

MINA'BENTE NUEBE NA LIHESLATURAN GUÅHAN  
TWENTY-NINTH GUAM LEGISLATURE  
2008 (SECOND) Regular Session

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Bill No. 267 (EC)

Introduced by:

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**AN ACT TO REPEAL AND REENACT ARTICLE 6 OF  
CHAPTER 4 OF TITLE 4 OF THE GUAM CODE  
ANNOTATED RELATIVE TO ENHANCED  
PLACEMENT PROGRAM; CLARIFYING  
GOVERNMENT AGENCIES THAT ARE AFFECTED  
UPON THE DISPLACEMENT OF PUBLIC  
EMPLOYEES CAUSED BY OUTSOURCING AND  
PRIVATIZATION; PRESCRIBING DEFINITIONS  
AND ELIGIBILITY OF SEPARATED CLASSIFIED  
EMPLOYEES AFFECTED BY REORGANIZATION.**

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

2 **Section 1. Enhanced Placement for Public Employees Displaced Due to**  
3 **Outsourcing.** Article 6 of Chapter 4, Title 4 of the Guam Code Annotated is hereby  
4 *repealed and reenacted* to read as follows:

**“ARTICLE 6.**

**Enhanced Placement for Public Employees  
Displaced Due to Outsourcing.**

- |    |               |                                |
|----|---------------|--------------------------------|
| 8  | <b>§4601.</b> | <b>Definitions.</b>            |
| 9  | <b>§4602.</b> | <b>Eligibility.</b>            |
| 10 | <b>§4603.</b> | <b>Enhanced Placement.</b>     |
| 11 | <b>§4604.</b> | <b>Retention of Seniority.</b> |

- 1            **§4605.                    Period of Eligibility.**
- 2            **§4606.                    Establishment of List.**
- 3            **§4607.                    Agency Required to Notify Individuals**
- 4                               **Registered for Enhanced Placement**
- 5                               **Program.**
- 6            **§4608.                    Positions Reserved for Enhanced**
- 7                               **Placement Registrants.**
- 8            **§4609.                    Enhanced Placement Program**
- 9                               **Reappointment.**
- 10           **§4610.                    Reactivation of Registered Guam**
- 11                               **Telephone Authority Employees.**
- 12           **§4611.                    Effective Date of Act.**
- 13           **§4612.                    Severability.**

14

15            **§4601.        Definitions.** For purposes of this Article, the following

16 words and phrases are defined to mean:

17            (a)    “*Agency*” or “*department*” means each and every line department

18 or agency of the Executive Branch; every instrumentality; any board,

19 commission or comparable unit of government, any of whose members are

20 elected, appointed by *I Maga’lahen Guåhan, I Liheslatura* or the Judiciary;

21 public corporations; every educational institution excepting academic personnel

22 of the University of Guam and the Guam Community College; the Judicial

23 Branch; the Legislative Branch; Public Defender Corporation; and every public

24 entity hereafter to be created by law.

25            (b)    “*Classified employee*” means an employee in the classified service

26 of the government of Guam as provided within Title 4 G.C.A. §4102.

1 (c) "*Classified position*" means a vacant or occupied position of the  
2 classified service of the government of Guam.

3 (d) "*Privatization*" means a function of a government agency that  
4 converted from governmental to private control or ownership pursuant to Title 1  
5 G.C.A. §1800.

6 (e) "*Separated*" means termination or discharged as a result of  
7 privatization.

8 **§4602. Eligibility.** Any classified employee of a government of  
9 Guam agency or department which is undergoing a process of complete  
10 privatization; and, who will be separated from government service as a result of  
11 such shall be eligible for enhanced placement. Classified employees still under  
12 probation shall *not* be eligible for enhanced placement.

13 **§4603. Enhanced Placement.** Classified employees eligible for  
14 enhanced placement shall be granted by a government of Guam agency or  
15 department the right of first refusal for an opened and vacant government of  
16 Guam classified position provided that such classified employee shall meet all  
17 qualifications for such position and further provided that such position is vacant  
18 and has been opened for recruitment for *bona fide* reasons with an actual intent  
19 to fill such position under the merit system. Enhanced placement is *not*  
20 available when a classified position has been opened government-wide or for  
21 the purpose of promotion. When more than one (1) person eligible for enhanced  
22 placement applies for a vacant and opened classified position subject to the  
23 provisions of this Article, the process of selection between such persons eligible  
24 for enhanced placement shall be competitive as would normally be the case  
25 under the provisions of the merit system. This right of first refusal shall  
26 supercede any previously passed Law, which gives preferential hire treatment  
27 (*e.g.* 4GCA, Section 4104.1 Preferences for Scholarship Recipients.).

1           **§4604. Retention of Seniority.** Any employee hired pursuant to  
2 the provisions of enhanced placement as defined in this Article shall receive the  
3 same pay grade and step received at the time of separation or pay that is closest  
4 to but not more than as is normally associated with the employee's new  
5 position.

6           **§4605. Period of Eligibility.** A classified employee eligible to  
7 participate in enhanced placement, as detailed in this Article, shall acquire such  
8 eligibility upon the final approval of the relevant privatization directly affecting  
9 such employee by *I Liheslaturan Guåhan* or in the absence of a legislative  
10 approval process, upon the date with such instruments as shall mandate the  
11 relevant privatization are enacted. Such eligibility shall remain in effect for a  
12 period of *no more than* two (2) years.

13           Registrants that decline a job offer (either voluntary or involuntary, shall  
14 be permanently removed as an enhanced placement registrant.

15           Funding for the placement of former employees under the Enhanced  
16 Placement Program shall come from the sale of the affected government of  
17 Guam function or entity, or any previous sale.

18           **§4606. Establishment of List.** All persons eligible for enhanced  
19 placement shall register with the Department of Administration. Persons  
20 eligible for enhanced placement shall register *no later than* one hundred twenty  
21 (120) days after the date upon which they have acquired eligibility for enhanced  
22 placement as detailed in §4605 of this Article. The Department of  
23 Administration shall maintain, update and deliver at the beginning of each  
24 month, and on a monthly basis, such registry of eligible persons to all personnel  
25 divisions of all personnel divisions of all agencies that are independent of the  
26 Department of Administration's personnel services. The independent Agency  
27 Personnel offices, shall submit a list of Enhanced Placement Program

1 Registrants employed as a result of the program at their agency by the last  
2 business day of each month. The Department of Administration in turn, shall  
3 reconcile all lists received and issue an updated registry to all independent  
4 agencies at the beginning of the following month. A person is *not* eligible for  
5 referral to an open and vacant classified position subject to the provisions of  
6 enhanced placement as described in this Article, until such time as they have  
7 registered in accordance with the provisions of this Section. The Department of  
8 Administration shall develop policies and procedures consistent with this  
9 Article and disseminate them to the independent agency personnel offices.

10 **§4607. Agency Required to Notify Individuals Registered for**  
11 **Enhanced Placement Program.** The Department of Administration personnel  
12 services (or applicable independent personnel agency office) must notify  
13 Enhanced Placement registrants of any open funded vacancy that they qualify  
14 for no later than five (5) working days via telephone. Should the Department of  
15 Administration personnel services (or applicable independent personnel agency  
16 office) fail to make telephone contact, notification shall be made by mail with  
17 verified returned receipt, to a registered Enhanced Placement Program  
18 individual of the position.

19 **§4608. Positions Reserved for Enhanced Placement Registrants.**  
20 Any position to which a registered enhanced placement individual is qualified  
21 shall not be filled within the government of Guam, until, a waiver is received in  
22 writing from the qualified enhanced placement registrants declining such  
23 position no later than five (5) working days upon verbal notification by  
24 telephone of the job offer, or if notified by registered mail, five (5) working  
25 days from the postmarked date; when such position is government-wide and/or  
26 for promotion; or, upon an emergency declaration by *I Maga'lahaen Guåhan*.

1           The qualified enhanced placement registrant's right shall be  
2 automatically waived and the offer shall be extended to the next individual on  
3 the Enhanced Placement Program list, or if none, then the position shall be open  
4 for regular recruitment. A signed waiver must be submitted to the Department  
5 of Administration personnel services division, (or applicable independent  
6 personnel agency office). In the event the qualified registrant fails to submit a  
7 signed waiver within five (5) working days from the date of the offer, the offer  
8 shall be considered an involuntary declination.

9           **§4609. Enhanced Placement Program Reappointment.** (a)  
10 During the active period of eligibility for enhanced placement, all registered  
11 individuals shall be afforded to fill a vacant classified position announced as  
12 "Open" through enhanced placement. A registered individual that applies for  
13 an "Open" vacant classified position shall have their application evaluated and  
14 if qualified shall be given preferential hire status at whatever hiring agency has  
15 a vacancy at that point in time. The Department of Administration personnel  
16 services (or applicable independent personnel agency office), must have a  
17 recruitment GG-1. If there is no GG-1 at the time of evaluation or the  
18 establishment of an eligibility list, Recruitment shall review the eligibility list  
19 before certification once a GG-1 is submitted.

20           (b) Former employees reappointed under this program may apply to  
21 those agencies outside the umbrella of the Department of Administration  
22 personnel services to include the Guam International Airport Authority, Guam  
23 Power Authority, Guam Water Works, Guam Visitors Bureau, and the Port  
24 Authority of Guam provided a funding source is identified.

25           **§4610. Reactivation of Registered Guam Telephone Authority**  
26 **Employees.** Notwithstanding any other provision of this Article, former Guam  
27 Telephone Authority employees who had previously registered with the

1 Department of Administration and have not been placed under the Enhanced  
2 Placement Program, shall be reactivated as Enhanced Placement registrants for  
3 a period of one (1) year effective the date of this Act and shall be eligible for  
4 placement at only autonomous departments and agencies and public  
5 corporations such as: Guam Community College, Guam Power Authority,  
6 Guam Waterworks Authority, Port Authority of Guam, the University of Guam  
7 and the Guam International Airport Authority. This opportunity shall not apply  
8 to those registrants who have declined enhanced placement either voluntary or  
9 involuntarily.

10 **§4611. Effective Date of Act.** This Act shall take effect upon  
11 enactment and shall not affect in the interim, any other improvements necessary  
12 to be done in carrying out the purpose of this Act.

13 **§4612. Severability.** If any provisions of this Act or its application  
14 to any person or circumstances is found to be invalid or contrary to law, such  
15 invalidity shall not affect other provisions or applications of this Law which can  
16 be given effect without the invalid provisions or application, and to this end the  
17 provisions of this Law are severable.”