


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

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Bill No. 21 (EC)

Introduced by:

A. B. Palacios, Sr. 

AN ACT TO AMEND §17204 OF CHAPTER 17, TITLE 3,
GUAM CODE ANNOTATED, RELATIVE TO MAJORITY
VOTES REQUIRED AND EFFECTIVE DATE ON
INITIATIVES PLACED ON THE BALLOT.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative findings and intent.** *I Liheslaturan Guåhan* finds that the
2 Organic Act of Guam requires that officials elected to office, i.e. Governor, Lieutenant
3 Governor, Attorney General, Public Auditor, respectively, shall garner at least fifty percent
4 (50%) plus one (1) of all votes cast for such office in order for such official to be declared
5 elected to such office. The “fifty percent (50%) plus one (1)” standard shall be derived from
6 the total number of all votes cast for the office. In determining what comprise the total
7 number of votes cast”, the U.S. Supreme Court in *Gutierrez vs. Ada*, specifically excluded
8 “blank” votes, remained silent on the “over votes”, and considered only actual votes and
9 write-in votes. This decision of the U.S. Supreme Court is repeated in *Camacho/Cruz vs.*
10 *Underwood/Aguon* in which the Guam Supreme Court specifically excluded “blank”

1 votes, not considered “over votes”, and considered only actual votes and write-in votes. In
2 each of the court’s decision, it is clear that only actual votes and write-in votes shall
3 comprise “the total of all votes cast”.

4 *I Liheslaturan Guåhan* finds that the fifty percent (50%) plus one (1) standard, as
5 derived in Gutierrez vs. Ada, and in the Camacho/Cruz vs. Underwood/Aguon, is not
6 consistent with the Section 17204 language that the fifty percent (50%) plus one (1) shall be
7 calculated from “. . . the total of all voters who go to the polls to vote . . .” This is the
8 standard for voting on “initiatives”. The standard that “all voters who go to the polls to
9 vote” shall comprise the total number of votes and from which will be calculated the fifty
10 percent (50%) plus one (1) requirement, would have to include “good votes, write-ins,
11 blank votes, “spoiled” votes, over votes, under votes, because all that is requires is for a
12 voter to go to the polls to vote. In elections where the different offices and issues are
13 generally combined in one ballot (not separated), it is easy to understand why a vote may
14 not be cast for a certain office or for a certain issue, even though the “voter went to the polls
15 to vote.” Because certain voters go the polls to vote, but only for certain office or for certain
16 issue, leaving other offices or other issues blank, or not marked.

17 It is therefore the intent of *I Liheslaturan Guåhan* to make applicable to “initiatives”
18 the same method of determining “the total of all votes cast” for the Governor and
19 Lieutenant Governor, by accepting only the votes that bear the absolute clear intention of

1 the voter as to his or her choice in casting a "yes" or "no" vote, in determining the total of
2 all votes cast for an "initiative".

3 **Section 2.** §17204 of Chapter 17, Title 3, Guam Code Annotated, is hereby *amended*,
4 to read:

5 **"§17204. Same: Majority Required; Effective Date.** An initiative must be
6 approved by fifty percent (50%) plus one (1) of all [~~voters who go to the polls to~~
7 ~~vote~~] votes cast in the special or general election at which the initiative was placed
8 on the ballot. Any initiative so approved by fifty percent (50%) plus one (1) of all
9 [~~voters who go to the polls to vote~~] votes cast for such initiative at said election shall
10 take effect sixty (60) days after the date on which the Commission certifies that the
11 initiative has been passed. Blank ballots, "spoiled" ballots, and all other ballots that
12 do not bear the voters' absolute and clear intention as his or her choice that he or she
13 is casting a "yes" or "no" vote shall not be included in determining the fifty percent
14 (50%) plus one (1) of total votes cast for such initiative."