

MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
TWENTY-NINTH GUAM LEGISLATURE
2007 (FIRST) Regular Session

Bill No. 103 (LS)

Introduced by:

A. B. Palacios, Sr. 

17 MAY - 2 11 24 AM


AN ACT TO PROVIDE FOR DISCRETIONARY
APPROVAL OF LEAVE OF ABSENCE FOR OUTSIDE
EMPLOYMENT BY AMENDING §4105(d)(4), CHAPTER 4,
TITLE 4, GUAM CODE ANNOTATED.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative findings and intent.** Families sometimes take advantage
2 of an opportunity that would enhance their financial health by engaging in a small
3 entrepreneurship, such as operating a concession stand, hotdog stand, or a park vending
4 stand. Families engaging in small business like this generally do so to augment their fixed
5 income which they receive from their government of Guam employment.

6 *I Liheslaturan Guåhan* finds that some government of Guam employees or their
7 spouse are now operating, or have in the past operated such a small business described
8 herein. *I Liheslaturan Guåhan* finds that during the period of operation of the business, the
9 active participation in the business of a family member, who is a government of Guam
10 employee, may be needed. Such participation may involve helping or assisting during the

1 operation. Such participation is limited, however, to hours during which the government
2 employee is *not* scheduled to work.

3 *I Liheslaturan Guåhan* finds that §4105(d)(4), Chapter 4, Title 4, Guam Code
4 Annotated, authorizes “outside employment” for government of Guam employees subject
5 to the provisions of this Section, and other established rules. Department of
6 Administration Rule 8.003 A.1., and similar rules in other government entities, provides for
7 “leave of absence,” but specifically prohibiting the granting of leave if it is for the purpose
8 of engaging in outside employment. The term “outside employment” is applied broadly
9 both in statute and in administrative rules. This is confirmed by the Department of
10 Administration. For example, an employee of the government of Guam requested for a
11 leave of absence so that he can help his wife operate the vending booth at the carnival. The
12 leave request was denied by his supervisor citing Department of Administration Rule 8.003
13 A.1. The Supervisor stated that he would have approved the leave request had it been for
14 any other purpose than to engage in outside employment, which includes assisting at a
15 carnival booth. The Supervisor denied the leave request not because the agency absolutely
16 needed the service of the employee, but because Department of Administration Rule 8.003
17 A.1. prevented him from doing otherwise.

18 §4105(d)(4), Chapter 4, Title 4, Guam Code Annotated, recognizes the need to allow
19 government of Guam employees to be employed, either by others or by self, to enable the
20 employee to augment his government of Guam wages. Department of Administration

1 Rule 8.003 A.1., in recognizing the potential for abuse of the privilege provided in
2 §4105(d)(4), provides for when a leave request may be denied. Department of
3 Administration Rule 8.003 A.1. reads in part, as follows:

4 “A. No leave of absence, with or without pay, shall be authorized
5 where it appears or was discovered that it was requested for the
6 purpose of:

7 1. allowing the employee to work at his outside
8 employment. (underline supplied).”

9 *I Liheslaturan Guåhan* believes that the intent of Department of Administration Rule
10 8.003 A.1., and similar rule in other government entities, is to make sure that government
11 of Guam employees do not neglect their government employment obligations in pursuit of
12 a “second pay check”. *I Liheslaturan Guåhan* further believes that Department of
13 Administration Rule 8.003 A.1. does not intend to prohibit government of Guam employees
14 from engaging in such minor and intermittent employment as operating a family
15 concession stand, hotdog stand, park vending stand, or similar activity, when a leave of
16 absence would have been approved for any other reason than for tending to any one of the
17 foregoing small businesses.

18 It is therefore the intent of *I Liheslaturan Guåhan* to *exclude* from the definition of
19 “outside employment” the participation of an employee who assists in the family business
20 which is of a temporary nature or on an intermittent basis, and to provide for discretionary

1 approval by appointing authority of leave request for such purpose, by amending
2 §4105(d)(4), Chapter 4, Title 4, Guam Code Annotated.

3 **Section 2.** §4105(d)(4) of Chapter 4, Title 4, Guam Code Annotated, is hereby
4 *amended* to read:

5 “(4) that employees may work at outside employment not in
6 conflict with their government service, nor such as would bring the
7 government of Guam or its employees into disrepute, but that any
8 employee may undertake such employment only if such is not in conflict
9 with that person’s duly scheduled hours and only with the consent of that
10 person’s department or agency head, which consent may not be
11 unreasonably withheld. “Outside employment” for the purpose of this
12 Section shall not include the participation of an employee when assisting in
13 the family business which is of a temporary nature, or on an intermittent
14 basis; and”