



2011 NOV 22 AM 8:57 - De

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

31-11-1111

Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 11/21/11
Time 4:49 PM
Received by [Signature]

November 21, 2011

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

Dear Madame Speaker:

Transmitted herewith is Bill No. 212-31 (COR) "AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 4 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO SEXUAL HARASSMENT COMPLAINTS", which I signed into law on November 21, 2011 as Public Law 31-149.

Senseramente,


EDDIE BAZA CALVO

Attachment: copy of Bill

1111

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. 212-31 (COR), "AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 4 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO SEXUAL HARASSMENT COMPLAINTS,"** was on the 8th day of November, 2011, duly and regularly passed.



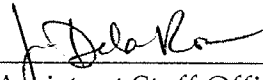
Judith T. Won Pat, Ed.D.
Speaker

Attested:



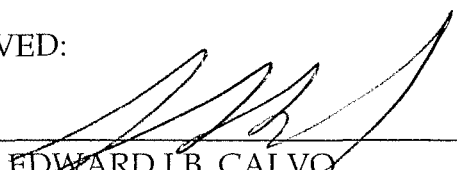
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 8th day of Nov., 2011, at A:25 o'clock P.M.



Assistant Staff Officer
Maga'laha'i's Office

APPROVED:



EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date: NOV 21 2011

Public Law No. 31-149

1 § 4702. Jurisdiction Over Sexual Harassment Complaints For All
2 Employees.

3 § 4703. Sexual Harassment Defined.

4 § 4704. Reports of Sexual Harassment Complaints.

5 § 4705. Audits of Reports of Sexual Harassment Complaints.

6 § 4706. Whistle-Blower Protection.

7 § 4707. Time Frame and Rights to File Complaints.

8 § 4708. Personnel Rules and Regulations.

9 **§ 4701. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
10 finds that sexual harassment is a form of sex discrimination that violates
11 *Title VII of the Civil Rights Act of 1964*. Title VII applies to employers with
12 fifteen (15) or more employees, including state and local governments. It
13 also applies to employment agencies and to labor organizations, as well as to
14 the federal government.

15 Unwelcome sexual advances, requests for sexual favors, and other
16 verbal or physical conduct of a sexual nature, constitute sexual harassment
17 when this conduct explicitly or implicitly affects an individual's
18 employment, unreasonably interferes with an individual's work performance,
19 or creates an intimidating, hostile, or offensive work environment.

20 Sexual harassment can occur in a variety of circumstances, including,
21 but *not* limited to, the following:

22 (a) The victim as well as the harasser may be a woman or a
23 man. The victim does *not* have to be of the opposite sex.

24 (b) The harasser can be the victim's supervisor, an agent of
25 the employer, a supervisor in another area, a co-worker, or a non-
26 employee.

1 (c) The victim does *not* have to be the person harassed but
2 could be anyone affected by the offensive conduct.

3 (d) Unlawful sexual harassment may occur without
4 economic injury to or discharge of the victim.

5 (e) The conduct may include the use of profanity, offensive
6 language and expletives, derogatory comments or sexually offensive
7 speech to berate, discipline or intimidate employees, or subordinates.

8 (f) The harasser's conduct must be unwelcome.

9 *I Liheslatura* further finds that it is helpful for the victim to inform the
10 harasser directly that the conduct is unwelcome and must stop. The victim
11 should use any employer complaint mechanism or grievance system
12 available.

13 When investigating allegations of sexual harassment, the federal
14 Equal Employment Opportunity Commission (EEOC) looks at the whole
15 record: the circumstances, such as the nature of the sexual advances, and the
16 context in which the alleged incidents occurred. A determination on the
17 allegations is made from the facts on a case-by-case basis.

18 Prevention is the best tool to eliminate sexual harassment in the
19 workplace. Employers are encouraged to take steps necessary to prevent
20 sexual harassment from occurring. They should clearly communicate to
21 employees that sexual harassment will *not* be tolerated. They can do so by
22 providing sexual harassment training to their employees, and by establishing
23 an effective complaint or grievance process and taking immediate and
24 appropriate action when an employee complains.

25 It is also unlawful to retaliate against an individual for opposing
26 employment practices that discriminate based on sex, or for filing a

1 discrimination charge, testifying, or participating in any way in an
2 investigation, proceeding, or litigation under Title VII.

3 **§ 4702. Jurisdiction Over Sexual Harassment Complaints For**
4 **All Employees.** As specified in this Chapter, employees in the context of
5 Equal Employment Opportunity complaints involving sexual harassment as
6 defined by *Title VII of the Civil Rights Act of 1964* and this Article *shall*
7 include all classified and unclassified employees of the Executive Branch of
8 the government of Guam.

9 **§ 4703. Sexual Harassment Defined.** For purposes of this
10 Article, sexual harassment *shall* include:

11 (a) sexual harassment as defined by the federal Equal
12 Employment Opportunity Commission;

13 (b) unwelcome sexual advances, requests for sexual favors,
14 or other verbal or physical conduct of a sexual nature when:

15 (1) submission to such conduct was made, either
16 explicitly or implicitly, a term or condition of an individual's
17 employment;

18 (2) submission to or rejection of such conduct by an
19 individual was used as the basis for employment decisions
20 affecting such individual; or

21 (3) such conduct has the purpose or effect of
22 unreasonably interfering with an individual's work performance
23 or creating an intimidating, hostile, or offensive working
24 environment;

25 (c) conduct that includes the use denotatively or
26 connotatively defined sexual language that includes, but is *not* limited
27 to, profanity, offensive language and expletives, derogatory comments

1 or sexually offensive speech which is used to berate, bully, discipline
2 or intimidate employees.

3 **§ 4704. Reports of Sexual Harassment Complaints.**

4 Notwithstanding any other provision of law, rules or regulations
5 unclassified, contractual, temporary and other non-classified employees may
6 file complaints for sexual harassment in the same manner that classified
7 employees may file such complaints. Unclassified, contractual, temporary
8 and other non-classified employees are entitled to all rights, privileges and
9 remedies that are afforded to classified employees to resolve sexual
10 harassment complaints.

11 **§ 4705. Audits of Reports of Sexual Harassment Complaints.**

12 Complaints of sexual harassment filed pursuant to this Article *shall* be
13 audited periodically in the same manner as complaints filed by classified
14 employees.

15 **§ 4706. Whistle-Blower Protection.**

16 No person, including
17 witnesses and counselors, and confidants of the victim; who reports any
18 incident of sexual harassment, or suspected sexual harassment, to a
19 supervisor, agency head, director, the Department of Administration, the
20 Civil Service Commission, the Guam Attorney General, or a law
21 enforcement agency of the government of Guam, or of the United States,
22 shall suffer any loss of wages, title or position or employment as a result of
such report.

23 **§ 4707. Time Frame and Rights to File Complaints.**

24 The time
25 frame to file complaints of sexual harassment, or suspected sexual
26 harassment, *shall* be the later of two (2) years following the incident, or
27 those time frames established by the federal Equal Employment Opportunity
Commission. The right to file complaints *shall not* be extinguished by the

1 termination, transfer or resignation of an employee of a department where
2 the incident occurred.

3 **§ 4708. Personnel Rules and Regulations.** All personnel rules
4 and regulations on sexual harassment that are applicable to the agency or
5 branch for which the victim is employed *shall* apply to unclassified,
6 contractual, temporary, and other non-classified employees. In the event that
7 an agency or office is *not* covered by personnel rules and regulations, the
8 sexual harassment provisions of the Department of Administration's
9 Personnel Rules and Regulations *shall* apply.

10 **Section 2. Effective Date.** This Article *shall* be effective upon enactment.
11 *except* as provided by Section 3 of this Act.

12 **Section 3. Reporting of Prior Sexual Harassment Complaints by**
13 **Unclassified Employees.** (a) **Legislative Intent.** *I Liheslaturan Guåhan* finds
14 that reports of sexual harassment that occurred prior to the enactment of Section 1
15 of this Act were likely ignored or addressed internally within the complainant's
16 agency. Unlike other abuses that may be reported by all classes of employees,
17 sexual harassment, like sex crimes, have high rates of recidivism and are likely to
18 be repeated if *not* properly addressed. While sexual harassment cases may have
19 been properly and judiciously addressed, there is *no* clear way to ensure that work
20 places have been made safe and hostile work environments diffused unless the
21 cases have been thoroughly reviewed by EEO officials.

22 It may *not* be practical to review all prior complaints of sexual harassment. It
23 is, however, the intent of *I Liheslatura* to allow EEO officials to review recent
24 sexual harassment complaints and determine whether the complaints were properly
25 and adequately addressed.

26 (b) **Reporting.** For the period from October 1, 2010 to the effective date
27 of this Act, any person who, directly or through a third party, received a written or

1 oral sexual harassment complaint from an unclassified, temporary or contractual
2 employee, *shall* furnish a report of the incident to the Equal Employment
3 Opportunity Office of the Department of Administration. The report *shall* include,
4 but *not* be limited to, the following:

- 5 (1) the name and position of the complainant;
- 6 (2) the name and position of the accused harasser;
- 7 (3) the work relationship of the complainant to the harasser;
- 8 (4) the nature of the incident(s) that led to the complaint;
- 9 (5) the names of witnesses to the incident(s) that led to the
10 complaint;
- 11 (6) the contact information of the complainant, accused and
12 witnesses;
- 13 (7) any action taken to resolve or attempt to resolve the complaint;
14 and
- 15 (8) the current employment/position status of the complainant and
16 the accused and the current work relationship.

17 The complainant may also file a report on his or her behalf.

18 The information contained in this report is *not* public information or subject
19 to the provisions of Chapter 10 of Title 5, GCA. The information shall be
20 available to the complainant at any reasonable time. The information *shall* be
21 available to the accused through a request for discovery.

22 The Director of Administration *shall*, through existing rules, regulations and
23 policies, determine the disposition of complaint reports filed herein.

I MINA' TRENTAI UNU NA LIHESLATURAN GUAHAN

2011 (FIRST) Regular Session

Date: 11/0⁸7/11

VOTING SHEET

SBill No. 212-31 (COR)

Resolution No. _____

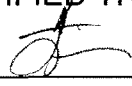
Question: _____

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



August 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. 212-31 (COR)- As Substituted


Dear Speaker Won Pat:

Transmitted herewith is the Report of Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting the on Substitute Bill No. 212-31(COR) "An act to add a new Article 4 to Chapter 4 of 4GCA relative to sexual harassment complaints." – 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
___ TO REPORT OUT ONLY
___ TO ABSTAIN
___ TO PLACE IN INACTIVE FILE

Sincerely,


BENJAMIN J.F. CRUZ
Chairperson

Sub 212-31 (COR)
2011-08-01
RJR



COMMITTEE REPORT

ON

Substitute Bill No. 212-31 (COR)

“An act to add a new Article 4 to Chapter 4 of 4GCA relative to sexual harassment complaints.”



August 1, 2011

MEMORANDUM

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

FROM: Vice Speaker Benjamin J.F. Cruz

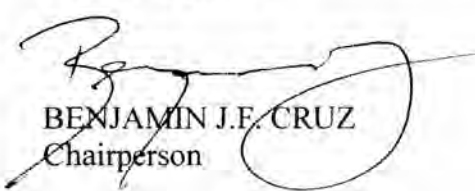
SUBJECT: Committee Report on Bill No. 212-31(COR)

Transmitted herewith for your consideration is the Committee Report on Bill No. 212-31(COR)-
"An act to add a new Article 4 to Chapter 4 of 4GCA relative to sexual harassment complaints."
This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Bill No. 212-31(COR)
- Substitute Bill No. 212-31(COR)
- Public Hearing Sign-in Sheet
- COR Referral of Bill No. 212-31(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. 212-31(COR) - "An act to add a new Article 4 to Chapter 4 of 4GCA relative to sexual harassment complaints."

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
CRUZ, BENJAMIN J.F. Chairperson		✓ 8/1/11				
MUÑA BARNES, TINA ROSE Vice-Chairperson		✓				
WON PAT, JUDITH T. Speaker and Ex-Officio Member						
ADA, THOMAS C. Member		✓ 8/1/11				
GUTHERTZ, JUDITH P. Member						
RESPICIO, RORY J. Member						
RODRIGUEZ, DENNIS G. JR. Member						
ADA, V. ANTHONY Member		8/1/11				
DUENAS, CHRISTOPHER Member		8/1/11				
MABINI, SAM Member		8/1/11				
YAMASHITA, ALINE Member		8/1/11				



Committee Report Digest

I. OVERVIEW

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting convened a public hearing on Wednesday, June 22, 2011 at 10:00 a.m. in the Public Hearing Room of *I Liheslatura*. Among the items on the agenda was the consideration of Bill No. 212-31(COR) - "An act to add a new Article 4 to Chapter 4 of 4GCA relative to sexual harassment complaints."

Substitute Bill No. 212-31(COR) would codify the EEOC rules for workplace sexual harassment directly into the Guam Code Annotated. It would ensure the local mandate for reporting workplace sexual harassment is in line with the existing federal standard.

Public Notice Requirements

All legal requirements for public notices were met, with requests for publication sent to all media and all senators on June 15th and 20th 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 Adolpho Palacios, Committee Member
Senator Sam Mabini Ph.D., Committee Member

The public hearing was called to order at 10:08 a.m.

II. SUMMARY OF TESTIMONY AND DISCUSSION

Vice Speaker Benjamin J.F. Cruz called the public hearing to order at 10:08 a.m. and announced the morning's agenda and public hearing notices.

Benita Manglona, Acting Director, Director of Administration testified that while she is in support of the intent of the legislation, she was concerned with the penalty for the Director of the agency was so extreme. She felt that sometimes the Director of the Agency was unaware of abuse or harassment and that should be considered before passage of this measure.



Written Testimony was provided by:

Alberto Lamorena- CSC

Benita Manglona- DOA

Leah Beth Naholowaa- DOL

Phil Tydingco- AG's Office

III. FINDINGS AND RECOMMENDATION

The Committee finds that the Government of Guam's EEO policy on Sexual Harassment does not apply to unclassified, contractual or temporary workers. The Committee further finds that sexual harassment, in any form, creates a hostile work environment, lowers employee morale and places employees in danger in the event that the harassment escalates towards sexual assault. No employee, regardless of employment status, should have to work in an environment where they face sexual advances or exposure to pornography, off-color jokes, and profanity.

Bill No. 212-31 does not define sexual harassment, it (1) expands EEO Sexual Harassment protections to all unclassified, temporary and contractual employees and (2) requires that the Department of Administration and the Civil Service Commission to routinely audit the handling of such complaints by government administrators. Although the bill establishes guidelines for EEO official to follow when addressing sexual harassment complaints, the Committee agrees with the recommendations of the Director of Administration that the existing policies and procedures that apply to classified employees are adequate for unclassified employees as well. The Committee addresses this issue in a substitute bill.


The Committee further agrees with the intent of the bill to allow the EEO officials to review all reports of sexual harassment that occurred prior to, but within a reasonable time prior to the enactment of this bill. By requiring every agency official who received a report of sexual harassment after October 1, 2010 to file an incident report, the EEO office can (1) assess the complaint, (2) determine if appropriate action was taken, (3) determine if any employees remain in harm's way and (4) take additional steps, if necessary, to make the workplace safer. If there is a known sexual harasser in an agency who escaped reprimand and proper counseling prior to the enactment of this bill, a hostile work environment may continue to impede the effectiveness of that agency's mission and it must be remedied.

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting hereby reports out Substitute Bill 212-31 (COR), with the recommendation **TO PASS.**


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

Bill No. 212-31(COR)

Introduced by:

V. Anthony Ada 

AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 4 OF
4GCA RELATIVE TO SEXUAL HARASSMENT
COMPLAINTS

2011.1.14.6 AM 9:33


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

2 **Section 1.** A new Article 7 is *added* to Chapter 4 of 4GCA to read as follows:

3

4

Article 7

5

Reports of Sexual Harassment

6

7

§4701. Legislative Findings and intent.

8

9

I Liheslaturan Guåhan finds that sexual harassment is a form of sex
10 discrimination that violates *Title VII of the Civil Rights Act of 1964*. Title VII
11 applies to employers with 15 or more employees, including state and local
12 governments. It also applies to employment agencies and to labor
13 organizations, as well as to the federal government.

14

Unwelcome sexual advances, requests for sexual favors, and other verbal or
15 physical conduct of a sexual nature constitute sexual harassment when this
16 conduct explicitly or implicitly affects an individual's employment,
17 unreasonably interferes with an individual's work performance, or creates an
18 intimidating, hostile, or offensive work environment.

1 Sexual harassment can occur in a variety of circumstances, including but not
2 limited to the following:

- 3 • The victim as well as the harasser may be a woman or a man. The
4 victim does not have to be of the opposite sex.
- 5 • The harasser can be the victim's supervisor, an agent of the
6 employer, a supervisor in another area, a co-worker, or a non-
7 employee.
- 8 • The victim does not have to be the person harassed but could be
9 anyone affected by the offensive conduct.
- 10 • Unlawful sexual harassment may occur without economic injury to
11 or discharge of the victim.
- 12 • The conduct may include the use of profanity, offensive language
13 and expletives, derogatory comments or sexually offensive speech to
14 berate, discipline or intimidate employees, subordinates.
- 15 • The harasser's conduct must be unwelcome.

16 *I Liheslatura* further finds that it is helpful for the victim to inform the harasser
17 directly that the conduct is unwelcome and must stop. The victim should use any
18 employer complaint mechanism or grievance system available.

19 When investigating allegations of sexual harassment, the federal Equal
20 Employment Opportunity Commission (EEOC) looks at the whole record: the
21 circumstances, such as the nature of the sexual advances, and the context in

1 which the alleged incidents occurred. A determination on the allegations is made
2 from the facts on a case-by-case basis.

3 Prevention is the best tool to eliminate sexual harassment in the workplace.
4 Employers are encouraged to take steps necessary to prevent sexual harassment
5 from occurring. They should clearly communicate to employees that sexual
6 harassment will not be tolerated. They can do so by providing sexual harassment
7 training to their employees and by establishing an effective complaint or
8 grievance process and taking immediate and appropriate action when an
9 employee complains.

10 It is also unlawful to retaliate against an individual for opposing employment
11 practices that discriminate based on sex or for filing a discrimination charge,
12 testifying, or participating in any way in an investigation, proceeding, or
13 litigation under Title VII.

14

15 **§4702. Jurisdiction Over Sexual Harassment Complaints For All Employees.**

16 As specified in this Chapter, employees in the context of Equal Employment
17 Opportunity complaints involving Sexual Harassment as defined by *Title VII of*
18 *the Civil Rights Act of 1964* and this Article shall include all classified and
19 unclassified employees of the Executive Branch of the Government of Guam.

20

21 **§4703. Sexual Harassment Defined:** For purposes of this Article Sexual
22 Harassment shall include:

23

1 (a). Sexual harassment as defined by the federal Equal Employment Opportunity
2 Commission.

3

4 (b). Unwelcome sexual advances, requests for sexual favors, or other verbal or
5 physical conduct of a sexual nature when:

6 (1) Submission to such conduct was made either explicitly or implicitly a
7 term or condition of an individual's employment,

8 (2) Submission to or rejection of such conduct by an individual was used as
9 the basis for employment decisions affecting such individual, or

10 (3) Such conduct has the purpose or effect of unreasonably interfering with
11 an individual's work performance or creating an intimidating, hostile, or
12 offensive working environment.

13

14 (c). Conduct that includes the use denotatively or connotatively defined sexual
15 language that includes but is not limited to profanity, offensive language and
16 expletives, derogatory comments or sexually offensive speech which is used to
17 berate, bully, discipline or intimidate employees.

18

19 **§4704. Reports of Sexual Harassment Complaints.** (a) The supervisor of an
20 employee who files either an oral or written sexual harassment complaint shall
21 submit a report to the Department of Administration and the Civil Service
22 Commission that includes:

23 (1) The name, address and telephone number(s) of the complainant,

24 (2) That nature of the complaint,

25 (3) Actions taken to resolve the complaint including disciplinary action
26 taken against the target of the complaint, and

1 (4) Copies of any documents submitted by the complainant, the target of the
2 complaint and witnesses to include any transcripts and affidavits.

3 (b) In the event that the target of the complaint is the complainant's supervisor, the
4 supervisor of the complainant's supervisor shall submit the report.

5 (c) The report shall be submitted by the earlier of ninety (90) days following the
6 date of the complaint or twenty (20) days following resolution of the complaint.
7 In the event that the complaint is not resolved within ninety (90) days following
8 the date of the complaint, the supervisor shall submit all documents, statements
9 and evidence to the Department of Administration and the Civil Service
10 Commission that are related to the complaint along with a signed statement
11 detailing the reasons why the complaint has not been resolved.

12 (d) The reports submitted herein are confidential and are not public information
13 but may be viewed by the complainant. The target of the complaint may also view
14 the report following proper disposition of a discovery motion by an adjudicatory
15 body or court of law.

16 (e) Complaints filed against a non-employee of the complainant's department shall
17 be reported by the complainant's supervisor to the Guam Attorney General's
18 Office within five (5) days following the complaint. In the event that a complaint
19 is filed where the complainant believes her or she is in danger, the supervisor shall
20 file a report with the Guam Police Department upon receipt of such complaint.

21 (f) In the event that a supervisor or other applicable official fails to submit a report
22 required herein, the official commits a violation subject to a fine not to exceed
23 Two Hundred Dollars (\$200). In the event that a supervisor or other applicable
24 official willfully fails to submit a report required herein, the official commits a
25 petty misdemeanor subject to a fine not to exceed Five Hundred Dollars (\$500).

1 Any person who impedes or interferes with the filing of a report required herein
2 commits a third degree felony.

3

4 **§4705. Audits of Reports of Sexual Harassment Complaints.** The Civil Service
5 Commission shall audit all reports of filed pursuant to §4704 of this Chapter and
6 actions taken by the complainant's department and the Department of
7 Administration. The scope of the audit shall include, but not be limited to:

8

9 (a) The appropriateness of the actions taken by the complainants department and
10 the Department of Administration to resolve the complaint,

11 (b) Recommendations for improvement including the need for training and
12 education of supervisors and employees, and

13 (c) Determination of disciplinary action taken against.

14

15 **§4706. Whistle-blower protection.** No person who reports any incident of sexual
16 harassment or suspected sexual harassment to a supervisor, director the
17 Department of Administration, Civil Service Commission, Guam Attorney
18 General or a law enforcement agency of the Government of Guam or Government
19 of the United States shall suffer any loss of wages, title or position or employment
20 as a result of such report.

21

22 **§4707. Timeframe and Rights to file complaints.** The timeframe to file
23 complaints of sexual harassment or suspected sexual harassment shall be the later
24 of two (2) years following the incident or those timeframes established by the
25 federal Equal Employment Opportunity Commission. The right to file complaint

1 shall not be extinguished by termination, transfer or resignation of an employee of
2 a department where the incident occurred.

3

4 **Section 2. Effective Date.** This Article shall be effective upon enactment except
5 that all reports of sexual harassment that occurred between January 1, 2011 and
6 the effective date of this Act shall be reported to the Department of Administration
7 and the Civil Service Commission.

8

9 **Section 3. Special Provision.** In the event that a supervisor or other applicable
10 official fails to submit a report an incidence of sexual harassment that occurred
11 between January 1, 2011 and the effective date of this Act, the official commits a
12 violation subject to a fine not to exceed Two Hundred Dollars (\$200). In the event
13 that a supervisor or other applicable official willfully fails to submit a report
14 required herein, the official commits a petty misdemeanor subject to a fine not to
15 exceed Five Hundred Dollars (\$500). Any person who impedes or interferes with
16 the filing of a report required herein commits a third degree felony.

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

Bill No. 212-31 (COR)

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

Introduced by:

V. Anthony Ada

**AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 4 OF
4GCA RELATIVE TO SEXUAL HARASSMENT
COMPLAINTS**

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

2 **Section 1.** A new Article 7 is *added* to Chapter 4 of 4GCA to read as follows:

3

4

Article 7

5

Reports of Sexual Harassment by Non-classified Employees

6

7 **§4701. Legislative Findings and intent.**

8

9 *I Liheslaturan Guåhan* finds that sexual harassment is a form of sex
10 discrimination that violates *Title VII of the Civil Rights Act of 1964*. Title VII
11 applies to employers with 15 or more employees, including state and local
12 governments. It also applies to employment agencies and to labor
13 organizations, as well as to the federal government.

14 Unwelcome sexual advances, requests for sexual favors, and other verbal or
15 physical conduct of a sexual nature constitute sexual harassment when this
16 conduct explicitly or implicitly affects an individual's employment,
17 unreasonably interferes with an individual's work performance, or creates an
18 intimidating, hostile, or offensive work environment.

1 Sexual harassment can occur in a variety of circumstances, including but not
2 limited to the following:

- 3 • The victim as well as the harasser may be a woman or a man. The
4 victim does not have to be of the opposite sex.
- 5 • The harasser can be the victim's supervisor, an agent of the
6 employer, a supervisor in another area, a co-worker, or a non-
7 employee.
- 8 • The victim does not have to be the person harassed but could be
9 anyone affected by the offensive conduct.
- 10 • Unlawful sexual harassment may occur without economic injury to
11 or discharge of the victim.
- 12 • The conduct may include the use of profanity, offensive language
13 and expletives, derogatory comments or sexually offensive speech to
14 berate, discipline or intimidate employees, subordinates.
- 15 • The harasser's conduct must be unwelcome.

16 *I Liheslatura* further finds that it is helpful for the victim to inform the harasser
17 directly that the conduct is unwelcome and must stop. The victim should use any
18 employer complaint mechanism or grievance system available.

19 When investigating allegations of sexual harassment, the federal Equal
20 Employment Opportunity Commission (EEOC) looks at the whole record: the
21 circumstances, such as the nature of the sexual advances, and the context in

1 which the alleged incidents occurred. A determination on the allegations is made
2 from the facts on a case-by-case basis.

3 Prevention is the best tool to eliminate sexual harassment in the workplace.
4 Employers are encouraged to take steps necessary to prevent sexual harassment
5 from occurring. They should clearly communicate to employees that sexual
6 harassment will not be tolerated. They can do so by providing sexual harassment
7 training to their employees and by establishing an effective complaint or
8 grievance process and taking immediate and appropriate action when an
9 employee complains.

10 It is also unlawful to retaliate against an individual for opposing employment
11 practices that discriminate based on sex or for filing a discrimination charge,
12 testifying, or participating in any way in an investigation, proceeding, or
13 litigation under Title VII.

14

15 **§4702. Jurisdiction Over Sexual Harassment Complaints For All Employees.**

16 As specified in this Chapter, employees in the context of Equal Employment
17 Opportunity complaints involving Sexual Harassment as defined by *Title VII of*
18 *the Civil Rights Act of 1964* and this Article shall include all classified and
19 unclassified employees of the Executive Branch of the Government of Guam.

20

21 **§4703. Sexual Harassment Defined:** For purposes of this Article Sexual
22 Harassment shall include:

23

1 (a). Sexual harassment as defined by the federal Equal Employment Opportunity
2 Commission.

3

4 (b). Unwelcome sexual advances, requests for sexual favors, or other verbal or
5 physical conduct of a sexual nature when:

6 (1) Submission to such conduct was made either explicitly or implicitly a
7 term or condition of an individual's employment,

8 (2) Submission to or rejection of such conduct by an individual was used as
9 the basis for employment decisions affecting such individual, or

10 (3) Such conduct has the purpose or effect of unreasonably interfering with
11 an individual's work performance or creating an intimidating, hostile, or
12 offensive working environment.

13

14 (c). Conduct that includes the use denotatively or connotatively defined sexual
15 language that includes but is not limited to profanity, offensive language and
16 expletives, derogatory comments or sexually offensive speech which is used to
17 berate, bully, discipline or intimidate employees.

18

19 **§4704. Reports of Sexual Harassment Complaints.** ~~(a) The supervisor of an~~
20 ~~employee who files either an oral or written sexual harassment complaint shall~~
21 ~~submit a report to the Department of Administration and the Civil Service~~
22 ~~Commission that includes:~~

23 ~~(1) The name, address and telephone number(s) of the complainant,~~

24 ~~(2) That nature of the complaint,~~

25 ~~(3) Actions taken to resolve the complaint including disciplinary action~~
26 ~~taken against the target of the complaint, and~~

1 ~~(4) Copies of any documents submitted by the complainant, the target of the~~
2 ~~complaint and witnesses to include any transcripts and affidavits.~~

3 ~~(b) In the event that the target of the complaint is the complainant's supervisor, the~~
4 ~~supervisor of the complainant's supervisor shall submit the report.~~

5 ~~(c) The report shall be submitted by the earlier of ninety (90) days following the~~
6 ~~date of the complaint or twenty (20) days following resolution of the complaint.~~
7 ~~In the event that the complaint is not resolved within ninety (90) days following~~
8 ~~the date of the complaint, the supervisor shall submit all documents, statements~~
9 ~~and evidence to the Department of Administration and the Civil Service~~
10 ~~Commission that are related to the complaint along with a signed statement~~
11 ~~detailing the reasons why the complaint has not been resolved.~~

12 ~~(d) The reports submitted herein are confidential and are not public information~~
13 ~~but may be viewed by the complainant. The target of the complaint may also view~~
14 ~~the report following proper disposition of a discovery motion by an adjudicatory~~
15 ~~body or court of law.~~

16 ~~(e) Complaints filed against a non-employee of the complainant's department shall~~
17 ~~be reported by the complainant's supervisor to the Guam Attorney General's~~
18 ~~Office within five (5) days following the complaint. In the event that a complaint~~
19 ~~is filed where the complainant believes her or she is in danger, the supervisor shall~~
20 ~~file a report with the Guam Police Department upon receipt of such complaint.~~

21 ~~(f) In the event that a supervisor or other applicable official fails to submit a report~~
22 ~~required herein, the official commits a violation subject to a fine not to exceed~~
23 ~~Two Hundred Dollars (\$200). In the event that a supervisor or other applicable~~
24 ~~official willfully fails to submit a report required herein, the official commits a~~
25 ~~petty misdemeanor subject to a fine not to exceed Five Hundred Dollars (\$500).~~

1 ~~Any person who impedes or interferes with the filing of a report required herein~~
2 ~~commits a third degree felony.~~

3 Notwithstanding any other provision of law, rules and regulations unclassified,
4 contractual, temporary and other non-classified employees may file complaints for
5 sexual harassment in the same manner that classified employees may file such
6 complaints. Unclassified, contractual, temporary and other non-classified
7 employees are entitled to all rights, privileges and remedies that are afforded to
8 classified employees to resolve sexual harassment complaints.

9
10 **§4705. Audits of Reports of Sexual Harassment Complaints.** ~~The Civil Service~~
11 ~~Commission shall audit all reports of filed pursuant to §4704 of this Chapter and~~
12 ~~actions taken by the complainant's department and the Department of~~
13 ~~Administration. The scope of the audit shall include, but not be limited to:~~

14
15 ~~(a) The appropriateness of the actions taken by the complainants department and~~
16 ~~the Department of Administration to resolve the complaint,~~

17 ~~(b) Recommendations for improvement including the need for training and~~
18 ~~education of supervisors and employees, and~~

19 ~~(c) Determination of disciplinary action taken against.~~

20 Complaints of Sexual harassment filed pursuant to this Chapter shall be audited
21 periodically in the same manner as complaints filed by classified employees.

22
23 **§4706. Whistle-blower protection.** No person, including witnesses and
24 counselors and confidants of the victim; who reports any incident of sexual
25 harassment or suspected sexual harassment to a supervisor, agency head, director
26 the Department of Administration, Civil Service Commission, Guam Attorney

1 General or a law enforcement agency of the Government of Guam or Government
2 of the United States shall suffer any loss of wages, title or position or employment
3 as a result of such report.

4
5 **§4707. Timeframe and Rights to file complaints.** The timeframe to file
6 complaints of sexual harassment or suspected sexual harassment shall be the later
7 of two (2) years following the incident or those timeframes established by the
8 federal Equal Employment Opportunity Commission. The right to file complaint
9 shall not be extinguished by termination, transfer or resignation of an employee of
10 a department where the incident occurred.

11
12 **§4708. Personnel Rules and Regulations.** All personnel rules and regulations on
13 sexual harassment that applicable to the agency/branch for which the victim is
14 employed shall apply to Unclassified, contractual, temporary and other non-
15 classified employees. In the event that an agency or office is not covered by
16 personnel rules and regulations, the sexual harassment provisions of the
17 Department of Administration’s Personnel Rules and Regulations shall apply.

18
19 **Section 2. Effective Date.** This Article shall be effective upon enactment. except
20 ~~that all reports of sexual harassment that occurred between January 1, 2011 and~~
21 ~~the effective date of this Act shall be reported to the Department of Administration~~
22 ~~and the Civil Service Commission as provided by Section 3 of this Act.~~

23
24 **Section 3. Special Provision.** ~~In the event that a supervisor or other applicable~~
25 ~~official fails to submit a report an incidence of sexual harassment that occurred~~
26 ~~between January 1, 2011 and the effective date of this Act, the official commits a~~

1 ~~violation subject to a fine not to exceed Two Hundred Dollars (\$200). In the event~~
2 ~~that a supervisor or other applicable official willfully fails to submit a report~~
3 ~~required herein, the official commits a petty misdemeanor subject to a fine not to~~
4 ~~exceed Five Hundred Dollars (\$500). Any person who impedes or interferes with~~
5 ~~the filing of a report required herein commits a third degree felony.~~

6 **Reporting of Prior Sexual Harassment Complaints by Unclassified**
7 **Employees. (a) Legislative Intent: *I Liheslaturan Guåhan* finds reports of**
8 **Sexual Harassment that occurred prior to the enactment of Section 1 of this Act**
9 **were likely ignored or addressed internally within the complainant’s agency.**
10 **Unlike other abuses that may be reported by all classes of employees, sexual**
11 **harassment, like sex crimes, have high rates of recidivism and are likely to be**
12 **repeated if not properly addressed. While sexual harassment cases may have been**
13 **properly and judiciously addressed, there is no clear way to ensure that work**
14 **places have been made safe and hostile work environments diffused unless the**
15 **cases have been thoroughly reviewed by EEO officials.**

16 **It may not be practical to review all prior complaints of sexual harassment,**
17 **it is, however, the intent of *I Liheslatura* to allow EEO officials to review recent**
18 **sexual harassment complaints and determine whether the complaints were**
19 **properly and adequately addressed.**

20 **(b) Reporting: For the period from October 1, 2010 to the effective date of**
21 **this Act, any person who, directly or through a third party, received a written or**
22 **oral sexual harassment complaint from an unclassified, temporary or contractual**
23 **employee, shall furnish a report of the incident to the Equal Employment**
24 **Opportunity Office of the Department of Administration. The report shall include**
25 **but not be limited the following:**

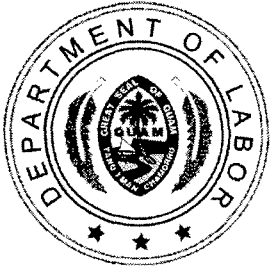
26 **(a) The name and position of the complainant,**

- 1 (b) The name and position of the accused harasser,
2 (c) The work relationship of the complainant to the harasser,
3 (d) The nature of the incident(s) that led to the complaint,
4 (e) The names of witnesses to the incident(s) that led to the
5 complaint,
6 (f) The contact information of the complainant, accused and
7 witnesses,
8 (g) Any action taken to resolve or attempt to resolve the complaint,
9 and
10 (h) The current employment/position status of the complainant and
11 the accused and the current work relationship.

12 The complainant may also file a report on his or her behalf.

13 The information contained in this report is not public information or subject
14 to the provisions of Chapter 10 of 5GCA. The information shall be available to
15 the complainant at any reasonable time. The information shall be available to the
16 accused through a request for discovery.

17 The Director of the Department of Administration shall, through existing
18 rules, regulations and policies, determine the disposition of complaint reports filed
19 herein.



DEPARTMENT OF
LABOR

DIPĀTTMENTON HUMOTNĀT • LEAH BETH O. NAHOLOWAA, Director

EDDIE BAZA CALVO
Governor
RAY TENORIO
Lieutenant Governor

July 20, 2011

The Honorable Benjamin J.F. Cruz
Vice-Speaker, 31st Guam Legislature
Chairperson, Committee on Youth, Cultural Affairs,
Procurement, General Government Operations
and Public Broadcasting
155 Hesler Place, Ste. 107
Hagatna, Guam 96910

Dear Vice-Speaker Cruz:

Hafa Adai! Guam Department of Labor (GDOL) appreciates the opportunity to comment on **Bill No. 212-31 (COR)**, "AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 4 OF 4GCA RELATIVE TO SEXUAL HARASSMENT COMPLAINTS". GDOL supports the intent of the bill, whereby unclassified, contractual, temporary, and other non-classified employees are entitled to all rights, privileges, and remedies that are afforded to classified employees on the issue of sexual harassment. GDOL agrees, as well, with the Bill's Subsections, and we offer our comments and suggestions on selected Subsections, as follows:

§4701. LEGISLATIVE FINDINGS AND INTENT. We agree with the Bill that prevention is the best tool to eliminate sexual harassment in the workplace, to include (a) training for all employees and (b) an effective complaint/grievance process.

Suggestion: Include multiple paths in the complaint process. Example: If the harasser is the victim's supervisor, the employee can go directly to another supervisor, HR officer, or the agency's manager.

§4702. JURISDICTION OVER SEXUAL HARASSMENT COMPLAINTS FOR ALL EMPLOYEES.

Re: "...and this Article shall include all classified and unclassified employees of the Executive Branch of the Government of Guam."

Suggestion: Employees in the Legislative and Judicial Branches must be included, as well, not just employees in the Executive Branch.

§4704. REPORTS OF SEXUAL HARASSMENT COMPLAINTS; AND

§4705. AUDITS OF REPORTS OF SEXUAL HARASSMENT COMPLAINTS.

Suggestion: Monitor enforcement of these two Subsections.

Thank you for the opportunity to submit our feedback on Bill No. 212-31 (COR). Should you have any questions, please contact GDOL/Fair Employment Practice Division at 475-7083/75. Si Yu'os Ma'ase.

Best regards,

Leah Beth O. Naholowaa
Director



Eddie Baza Calvo
Governor
Ray Tenorio
Lieutenant Governor

JUL 26 2011

GOVERNMENT OF GUÁHAN
(GUBETNAMENTON GUÁHAN)

DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON ATMENESTRASION)

DIRECTOR'S OFFICE
(Ufisinan Direktot)

Post Office Box 884 * Hagåtña, Guam 96932
TEL: (671) 475-1101/1250 * FAX: (671) 477-6788



Benita A. Manglona
Acting Director
George A. Santos
Deputy Director

HRD NO.: OG-11-0941

The Honorable Benjamin J.F. Cruz
Vice-Speaker
31st Guam Legislature
Chairperson, Committee on Youth, Cultural Affairs,
Procurement, General Government Operations
and Public Broadcasting
155 Hesler Place, Ste. 107
Hagatna, Guam 96910

Dear Vice-Speaker Cruz:

Buenas yan Hafa Adai! Thank you for the opportunity to comment on Substitute Bill 212 (COR) "An Act to Add a New Article 4 to Chapter 4 of 4 GCA Relative to Sexual Harassment Complaints".

We are in support of the substitute bill which allows all unclassified, contractual, temporary and other non-classified employees to file sexual harassment complaints in the same manner that classified employees file such complaints. There is a current process in the Personnel Rules and Regulation that outline the procedures in which government employees must follow in order to resolve sexual harassment complaints. We agree that all employees, regardless of employment status, must be protected with regards to discrimination complaints.

However, the two (2) year timeframe in which to file complaints seems excessive. Our local department of Labor mirrors the federal Equal Employment Opportunity Commission (EEOC) filing deadline of up to 300 calendar days from the day the discrimination took place. A suggestion would be to mirror EEOC's timeframes for consistency purposes.

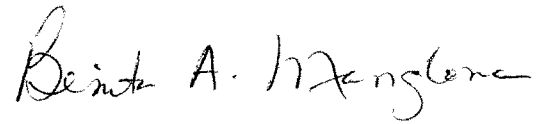
Office of the Vice Speaker
Benjamin JF Cruz

Rcd. By Date 7-27-11

8-52

Si Yu'os Ma'ase for the opportunity to comment of on substitute Bill 212-31 (COR). You may contact the Human Resources Division at 475-1132/1294 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink that reads "Benita A. Manglona". The signature is written in a cursive style with a large initial 'B'.

BENITA A. MANGLONA
Acting



COMMITTEE ON RULES

I Mina'trentai Unu na Libeslaturan Guåhan • The 31st Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryfonguam@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
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Vice Speaker
Benjamin J. F. Cruz

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

July 19, 2011

Memorandum

To: Pat C. Santos
Clerk of the Legislature

From: Senator Rory J. Respicio

Subject: Fiscal Notes

Hafa Adai!

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

Bill Nos.:

77-31 (COR)	237-31 (COR)	246-31 (COR)
172-31 (COR)	239-31 (COR)	249-31 (COR)
209-31 (COR)	240-31 (COR)	251-31 (COR)
212-31 (COR)	242-31 (COR)	252-31 (COR)
226-31 (LS)	243-31 (COR)	253-31 (COR)
228-31 (COR)	244-31 (COR)	254-31 (COR)
233-31 (COR)	245-31 (COR)	256-31 (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'ãse'!

Handwritten notes and signature:
550
EAM

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932EDDIE BAZA CALVO
GOVERNORRAY TENORIO
LIEUTENANT GOVERNORBENITA A. MANGLONA
DIRECTORSTEPHEN J. GUERRERO
DEPUTY DIRECTOR


JUL 18 2011

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

Hafa Adai Senator Respicio:

Transmitted herewith are Fiscal Notes on the following Bill Nos.: 77-31(COR), 172-31(COR), 209-31(COR), 212-31(COR), 226-31(LS), 228-31(COR), 233-31(COR), 237-31(COR), 239-31(COR), 240-31(COR), 243-31(COR), 244-31(COR), 245-31(COR), 246-31(COR), 249-31(COR), 251-31(COR), 252-31(COR), 254-31(COR), 256-31(COR) and Fiscal Note Waivers on Bill Nos.: 242-31(COR), 253-31(COR).

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


JOHN A. RIOS
Acting Director

Enclosures

cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 212-31**

AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 4 OF 4 GCA RELATIVE TO SEXUAL HARASSMENT COMPLAINTS.

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? // Yes // 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: <u>Dina P. Rivera</u>	Date: <u>7/13/11</u>	Director: <u>John A. Rios</u>	Date: <u>7/18/11</u>
--------------------------------	----------------------	-------------------------------	----------------------

Footnotes:
The Bill has a potential to generate revenues as per Section 3 of the proposed Bill which imposes a fine of \$200 and \$500 for two separate reporting violations of the proposed Act. 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
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vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

May 26, 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 Bills No. 211-31 (COR) and 212-31 (COR)

As Chairperson of the Committee on Rules, I am forwarding my referral of Bills No. 211-31 (COR) and 212-31 (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!

(1) Attachments

2011 MAY 27 AM 9:02

I Mina'Trentai Unu Na Liheslaturan Guåhan

Bill Log Sheet

May 24, 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?
211-31 (COR)	T. C. Ada	AN ACT TO AMEND §3102.1, CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO FACILITATING THE PROCEDURE FOR OBTAINING WAIVER OF DRIVER LICENSE FEES FOR VETERANS.	5/25/11 4:33 p.m.	5/26/11		Committee on Appropriation s, Taxation, Public Debt, Banking, Insurance, Retirement and Land.			
212-31 (COR)	V. A. Ada	AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 4 OF 4GCA RELATIVE TO SEXUAL HARASSMENT COMPLAINTS.	5/26/11 9:33 a.m.	5/26/11		Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting			

Chris Carillo

From: Chris Carillo [chris.carillo@senatorbjcruz.com]
Sent: Wednesday, June 15, 2011 8:53 AM
To: 'Chris Carillo'; 'speaker@judiwonpat.com'; 'Senator Tom Ada'; 'senatorfrank@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'
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: First Notice Of Public Hearing- 6/22/2011
Attachments: 062211PH.pdf

Hafa Adai All,

June 15, 2011

MEMORANDUM

TO: All Members/All Senators

FROM: Vice Speaker Benjamin J.F. Cruz

RE: First Notice of Public Hearing – June 22, 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 Wednesday, June 22nd, 2011, at 10:00 A.M. in *I Liheslaturan*'s Public Hearing Room with the following agenda:

- **Bill No. 209-31 (COR)** - T.R. Muna-Barnes / B.J.F. Cruz- "An act to amend §1033 of Chapter 10, Title 1, Guam Code Annotated; relative to including the Guam Ko'Ko' Road Race as part of the Guam-Micronesian Island Fair, and to provide for support from the Guam Police Department and Guam Fire Department."
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service-disabled veteran owned businesses which may be cited as “The Support for Disabled Veteran Businesses Act.”

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

I Mina'Trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96910
Phone: (671) 477-2520/1
Fax: (671) 477-2522
Web Address: <http://www.senatorbjcruz.com>
E-mail: chris.carillo@senatorbjcruz.com

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June 15, 2011

MEMORANDUM

TO: All Members/All Senators

FROM: Vice Speaker Benjamin J.F. Cruz

RE: First Notice of Public Hearing – June 22, 2011

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Chris Carillo

From: Chris Carillo [chris.carillo@senatorbjcruz.com]
Sent: Monday, June 20, 2011 9:03 AM
To: 'Chris Carillo'; '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'
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: Second Notice of Public Hearing – June 22, 2011
Attachments: 6.20.20112NDNOTICE.pdf

June 20, 2011

MEMORANDUM

TO: All Members/All Senators

FROM: Vice Speaker Benjamin J.F. Cruz

RE: Second Notice of Public Hearing -- June 22, 2011

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Public Hearing Agenda

June 22, 2011

Public Hearing Notices were sent via Email to all Seantors and Media on
June 15th 2011 and June 20th 2011


10:00 A.M. Public Hearing Room

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

Bill No. 212-31(COR)

Introduced by:

V. Anthony Ada 

AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 4 OF
4GCA RELATIVE TO SEXUAL HARASSMENT
COMPLAINTS

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

2 **Section 1.** A new Article 7 is *added* to Chapter 4 of 4GCA to read as follows:

3
4 **Article 7**

5 **Reports of Sexual Harassment**

6
7 **§4701. Legislative Findings and intent.**

8
9 *I Liheslaturan Guåhan* finds that sexual harassment is a form of sex
10 discrimination that violates *Title VII of the Civil Rights Act of 1964*. Title VII
11 applies to employers with 15 or more employees, including state and local
12 governments. It also applies to employment agencies and to labor
13 organizations, as well as to the federal government.

14 Unwelcome sexual advances, requests for sexual favors, and other verbal or
15 physical conduct of a sexual nature constitute sexual harassment when this
16 conduct explicitly or implicitly affects an individual's employment,
17 unreasonably interferes with an individual's work performance, or creates an
18 intimidating, hostile, or offensive work environment.

2011 10 17 9 AM 9:33 ✓



1 Sexual harassment can occur in a variety of circumstances, including but not
2 limited to the following:

- 3 • The victim as well as the harasser may be a woman or a man. The
4 victim does not have to be of the opposite sex.
- 5 • The harasser can be the victim's supervisor, an agent of the
6 employer, a supervisor in another area, a co-worker, or a non-
7 employee.
- 8 • The victim does not have to be the person harassed but could be
9 anyone affected by the offensive conduct.
- 10 • Unlawful sexual harassment may occur without economic injury to
11 or discharge of the victim.
- 12 • The conduct may include the use of profanity, offensive language
13 and expletives, derogatory comments or sexually offensive speech to
14 berate, discipline or intimidate employees, subordinates.
- 15 • The harasser's conduct must be unwelcome.

16 *I Liheslatura* further finds that it is helpful for the victim to inform the harasser
17 directly that the conduct is unwelcome and must stop. The victim should use any
18 employer complaint mechanism or grievance system available.

19 When investigating allegations of sexual harassment, the federal Equal
20 Employment Opportunity Commission (EEOC) looks at the whole record: the
21 circumstances, such as the nature of the sexual advances, and the context in

1 which the alleged incidents occurred. A determination on the allegations is made
2 from the facts on a case-by-case basis.

3 Prevention is the best tool to eliminate sexual harassment in the workplace.
4 Employers are encouraged to take steps necessary to prevent sexual harassment
5 from occurring. They should clearly communicate to employees that sexual
6 harassment will not be tolerated. They can do so by providing sexual harassment
7 training to their employees and by establishing an effective complaint or
8 grievance process and taking immediate and appropriate action when an
9 employee complains.

10 It is also unlawful to retaliate against an individual for opposing employment
11 practices that discriminate based on sex or for filing a discrimination charge,
12 testifying, or participating in any way in an investigation, proceeding, or
13 litigation under Title VII.

14

15 **§4702. Jurisdiction Over Sexual Harassment Complaints For All Employees.**

16 As specified in this Chapter, employees in the context of Equal Employment
17 Opportunity complaints involving Sexual Harassment as defined by *Title VII of*
18 *the Civil Rights Act of 1964* and this Article shall include all classified and
19 unclassified employees of the Executive Branch of the Government of Guam.

20

21 **§4703. Sexual Harassment Defined:** For purposes of this Article Sexual
22 Harassment shall include:

23

1 (a). Sexual harassment as defined by the federal Equal Employment Opportunity
2 Commission.

3

4 (b). Unwelcome sexual advances, requests for sexual favors, or other verbal or
5 physical conduct of a sexual nature when:

6 (1) Submission to such conduct was made either explicitly or implicitly a
7 term or condition of an individual's employment,

8 (2) Submission to or rejection of such conduct by an individual was used as
9 the basis for employment decisions affecting such individual, or

10 (3) Such conduct has the purpose or effect of unreasonably interfering with
11 an individual's work performance or creating an intimidating, hostile, or
12 offensive working environment.

13

14 (c). Conduct that includes the use denotatively or connotatively defined sexual
15 language that includes but is not limited to profanity, offensive language and
16 expletives, derogatory comments or sexually offensive speech which is used to
17 berate, bully, discipline or intimidate employees.

18

19 **§4704. Reports of Sexual Harassment Complaints.** (a) The supervisor of an
20 employee who files either an oral or written sexual harassment complaint shall
21 submit a report to the Department of Administration and the Civil Service
22 Commission that includes:

23 (1) The name, address and telephone number(s) of the complainant,

24 (2) That nature of the complaint,

25 (3) Actions taken to resolve the complaint including disciplinary action
26 taken against the target of the complaint, and

1 (4) Copies of any documents submitted by the complainant, the target of the
2 complaint and witnesses to include any transcripts and affidavits.

3 (b) In the event that the target of the complaint is the complainant's supervisor, the
4 supervisor of the complainant's supervisor shall submit the report.

5 (c) The report shall be submitted by the earlier of ninety (90) days following the
6 date of the complaint or twenty (20) days following resolution of the complaint.

7 In the event that the complaint is not resolved within ninety (90) days following
8 the date of the complaint, the supervisor shall submit all documents, statements
9 and evidence to the Department of Administration and the Civil Service
10 Commission that are related to the complaint along with a signed statement
11 detailing the reasons why the complaint has not been resolved.

12 (d) The reports submitted herein are confidential and are not public information
13 but may be viewed by the complainant. The target of the complaint may also view
14 the report following proper disposition of a discovery motion by an adjudicatory
15 body or court of law.

16 (e) Complaints filed against a non-employee of the complainant's department shall
17 be reported by the complainant's supervisor to the Guam Attorney General's
18 Office within five (5) days following the complaint. In the event that a complaint
19 is filed where the complainant believes her or she is in danger, the supervisor shall
20 file a report with the Guam Police Department upon receipt of such complaint.

21 (f) In the event that a supervisor or other applicable official fails to submit a report
22 required herein, the official commits a violation subject to a fine not to exceed
23 Two Hundred Dollars (\$200). In the event that a supervisor or other applicable
24 official willfully fails to submit a report required herein, the official commits a
25 petty misdemeanor subject to a fine not to exceed Five Hundred Dollars (\$500).

1 Any person who impedes or interferes with the filing of a report required herein
2 commits a third degree felony.

3

4 **§4705. Audits of Reports of Sexual Harassment Complaints.** The Civil Service
5 Commission shall audit all reports of filed pursuant to §4704 of this Chapter and
6 actions taken by the complainant's department and the Department of
7 Administration. The scope of the audit shall include, but not be limited to:

8

- 9 (a) The appropriateness of the actions taken by the complainants department and
- 10 the Department of Administration to resolve the complaint,
- 11 (b) Recommendations for improvement including the need for training and
- 12 education of supervisors and employees, and
- 13 (c) Determination of disciplinary action taken against.

14

15 **§4706. Whistle-blower protection.** No person who reports any incident of sexual
16 harassment or suspected sexual harassment to a supervisor, director the
17 Department of Administration, Civil Service Commission, Guam Attorney
18 General or a law enforcement agency of the Government of Guam or Government
19 of the United States shall suffer any loss of wages, title or position or employment
20 as a result of such report.

21

22 **§4707. Timeframe and Rights to file complaints.** The timeframe to file
23 complaints of sexual harassment or suspected sexual harassment shall be the later
24 of two (2) years following the incident or those timeframes established by the
25 federal Equal Employment Opportunity Commission. The right to file complaint

1 shall not be extinguished by termination, transfer or resignation of an employee of
2 a department where the incident occurred.

3

4 **Section 2. Effective Date.** This Article shall be effective upon enactment except
5 that all reports of sexual harassment that occurred between January 1, 2011 and
6 the effective date of this Act shall be reported to the Department of Administration
7 and the Civil Service Commission.

8

9 **Section 3. Special Provision.** In the event that a supervisor or other applicable
10 official fails to submit a report an incidence of sexual harassment that occurred
11 between January 1, 2011 and the effective date of this Act, the official commits a
12 violation subject to a fine not to exceed Two Hundred Dollars (\$200). In the event
13 that a supervisor or other applicable official willfully fails to submit a report
14 required herein, the official commits a petty misdemeanor subject to a fine not to
15 exceed Five Hundred Dollars (\$500). Any person who impedes or interferes with
16 the filing of a report required herein commits a third degree felony.