

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (SECOND) REGULAR SESSION

Bill No. 132-31 (LS)
Introduced by:

V.C. Pangelinan
J.T. Won Pat, Ed.D.

**AN ACT TO REPEAL §58128.7 OF TITLE 12 GUAM CODE
ANNOTATED, RELATIVE TO ASSISTANCE IN MILITARY
OUTSOURCING AND DOWNSIZING.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 Section 1. §58128.7, Chapter 58 of Title 12 Guam Code Annotated is
2 hereby *repealed*.

3 ~~§ 58128.7. Assistance in Military Outsourcing and Downsizing.~~

4 ~~(a) Definitions. For purposes of this Section,~~

5 ~~(1) A 76. →A 76= means the policy of the United States~~
6 ~~government to perform recurrent commercial activities in the manner~~
7 ~~established by →The August 1983 Office of Management and Budget~~
8 ~~(OMB) Circular No. A 76,= known as the →A 76 Performance of~~
9 ~~Commercial Activities.=~~

10 ~~(2) BOS. →BOS= means a Base Operations Services contract~~
11 ~~issued to perform such recurring commercial activities on the military~~
12 ~~bases on Guam.~~

13 ~~(3) BOS Contractor. →BOS Contractor= means the company~~
14 ~~awarded a BOS contract.~~

2011 APR - 1 PM 2:44

1 ~~(4) BRAC. →BRAC= means the process and procedure whereby~~
2 ~~—military bases on Guam are realigned and closed in~~
3 ~~conformance with Federal law.~~

4 ~~(5) Extraneous Capacity. →Extraneous Capacity= means~~
5 ~~extraneous or excess capacity within the military or BOS system that~~
6 ~~could be used to compete with local businesses, including local public~~
7 ~~utilities.~~

8 ~~(6) GWA. →GWA= means the Guam Waterworks Authority, a~~
9 ~~utility agency of the government of Guam which distributes water and~~
10 ~~disposes of wastewater.~~

11 ~~(7) Outsourcing. →Outsourcing= means the contracting of~~
12 ~~commercial activities on military bases to private entities, permitting~~
13 ~~Federal managers to make sound business decisions by making cost~~
14 ~~and service comparisons.~~

15 ~~(8) Private Water Contractor. →Private Water Contractor=~~
16 ~~means a beneficiary that operates, in a joint operating agreement with~~
17 ~~GWA, a community wide water production and distribution system,~~
18 ~~or a wastewater disposal system, or both such systems.~~

19 ~~(9) SBA. →SBA= means the U.S. Small Business~~
20 ~~Administration.~~

21 ~~(10) Guam based Contractor or Subcontractor. →Guam based~~
22 ~~Contractor or Subcontractor= means:~~

23 ~~(i) If in existence three (3) or more years, any Contractor~~
24 ~~or Subcontractor licensed to transact business within Guam~~
25 ~~whose income reported on its Guam Territorial income tax~~
26 ~~return for each of the three (3) immediately preceding years was~~

1 at least forty percent (40%) of the aggregate of the income
2 required to be reported by such person and any of its affiliates
3 on any United States or Guam Territorial income tax return for
4 such taxable years;

5 (ii) If in existence less than three (3) years, stockholders
6 who together hold a majority of shares or hold a majority
7 interest in any Contractor or Subcontractor licensed to transact
8 business within Guam, each of whose income reported on their
9 Guam Territorial income tax return for each of the three (3)
10 immediately preceding taxable years was at least forty percent
11 (40%) of the aggregate of the income required to be reported by
12 such stockholder on any United States or Guam Territorial
13 income tax return for such taxable years.

14 (b) ~~A 76 BOS Contractor Requirements.~~ If the BOS Contractor is
15 selected and awarded a BOS contract pursuant to the A 76 Policy or such
16 subsequent policies, then the Authority requires the BOS Contractor:

17 (i) to give first consideration for employment to former
18 civil service employees employed in those activities taken over
19 by the BOS Contractor, and that their salaries shall be consistent
20 with the United States wages in the same positions;

21 (ii) to avoid utilizing extraneous capacity in competition
22 with Guam businesses or with Guam public utilities;

23 (iii) to require all employees and persons working on the
24 project, including its Subcontractors and their employees, to be
25 U.S. citizens or resident aliens; and

26 (iv) to require at least seventy five percent (75%) of the
27 BOS Contractor and its Subcontractors to be former civil service

1 employees employed in full-time positions in those activities
2 taken over by the BOS Contractor. In the event the BOS
3 Contractor develops extraneous capacity, the Authority, as the
4 Local Redevelopment Agency (>LRA=) under the BRAC
5 process, shall endeavor to have such extraneous capacity
6 processed through BRAC and transferred to the LRA. In the
7 event the BOS Contractor fails to cooperate with the Authority
8 in limiting or eliminating the adverse effect of such extraneous
9 capacity on local businesses, such failure may constitute grounds
10 for suspending or revoking the Qualifying Certificate of such
11 BOS Contractor pursuant to § 58111 of this Chapter.

12 (c) ~~Rebate on Income Received by Private Water Contractors.~~ A
13 rebate of up to one hundred percent (100%) of all income tax paid to the
14 government of Guam by a beneficiary on income received from operations
15 as a private water contractor may be issued for a period to run with the term
16 of the joint operating agreement between the beneficiary and GWA, and any
17 extensions of such term, for a maximum period not to exceed twenty (20)
18 consecutive years from the effective date of a Qualifying Certificate
19 therefore, which period may be extended in the event the beneficiary
20 maintains its joint operating agreement for additional periods not to exceed
21 in the aggregate an additional twenty (20) years.

22 (d) ~~Rebate on Income Received.~~ A rebate of up to one hundred
23 percent (100%) of all income tax paid to the government of Guam by a
24 beneficiary on income received exclusively from BOS contract operations,
25 as a Guam-based BOS Contractor on a military base in Guam or a >Guam-
26 based Subcontractor= to a BOS Contractor, may be issued for the period
27 covered under the BOS Contract, or such independent contract as the entity

1 ~~may have, and may be extended for an aggregate period not to exceed~~
2 ~~twenty (20) consecutive years from the effective date of a Qualifying~~
3 ~~Certificate therefore, if beneficiary=s operations are duly extended~~
4 ~~accordingly.~~

5 **Section 2. Severability.** If any provision of this Law or its application to any
6 person or circumstances is found to be invalid or contrary to law, such invalidity
7 shall not affect other provisions or applications of this Law which can be given
8 effect without the invalid provisions or application, and to this end the provisions
9 of this Law are severable.



COMMITTEE ON RULES

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2011 APR - 1
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April 1, 2011

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

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

Subject: Referral of Appointment

As Chairperson of the Committee on Rules, I am forwarding my referral of the following appointment:

Appointee: Amanda L.G. Santos
Position: Member, Guam Land Use Commission

For a copy of Mrs. Santos appointment packet, please visit the Guam Legislature's website at www.guamlegislature.com. Under the "Reports" menu select the "Messages & Communications" option and refer to:

"Doc. 31GL-11-345: Governor's message transmitting the appointment of Amanda L.G. Santos, to serve as the Member, Guam Land Use Commission."

Please ensure that the subject appointment is referred, in my name, to **Sen. vicente "ben" c. pangelinan, Chairperson of the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land.** 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!