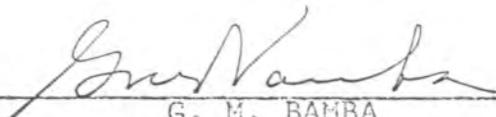


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 254, "An Act to add Chapter II to the Government Code of Guam for the purpose of creating a Department of Public Safety Commission", which was heretofore passed and thereafter on May 6, 1974, returned to the Legislature without the approval of the Governor was, in accordance with the Organic Act of Guam, reconsidered by the Legislature and after such reconsideration the Legislature did on the 20th day of May, 1974, agree to pass said bill notwithstanding the objections of the Governor by a vote of more than two-thirds of all the members thereof, to wit: by a vote of 15 members.


F. Y. RAMIREZ
Speaker

ATTESTED:


G. M. BAMBA
Legislative Secretary

This Act was received by the Governor this 24th day of May, 1974, at 9:15 o'clock A.M.

/s/ KEITH L. ANDREWS

KEITH L. ANDREWS
Attorney General of Guam

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TWELFTH GUAM LEGISLATURE
1973 (FIRST) Regular Session

Bill No. 254
Substitute Bill by
Committee on Public Safety,
Military and Veterans Affairs

Introduced by

R. F. Taitano
F. G. Lujan
C. T. C. Gutierrez
G. R. Salas

AN ACT TO ADD CHAPTER II TO THE GOVERNMENT
CODE OF GUAM FOR THE PURPOSE OF CREATING
A DEPARTMENT OF PUBLIC SAFETY COMMISSION.

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

2 Section 1. Section 8050 of the Government Code of Guam
3 is hereby renumbered Section 8010.

4 Section 2. A new Chapter II of the Government Code of
5 Guam is hereby added to read as follows:

6 "CHAPTER II

7 Department of Public Safety Commission

8 Section 8050. Legislative intent. In establishing
9 a Department of Public Safety Commission, the Legislature
10 is expressing its vital concern relative to recent allega-
11 tions concerning the Department of Public Safety, which,
12 if proven, indicate that the Department is remiss in its
13 obligation to enforce the laws of the territory of Guam
14 in an impartial fashion. In addition, these allegations,
15 if proven, indicate that morale within the Department of
16 Public Safety is dismally low due to the fact that appoint-
17 ments and promotions are not being based on merit as
18 required by law. It is the consensus of the Legislature
19 that unless these serious allegations are dealt with in
20 an equitable fashion by an independent fact-finding body,
21 public confidence will further deteriorate resulting in an
22 increase in the incidence of crime leading to a possible
23 breakdown of law and order within the territory of Guam.

1 It is not the intent of the Legislature to prejudge the
2 Department of Public Safety or its personnel, rather it
3 is the intent of the Legislature, by creating the Department
4 of Public Safety Commission, to provide all those concerned
5 with the administration of justice with a vehicle by which
6 present practices can be improved and public confidence
7 restored.

8 Section 8051. Definition. As used in this Chapter:

9 (a) 'Department' shall mean the Department of Public
10 Safety.

11 (b) 'Commission' shall mean the Department of Public
12 Safety Commission, any of the members thereof, or any of
13 the staff of the Commission when performing a properly
14 delegated duty, or duties, of the Commission.

15 (c) 'Administrative act' includes any action,
16 omission, decision, recommendation, practice, or procedure
17 of the Department of Public Safety.

18 Section 8052. Establishment of Public Safety
19 Commission. A Public Safety Commission is herewith
20 established which shall consist of three members, all
21 citizens of the United States of America and residents of
22 Guam, who shall be appointed by the Governor with the advise
23 and consent of the Legislature. The Governor shall make
24 the appointments from the following nominations: one (1)
25 member to be nominated by the Bishop of Guam, one (1) member
26 to be nominated by the Ministerial Alliance of Guam and
27 one (1) member to be nominated by the Guam Bar Association.

28 Section 8053. Same: tenure. The members of the
29 Commission shall serve for three (3) years; provided, how-
30 ever, that of the members first appointed one (1) shall serve
31 for one (1) year and one (1) shall serve for two (2) years.

32 Section 8054. Same: compensation. Members of the

1 Commission shall serve without pay but shall be reimbursed
2 for reasonable and necessary expenses incurred in the
3 performance of their duties.

4 Section 8055. Executive secretary, staff; delegation.
5 The Commission may appoint an executive secretary, and
6 such other employees part or full-time as may be necessary
7 to carry out this Act. All employees, including the
8 executive secretary, shall be employed by the Commission
9 and shall serve at its pleasure. In determining the salary
10 of each such employee, the Commission shall consult with
11 the Civil Service Commission or its successor and shall
12 follow as closely as possible the recommendations of the
13 Civil Service Commission. The full-time staff of the
14 Commission, if any, shall be entitled to participate in
15 any employee benefit plan, including, but not limited to,
16 membership in the Government of Guam Retirement Fund, and
17 in the health and life insurance programs.

18 The Commission shall set forth in writing the duties
19 of its staff.

20 Section 8056. Commission: procedure. The Commission
21 may establish procedures for receiving and processing
22 complaints, conducting investigations, and reporting its
23 findings.

24 Section 8057. Commission: jurisdiction. The Commission
25 has jurisdiction to investigate the administrative acts of
26 the Department of Public Safety and may exercise its powers
27 without regard to the finality of any administrative act.

28 Section 8058. Investigation of complaints. (a) The
29 Commission shall investigate any complaint which it deter-
30 mines to be an appropriate subject for investigation under
31 Section 8060.

32 (b) The Commission may investigate on its own motion
33 if it reasonably believes that an appropriate subject for

1 investigation under Section 8060 exists.

2 Section 8059. Notice to complainant and Department.
3 If the Commission decides not to investigate, it shall
4 inform the complainant, if any, of such decision and shall
5 state its reasons in writing.

6 If the Commission decides to investigate, it shall
7 notify the complainant of its decision in writing and it
8 shall also notify the Department in writing of its
9 intention to investigate.

10 Section 8060. Appropriate subjects for investigation.
11 An appropriate subject for investigation is any administra-
12 tive act of the Department which appears to be:

- 13 (1) Contrary to law;
- 14 (2) Unreasonable, unfair, oppressive, or unnecessarily
15 discriminatory, even though in accordance with law;
- 16 (3) Based on a mistake of fact;
- 17 (4) Based on improper or irrelevant grounds;
- 18 (5) Unaccompanied by an adequate statement of reasons;
- 19 (6) Performed in an inefficient manner;
- 20 (7) Otherwise erroneous; or
- 21 (8) A breach of duty or misconduct by any officer or
22 employee of the Department.

23 Section 8061. Investigation procedures. (a) In an
24 investigation, the Commission may make inquiries and obtain
25 information by means which are proper and reasonable under
26 the circumstances. The Commission is hereby granted
27 authority to enter without notice in order to inspect the
28 premises of the Department and to hold private hearings,
29 where it deems such hearings necessary to protect witnesses.

30 (b) The Commission is required to maintain secrecy
31 with respect to all matters under investigation and to
32 withhold the identity of a complainant or a witness

1 appearing before it unless disclosure is absolutely
2 necessary to enable it to carry out its duties and to
3 support its recommendations.

4 Section 8062. Powers. Subject to the privileges
5 which witnesses have in the courts of this territory, the
6 Commission may:

7 (1) Compel at a specified time and place, by a
8 subpoena, the appearance and sworn testimony of any person
9 who the Commission reasonably believes may be able to give
10 information relating to a matter under investigation; and

11 (2) Compel any person to produce documents, papers,
12 or objects which the Commission reasonably believes may
13 relate to a matter under investigation.

14 The Commission may bring suit in the Island Court or
15 its successor to enforce these powers.

16 Section 8063. Consultation with Department. Before
17 giving any opinion or recommendation that is critical of
18 the Department or any of its officers and employees, the
19 Commission shall first consult with that agency or person.

20 Section 8064. Procedure after investigation. If,
21 after investigation, the Commission finds that:

22 (1) A matter should be further considered by the
23 Department;

24 (2) An administrative act should be modified or
25 canceled;

26 (3) A statute or regulation on which an administrative
27 act is based should be altered;

28 (4) Reasons should be given for an administrative
29 act; or

30 (5) Any other action should be taken by the Depart-
31 ment; it shall report its opinion and recommendations in
32 writing to the Department. It may request the Department

1 to notify the Commission in writing within a specified
2 time of any action taken on its recommendations.

3 Section 8065. Publication of recommendations. After
4 a reasonable time has elapsed, the Commission may present
5 its opinion and recommendations to the Governor, the
6 Legislature, the public, or any of these. The Commission
7 shall include with this opinion any reply made by the
8 Department.

9 Section 8066. Notice to the complainant. After a
10 reasonable time has elapsed, the Commission shall notify
11 the complainant in writing of the actions taken by it and
12 by the Department.

13 Section 8067. Misconduct by Department personnel.
14 If the Commission finds there is a breach of duty or
15 misconduct by any officer or employee of the Department, it
16 shall refer the matter to the appropriate authorities.

17 Section 8068. Annual report. The Commission shall
18 submit to the Legislature and the public an annual report
19 summarizing its activities for the preceding year and
20 setting forth recommendations, if any, regarding methods
21 by which its operations could be improved.

22 Section 8069. Judicial review; immunity. Any
23 proceeding or decision of the Commission may not be
24 reviewed in any court, unless it contravenes the provisions
25 of this Act. The members of the Commission shall have the
26 same immunities from civil and criminal liability as a
27 judge of this territory. The Commission and its staff
28 shall not testify in any court with respect to matters
29 coming to their attention in the exercise or purported
30 exercise of their official duties except as may be
31 necessary to enforce the provisions of this Act.

32 Section 8070. Confidentiality of persons confined.

1 A letter or any written communication to the Commission
2 from a person held in custody by the Department shall be
3 forwarded immediately, unopened, to the Commission.

4 Section 8071. Penalty for obstruction. A person
5 who wilfully hinders the lawful actions of the Commission
6 or its staff, or wilfully refuses to comply with its
7 lawful demands, shall be fined not more than One Thousand
8 Dollars (\$1,000)."

9 Section 3. Severability. If any provision of this
10 Act or the application thereof to any person or circum-
11 stances is held invalid, such invalidity shall not affect
12 other provisions or applications of the Act which can be
13 given effect without the invalid provision or application,
14 and to this end the provisions of this Act are severable.