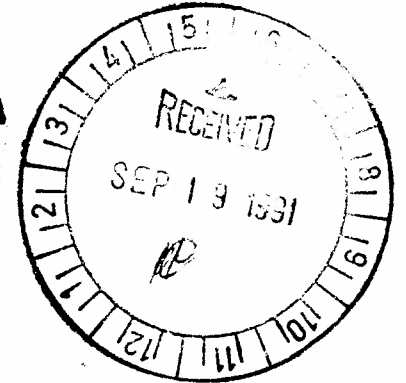


Territory of Guam
Territorio de Guam

PL 21-46

OFFICE OF THE GOVERNOR
OFISINAN I MASA LAHE
AGANA, GUAM 96910 U.S.A.

SEP 19 1991
OFFICE TO
LEGISLATIVE SECRETARY



The Honorable Joe T. San Agustin
Speaker, Twenty-First Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

I am pleased to inform you that I have signed Bill No. 346(LS), "An Act to amend paragraph (c) and to repeal and reenact paragraph (d), all of subsection 41107, Title 17, Guam Code Annotated, increasing the workforce for Handicapped individuals; and to cite the act as the Handicapable Employment Act of 1991". I signed this bill into law because I believe the Government of Guam as well as the business community has a vested responsibility to provide meaningful employment to those handicapped individuals who may otherwise experience desperate treatment.

While the bill serves to provide permanent employment for the handicap, I felt it necessary to request the Legislature to consider further amending the bill to assure compliance to the Equal Employment Opportunity guidelines (EEOC), with respect to the Merit System as well as recognizing the authority of department heads in hiring manpower resources.

Accordingly, I submit to you a proposed bill which would accommodate the intent of Bill No. 346 in the hiring of the handicap as well as providing them permanent employment. It likewise will recognize the department head's authority in hiring manpower resources.

Sincerely yours,

FRANK F. BLAS
Governor of Guam,
Acting

Attachment

210432



Commonwealth Now!

TWENTY-FIRST GUAM LEGISLATURE
1991 (FIRST) Regular Session

Bill No. _____

Introduced by:

At the the request of the Governor

AN ACT TO AMEND PARAGRAPH (c) AND TO
REPEAL AND REENACT PARAGRAPH (d), ALL
OF SUBSECTION 41107, TITLE 17, GUAM
CODE ANNOTATED, INCREASING THE
WORKFORCE FOR HANDICAPPED INDIVIDUALS;
AND TO CITE THE ACT AS THE HANDICAPABLE
EMPLOYMENT ACT OF 1991".

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

2 Section 1. Paragraph (d) of Subsection 41107 of Title 17, Guam Code
3 Annotated, is hereby repeal and reenacted to read as follows:

4 (d) (i) Appointing authorities shall allocate no less than two
5 percent (2%) of its workforce to the hiring of the handicap.

6 (ii) Such positions shall be transmitted to the servicing personnel
7 department no later than ninety (90) days from the passage of the fiscal
8 year budget.

9 (iii) The Personnel Department shall announce such vacancies to the
10 general public regarding the 700 hour employment and the opportunity to
11 become permanent without competition.

12 (iv) Recruitment herein shall be limited to the handicapped as defined
12 and certified by DVR.

13 (v) Upon meeting management's criteria for conversion to permanent
14 employment, the appointing authority may permanize such employee either
15 prior to or upon expiration of the 700 hours employment authorized in
16 41107(c).

17 (vi) To the extent practicable, the Merit System shall be adhered to.

TWENTY-FIRST GUAM LEGISLATURE
1991 (FIRST) Regular Session

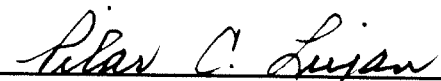
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 346 (LS), "AN ACT TO AMEND PARAGRAPH (c) AND TO REPEAL AND REENACT PARAGRAPH (d), ALL OF §41107, TITLE 17, GUAM CODE ANNOTATED, INCREASING THE WORK FORCE FOR HANDICAPPED INDIVIDUALS; AND TO CITE THE ACT AS THE HANDICAPABLE EMPLOYMENT ACT OF 1991," was on the 30th day of August, 1991, duly and regularly passed.



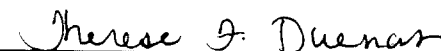
JOE T. SAN AGUSTIN
Speaker

Attested:




PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 10th day of September,
1991, at 4:45 o'clock p.m.



Therese J. Duenas
Assistant Staff Officer
Governor's Office

APPROVED:



FRANK F. BLAS
Governor of Guam
Acting

Date: SEP 19 1991

Public Law No: 21-46

TWENTY-FIRST GUAM LEGISLATURE
1991 (FIRST) Regular Session

Bill No. 346 (LS)

As substituted by the Committee
on General Governmental Operations

Introduced by:

M. Z. Bordallo
E. P. Arriola
H. D. Dierking
J. G. Bamba
A. C. Blaz
M. D. A. Manibusan
J. P. Aguon
D. F. Brooks
E. R. Duenas
E. M. Espaldon
C. T. C. Gutierrez
P. C. Lujan
G. Mailloux
D. Parkinson
M. J. Reidy
M. C. Ruth
J. T. San Agustin
F. R. Santos
D. L. G. Shimizu
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO AMEND PARAGRAPH (c) AND TO REPEAL AND REENACT PARAGRAPH (d), ALL OF §41107, TITLE 17, GUAM CODE ANNOTATED, INCREASING THE WORK FORCE FOR HANDICAPPED INDIVIDUALS; AND TO CITE THE ACT AS THE HANDICAPABLE EMPLOYMENT ACT OF 1991.

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

2 **Section 1.** Paragraph (c) of §41107 of Title 17, Guam Code Annotated,
3 is hereby amended to read as follows:

4 "(c) Each department or agency shall employ at least two percent
5 (2%) of the work force or two (2) handicapped individuals, whichever is
6 greater, certified by the Department of Vocational Rehabilitation. Such
7 employment shall be on a temporary, limited-term appointment not to
8 exceed a total of seven hundred (700) hours per annum regardless of
9 whether the position being filled is budgeted as temporary or
10 permanent. The Director of Labor shall monitor compliance by the
11 departments and agencies with the provisions of this paragraph and
12 shall take whatever action is necessary to enforce such provisions."

13 **Section 2.** Paragraph (d) of §41107 of Title 17, Guam Code Annotated,
14 is hereby repealed and reenacted to read as follows:

15 "(d) If the immediate supervisor determines satisfactory
16 performance either prior to or after the expiration of the seven hundred
17 (700) hours appointment, the position occupied by the handicapped
18 person shall be converted to permanent employment."

19 **Section 3.** This Act may be cited as the "Handicapable Employment Act
20 of 1991".



Senator **HERMINIA D. DIERKING**

21st GUAM LEGISLATURE

Committees:

July 24, 1991

CHAIRPERSON:

Rules

**General
Governmental
Operations**

Honorable Joe T. San Agustin
Speaker

VICE CHAIRPERSON:

Ways & Means

Twenty-First Guam Legislature
155 Hesler Street
Agana, Guam 96910

**Energy
Utilities and
Consumer
Protection**

Re: Chairperson, Committee on Rules

Dear Mr. Speaker:

MEMBER:

**Economic and
Agricultural
Development
Education
Health,
Ecology and
Welfare**

The Committee on General Governmental Operations, to which was referred Bill No. 346, "An act to amend Paragraph (c) and to repeal and reenact Paragraph (d) all of §41107 of Title 16, Guam Code Annotated, increasing the work force for handicapped individuals; and to cite the Act as the Handicapable Employment Act of 1991," has had the same under consideration, and now wishes to report back the same with the recommendation to do pass.

The Committee votes are as follows:

**Housing
Community
Development,
Federal and
Foreign Affairs
Judiciary
and
Criminal Justice
Tourism and
Transportation
Youth, Senior
Citizens, and
Cultural Affairs**

| | |
|---------------|------------|
| TO DO PASS | <u>-9-</u> |
| NOT TO PASS | <u>-0-</u> |
| INACTIVE FILE | <u>-0-</u> |
| ABSTAIN | <u>-0-</u> |

A copy of the Committee Report and other pertinent documents are enclosed for your reference and information.

Sincerely,

HERMINIA D. DIERKING

Enclosure:

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS
VOTE SHEET**

SUBSTITUTE BILL NO. 346

AN ACT TO AMEND PARAGRAPH (c) AND TO REPEAL AND REENACT PARAGRAPH (d) ALL OF §41107, OF TITLE 17, GUAM CODE ANNOTATED, INCREASING THE WORK FORCE FOR HANDICAPPED INDIVIDUALS; AND TO CITE THE ACT AS THE HANDICAPABLE EMPLOYMENT ACT OF 1991.

RECOMMENDATION TO DO PASS

| COMMITTEE MEMBERS: | TO DO PASS | NOT TO PASS | INACTIVE FILE: | ABSTAIN: |
|--|----------------------------------|----------------|-------------------|----------|
| <u><i>H. Dierking</i></u> H. D. Dierking, Chairperson | ✓ | _____ | _____ | _____ |
| <u><i>F. R. Santos</i></u> F. R. Santos, Vice-Chairperson | ✓ | _____ | _____ | _____ |
| <u><i>J. T. San Agustin</i></u> J. T. San Agustin, Speaker & Ex-Officio | ✓ | _____ | _____ | _____ |
| <u><i>J. G. Bamba</i></u> J. G. Bamba, Member | ✓ | _____ | _____ | _____ |
| <u><i>A. C. Blaz</i></u> A. C. Blaz, Member | _____ | _____ | _____ | _____ |
| <u><i>E. R. Duenas</i></u> E. R. Duenas, Member | ✓ | _____ | _____ | _____ |
| <u><i>C. T.C. Gutierrez</i></u> C. T.C. Gutierrez, Member | ✓ | _____ | _____ | _____ |
| <u><i>P. C. Lujan</i></u> P. C. Lujan, Member | ✓ | _____ | _____ | _____ |
| <u><i>Marilyn Manibusan</i></u> M. D.A. Manibusan, Member | ✓ <i>7/1/91</i> <i>mdm</i> | _____ | _____ | _____ |
| <u>_____</u> D. Parkinson, Member | _____ | _____ | _____ | _____ |

TWENTY-FIRST GUAM LEGISLATURE
COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS

REPORT ON BILL NO. 346

AN ACT TO AMEND PARAGRAPH (c) AND TO REPEAL AND REENACT PARAGRAPH (d) ALL OF §41107, OF TITLE 17, GUAM CODE ANNOTATED, INCREASING THE WORK FORCE FOR HANDICAPPED INDIVIDUALS; AND TO CITE THE ACT AS THE HANDICAPABLE EMPLOYMENT ACT OF 1991.

Introduced by Senator
M. Z. Bordallo, H. D. Dierking

PREFACE:

The Committee on General Governmental Operations, to which was referred the above captioned measure, conducted a public hearing on Tuesday, May 14, 1991, at 9:30 a.m., in the Legislative Public Hearing Room.

Committee members present were Senator Herminia D. Dierking, Chairperson, and Senators Frank R. Santos and Anthony C. Blaz.

NOTIFICATION:

Letters were sent to the Governor; to Attorney General; the Director, Department of Administration; the Director, Bureau of Budget and Management Research; Director, Bureau of Planning; President, Mayors Council; Executive Director and Chairperson, Civil Service Commission; President, Guam Chamber of Commerce; the Committee members; the media; and the general public.

TESTIMONY:

Submitting testimonies were Mr. Norbert Ungacta, acting Director, Department of Vocational Rehabilitation, and Mr. Felix Camacho, Executive Director, Civil Service Commission.

At the outset, Mr. Ungacta informed the Committee that the Department of Vocational Rehabilitation fully supports Bill No. 346. He went on to say that increasing the percentage of government handicapped employees from one to two percent (2%) will provide meaningful employment and income.

He also stated that the government has a hard time employing the handicapped. Mr. Ungacta cited §41107(d) as the problem. He suggested that this provision be repealed and reenacted to allow that handicapped employees qualify and are promoted through the merit system.

Mr. Felix Camacho, representing the Civil Service Commission testified that Bill No. 346 has merit in that it is a form of affirmative Action for the handicapped. However, he questioned the term "work force" and requested clarification on the matter. Overall, Mr. Camacho stated that this sort of affirmative action should generate positive results for the productive employment of the handicapped.

There being no further witnesses, the Chairperson adjourned the Committee hearing on Bill No. 346.

SECTION ANALYSIS:

Please refer to page entitled Profile on Substitute Bill No. 346.

RECOMMENDATION:

The Committee on General Governmental Operations, to which was referred Bill No. 346, "An act to amend Paragraph (c), to repeal and reenact Paragraph (d) of §41107 all of Title 17,

Guam Code Annotated, increasing the work force for handicapped individuals; and to cite the Act as the Handicapable Employment Act of 1991," has had the same under consideration, and now wishes to report back the same with the recommendation to do pass.

PROFILE ON SUBSTITUTE BILL NO. 346

Short Title: "Handicapable Employment Act of 1991."

Main Sponsor: M. Z. Bordallo, H. D. Dierking

Date Introduced: May 1, 1991.

Referral: Committee on General Governmental Operations, May 1, 1991.

Public Hearing: Tuesday, May 14, 1991.

Official Title: "An act to amend Paragraph (c), to repeal and reenact Paragraph (d) all of §41107 of Title 17, Guam Code Annotated, increasing the work force for handicapped individuals; and to cite the Act as the Handicapable Employment Act of 1991."

Co-Sponsors:

Recommendation: To do pass as substituted.

SECTION ANALYSIS

Section 1 amends Paragraph (c) while Section 2 repeals and reenacts Paragraph (d) of §41107, of Title 17, Guam Code Annotated. The main intent is to increase the percentage of the handicapped work force from one to two percent (2%).

More importantly, it will allow handicapped employees to compete with other employees through the merit system.

The legislation repeals the last sentence of Paragraph (c) of §41107, wherein a department or agency may be excused from employing handicapped individuals if the director advises that not enough persons are available.

The Committee finds that nationwide about ten percent (10%) of the adult population are disabled. Increasing the percentage of government handicapped employees from one to two percent (2%) will provide meaningful employment to Guam's handicapped citizens.

Therefore, the Committee requests that Bill No. 346, as substituted, be passed by the Legislature.

TWENTY-FIRST GUAM LEGISLATURE
1991 (FIRST) Regular Session

Bill No. 346
Substituted by the Committee on
General Governmental Operations

Introduced by:

M. Z. Bordallo
H. D. Dierking
J. G. Bamba

A. C. Blaz
M. D.A. Manibusan

AN ACT TO AMEND PARAGRAPH (c) AND
TO REPEAL AND REENACT PARAGRAPH
(d) ALL OF §41107 OF TITLE 17, GUAM
CODE ANNOTATED, INCREASING THE
WORK FORCE FOR HANDICAPPED
INDIVIDUALS; AND TO CITE THE ACT AS
THE HANDICAPABLE EMPLOYMENT ACT
OF 1991.

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

3 Section 1. Paragraph (c) of §41107 of Title 17, Guam Code
4 Annotated, is hereby amended to read as follows:

5 "(c) Each department or agency shall employ at least
6 [one] **two** percent of the work force or [one] **two** handicapped
7 individuals, whichever is greater, certified by the
8 Department of Vocational Rehabilitation. Such employment
9 shall be on a temporary, limited-term appointment not to
10 exceed a total of seven hundred (700) hours per annum
11 regardless of whether the position being filled is budgeted as
12 temporary or permanent. [A department maybe excused

1 from this requirement if the director advises that not
2 enough individuals are available.]"

3 Section 2. Paragraph (d) of §41107 of Title 17, Guam Code
4 Annotated is hereby repealed and reenacted to read as follows:

5 "(d) If the immediate supervisor determines
6 satisfactory performance either prior to the expiration of
7 the seven hundred (700) hours appointment, the position
8 occupied by the handicapped person shall be converted to
9 permanent employment."

10 Section 3. This Act may be cited or referred to as The
11 Handicapable Employment Act of 1991.

TWENTY-FIRST GUAM LEGISLATURE
1991 (FIRST) REGULAR SESSION

Bill No. 346

Introduced by:

M. Z. BORDALLO *MZB*

psd

AN ACT TO AMEND SECTION 41107, SUBSECTION (C)
OF 17 GCA, CHAPTER 41, AS AMENDED, RELATIVE TO
INCREASING WORK FORCE WITH HANDICAPPED INDIVIDUALS

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

2 Section 1. Section 41107, Subsection (C) of 17 GCA,
3 Chapter 41 as Amended, is further amended to read:

4 (C) Each department or agency head shall employ at
5 least [one percent] two percent of the work force or [one] two
6 handicapped individuals, whichever is greater, certified by the
7 Department of Vocational Rehabilitation. Such employment shall
8 be on a temporary, limited-term appointment not to exceed a
9 total of seven hundred (700) hours per annum regardless of
10 whether the position being filled is budgeted as temporary or
11 permanent. [A department maybe excused from this requirement
12 if the director advises that not enough individuals are
13 available.]

*"Handicapped Capable"
Act of 1991*



Senator **HERMINIA D. DIERKING**

21st GUAM LEGISLATURE

Committees:

CHAIRPERSON:

Rules

**General
Governmental
Operations**

VICE CHAIRPERSON:

Ways & Means

**Energy
Utilities and
Consumer
Protection**

MEMBER:

**Economic and
Agricultural
Development**

Education

**Health,
Ecology and
Welfare**

**Housing
Community
Development,
Federal and
Foreign Affairs**

**Judiciary
and
Criminal Justice**

**Tourism and
Transportation**

**Youth, Senior
Citizens, and
Cultural Affairs**

May 1, 1991

MEMORANDUM

TO: Chairperson, Committee on General
Governmental Operations

FROM: Chairperson, Committee on Rules

SUBJECT: Referral - Bill Nos. 346, 347 and 349

The above Bills are referred to your Committee. Please note that the referrals are subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.

Herminia D. Dierking
HERMINIA D. DIERKING

Enclosures

Cell
2:40 pm
5-2-91



DEPARTMENT OF VOCATIONAL REHABILITATION
GOVERNMENT OF GUAM

122 HARMON PLAZA, ROOM B201
HARMON INDUSTRIAL PARK, GUAM 96911

TELS: (671) 646-9468/9

FAX: (671) 649-7672



May 9, 1991

Senator Herminia D. Dierking
Chairperson, Committee on
General Governmental Operations
Twenty First Guam Legislature
Agana, Guam 96910

RE: Written Testimony on Bill No. 346

Dear Senator Dierking:

The Department of Vocational Rehabilitation fully supports Bill Number 346.

Nationwide about ten percent of adults are disabled. Increasing the percentage of government handicapped employees to just two percent will provide meaningful employment to these citizens and income for their families.

On this same topic we have had and still are having a hard time hiring the handicapped. 17 GCA Chapter 41, Section 41107 (d) now reads:

A handicapped person employed on a temporary limited seven hundred hours appointment may be given permanent employment in the same or another position prior to the expiration of the seven hundred hours appointment provided that the person is certified as qualified for permanent employment and that the appointment is consistent with the provisions of the merit system.

Under present law, the handicapped individuals are not getting the permanent positions due to the requirement of following the merit system. For example, four qualified names will be submitted for one position and the handicapped one does not get selected. This happens and we therefore are proposing to repeal that section and to have it reenacted to read:

If the immediate supervisor determines satisfactory performance either prior to or after the expiration of the seven hundred hours appointment, the handicapped person shall be converted to permanent employment.



Commonwealth Now!

By doing the above, the government will be able to employ handicapped individuals in the work force.

Many thanks for the opportunity to testify in behalf of Bill Number 346.

Sincerely,


ROBERT F. USGATA
Acting Director



GOVERNMENT OF GUAM

CIVIL SERVICE COMMISSION KUMISION I SETBISION SIBIT

Century Plaza, 2nd Floor, Upper Tamuning
P.O. Box 3156, Agana, Guam 96910
Tel: (671) 649-4272, 649-7955/57 • Fax: (671) 649-1272



MAY 13 1991

CSC NO. 91-0246

The Honorable Herminia D. Dierking
Chairperson, Committee on Rules and
General Government Affairs
Twenty-First Guam Legislature
Agana, Guam 96910

RE: COMMENTS ON BILL NO. 346

Dear Madam Chairperson and Members of the Committee:

Bill No. 346 proposes to increase the hiring quota for the temporary employment of handicapped individuals from one percent to two percent of the work force, whichever is greater.

The Bill has merit in that it is a form of affirmative action for the handicapped. The Bill, however, as well as the current provision of the law, does not identify who or what constitutes the "work force." Is it the government work force, the private sector work force, the handicapped work force, the occupational work force, or the total work force?

The "work Force" concept may prove to be unworkable since it involves an undetermined quantity. We suggest that the "work force" approach be replaced exclusively with definite figures. We suggest a range of one (1), two (2), three (3), or more handicapped individuals per department or agency, depending on the size of the department or agency and budget considerations.

As part of the affirmative action employment program, departments and agencies should be authorized to select a qualified handicapped employee for reclassification to a targeted permanent position, if one is available; or to select a handicapped employee with known potential, for training to acquire the qualifications for the targeted position, and thereupon, reclassification. This sort of affirmative action approach should generate positive results for the productive employment of the handicapped.

FELIX P. CAMACHO



Commonwealth Now!

TWENTY-FIRST GUAM LEGISLATURE
1991 (FIRST) REGULAR SESSION

Introduced

APR 30 '91

Bill No. 346 (LS)

Introduced by:

M. Z. BORDALLO *MZB*

AN ACT TO AMEND SECTION 41107, SUBSECTION (C)
OF 17 GCA, CHAPTER 41, AS AMENDED, RELATIVE TO
INCREASING WORK FORCE WITH HANDICAPPED INDIVIDUALS

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

2 Section 1. Section 41107, Subsection (C) of 17 GCA,
3 Chapter 41 as Amended, is further amended to read:

4 (C) Each department or agency head shall employ at
5 least [one percent] two percent of the work force or [one] two
6 handicapped individuals, whichever is greater, certified by the
7 Department of Vocational Rehabilitation. Such employment shall
8 be on a temporary, limited-term appointment not to exceed a
9 total of seven hundred (700) hours per annum regardless of
10 whether the position being filled is budgeted as temporary or
11 permanent. [A department maybe excused from this requirement
12 if the director advises that not enough individuals are
13 available.]