett Duenas at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at garrett.duenas@senatorbjcruz.com.

Senseramente,

Chris Carillo
Office of the Vice-Speaker, Senator Benjamin J.F.Cruz
Chairman,Committee on Youth, Cultural Affairs,Procurement,
General Government Operations, and Public Broadcasting

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The 31st Guam Legislature
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Hagåtña, Guam 96910
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Fax: (671) 477-2522
Web Address: <http://www.senatorbjcruz.com>
E-mail: chris.carillo@senatorbjcruz.com

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Listserv: phnotice@guamlegislature.org

As of Oct. 17, 2011

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vkomiyama.senatorrodriguez@gmail.com
wilcastro671@gmail.com



July 8, 2011

MEMORANDUM

TO: All Members/All Senators

FROM: Vice Speaker Benjamin J.F. Cruz

RE: First Notice of Public Hearing – July 15th, 2011

Hafa Adai! Please be advised that the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting will conduct a Public Hearing on Friday July 15th, 2011 at 9:00 A.M. in *I Liheslaturan's* Public Hearing Room with the following agenda:

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Chris Carillo

From: Chris Carillo [chris.carillo@senatorbjcruz.com]
Sent: Wednesday, July 13, 2011 9:27 AM
To: 'speaker@judiwonpat.com'; 'Senator Tom Ada'; 'senatorTonyada@guamlegislature.org'; 'senator@tinamunabarnes.com'; 'Senator Frank F. Blas, Jr.'; 'senator@senatorbjcruz.com'; 'duenasenator@gmail.com'; 'judiguthertz@gmail.com'; 'senatorsam@senatormabini.com'; 'Senator Ben C. Pangelinan'; 'cor@guamlegislature.org'; 'senatordrodriguez@gmail.com'; 'senatormana@gmail.com'; 'Aline Yamashita'; 'phnotice@guamlegislature.org'; 'dmgeorge@guampdn.com'; 'hottips@kuam.com'; 'Sabrina Salas'; 'mindy@kuam.com'; 'dcrisostomo@guampdn.com'; 'Janela'; 'thebigshow@k57.com'; 'therese.hart.writer@gmail.com'; 'Therese Hart'; 'Ray Gibson'; 'bmkelman@guampdn.com'; 'William Gibson'; 'krystal@kuam.com'
Cc: 'Mary Fejeran'; 'garrett.duenas@senatorbjcruz.com'; 'joshua.tenorio@senatorbjcruz.com'; 'leonguerrero.angela@gmail.com'; 'leslie.g@senatormabini.com'; 'cipo@guamlegislature.org'; 'Stephanie Mendiola'; 'cherbert.senatordrodriguez@gmail.com'; 'chechsantos@gmail.com'; 'alerta.jermaine@gmail.com'; 'evelyn4families@gmail.com'; 'phnotice@guamlegislature.org'; 'clerks@guamlegislature.org'; 'Pat Santos'; 'Rennae Perez'; 'Atty. Therese Terlaje'; 'yong@guamlegislature.org'; 'mis@guamlegislature.org'; 'sgtarms@guamlegislature.org'; 'Steven A. Dierking'; 'cyrus@senatorada.org'; 'louise_atalig@yahoo.com'; 'chelsea@tinamunabarnes.com'; 'mike.lidia@senatorbjcruz.com'
Subject: 2nd Notice of Public Hearing- July 15th 2011
Attachments: 2nd Notice of Public Hearing- July 15th 2011.pdf

Hafa Adai all,

July 13, 2011

MEMORANDUM

TO: All Members/All Senators

FROM: Vice Speaker Benjamin J.F. Cruz

RE: Second Notice of Public Hearing – July 15th, 2011

Hafa Adai! Please be advised that the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting will conduct a Public Hearing on Friday July 15th, 2011 at 9:00 A.M. in *I Liheslaturan*'s Public Hearing Room with the following agenda:

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Senseramente,

Chris Carillo
Office of the Vice-Speaker, Senator Benjamin J.F.Cruz
Chairman,Committee on Youth, Cultural Affairs,Procurement,
General Government Operations, and Public Broadcasting

I Mina'Trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
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July 13, 2011

MEMORANDUM

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Public Hearing Agenda

Wednesday July 15th, 2011

9:00 A.M.

- **Bill No. 186-31 (LS)**- J.T. Won Pat, Ed.D. / T.R. Muna-Barnes- "An act to add a new §43119 to Chapter 43 of Title 5 Guam Code Annotated, relative to protecting the rights of persons to petition a public board, public commission, or public corporation of the government of Guam for redress of grievances by establish a grievance policy, rules, and procedures."
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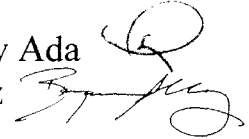
I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

2011 JUN 14 AM 9:49
Wuu

Bill No. 238131(cov)

Introduced by:

V. Anthony Ada
B.J.F. Cruz



**AN ACT TO AMEND §4502(d) AND TO ADD A NEW
§§4504.1 AND 4508 TO CHAPTER 4 OF 4GCA
RELATIVE TO EXPANDING WHISLTER-BLOWER
PROTECTION TO ALL EMPLOYEES OF THE
GOVERNMENT OF GUAM.**

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

2

3 **Section 1.** Section 4502(d) of Chapter 4 of 4GCA is *amended* to read:

4

5 “(d) *Employee* means any person employed ~~by an agency~~ in the classified,
6 unclassified or contractual service of the Government of Guam.”

7

8 **Section 2.** A new Section 4504.1 is *added* to Chapter 4 of 4GCA to read:

9

10 **“§4504.1. Complaints by unclassified employees.**

11 (a) It shall be a misdemeanor to take any disciplinary action as defined in
12 §4502(b) of this Chapter against any unclassified employee who discloses to a
13 superior, local or federal law enforcement officer, the Attorney General’s Office or
14 a member or committee of I Liheslaturan Guåhan any form of waste, abuse of
15 policy, abuse of public trust, fraud or criminal acts by any employee of the
16 Government of Guam. If there are two or more violations of this section the

1 offense shall be a third degree felony. Any person who is complicit in or abets
2 such disciplinary action commits a violation of Chapter 13 of 9GCA. Any person
3 obstructs or hinders an investigation of any violation or potential violation of this
4 section commits a violation of Chapter 55 of 9GCA.

5 (b) For purposes of this Section, the Civil Service Commission shall have
6 the same authority authorized by §4504 this chapter to investigate complaints of
7 unclassified employees. If the Commission finds that any public employee either
8 directly or through a third party caused any form of disciplinary action as defined
9 by §4502(b) of this chapter to be taken against an unclassified employee for filing
10 such complaint, the matter shall be directed to the Office of the Attorney General's
11 Prosecution Division.

12 (c) Any unclassified employee who files a complaint known to be false or
13 untrue commits a petty misdemeanor.”

14
15 **Section 3.** A new Section 4508 is *added* to Chapter 4 of 4GCA to read:

16
17 **§4508. Employee Email Accounts Protected.** No appointing authority,
18 supervisor or other official of the Government may gain access to an employee's
19 email account without a warrant, court order or order by the Civil Service
20 Commission (Judicial Counsel for Judiciary employees). Subject to an order of the
21 Civil Service Commission (Judicial Counsel for Judiciary employees), an
22 appointing authority may gain access to an employee's email account if probable
23 cause exists that the employee committed a crime, fraud or other activity contrary
24 to the personnel rules and regulations of the government of Guam and the Laws of
25 Guam.