



*Territory of Guam*  
*Territorio Guam*

OFFICE OF THE GOVERNOR  
L'FISINAN I MAGA'LAHI  
AGANA, GUAM 96910 U.S.A.

RECEIVED  
OFFICE OF THE SPEAK  
DATE: 9/17/93  
TIME: 4:45 PM  
RECD BY: TERRA

REFER TO  
LEGISLATIVE SECRETARY

SEP 17 1993

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

Dear Mr. Speaker:

Transmitted herewith is Bill No. 240, which has been designated as Public Law  
22-25.

Sincerely yours,

JOSEPH F. ADA  
Governor of Guam  
220350

Attachment

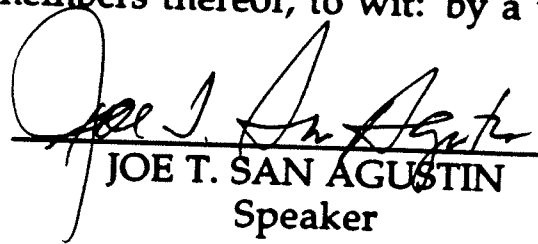


Commonwealth Now!

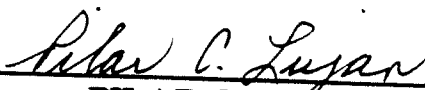
TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

CERTIFICATION TO THE GOVERNOR OF PASSAGE OF AN ACT

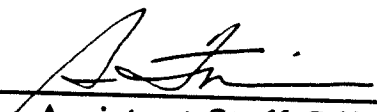
This is to certify that Bill No. 240 (LS), "AN ACT TO AMEND §4406.1 OF TITLE 4, GUAM CODE ANNOTATED, TO PERMIT GOVERNMENT OF GUAM EMPLOYEES TO RECOVER COURT COSTS AND ATTORNEY FEES UPON SUCCESSFUL CHALLENGES OF ADVERSE ACTIONS AND FOR PREVAILING IN DISCRIMINATION, SEXUAL HARASSMENT OR OTHER GRIEVANCES FILED BEFORE THE CIVIL SERVICE COMMISSION OR ELSEWHERE, AND TO DISAPPROVE CERTAIN RULES AND REGULATIONS," returned to the Legislature without the approval of the Governor, was reconsidered by the Legislature and after such reconsideration, the Legislature did, on the 15th day of September, 1993, agree to pass said bill notwithstanding the objection of the Governor by a vote of two-thirds or more of all the members thereof, to wit: by a vote of nineteen (19) members.

  
\_\_\_\_\_  
JOE T. SAN AGUSTIN  
Speaker

Attested:

  
\_\_\_\_\_  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 17<sup>th</sup> day of September,  
1993, at 10:12 o'clock A.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

Public Law No. 22-25

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No. 240 (LS)  
As amended by the  
Committee on Rules

Introduced by:

J. P. Aguon  
T. S. Nelson  
T. C. Ada  
E. P. Arriola  
M. Z. Bordallo  
H. D. Dierking  
C. T. C. Gutierrez  
P. C. Lujan  
V. C. Pangelinan  
D. Parkinson  
E. D. Reyes  
J. T. San Agustin  
F. R. Santos  
D. L. G. Shimizu  
J. G. Bamba  
A. C. Blaz  
D. F. Brooks  
F. P. Camacho  
M. D. A. Manibusan  
T. V. C. Tanaka  
A. R. Unpingco

AN ACT TO AMEND §4406.1 OF TITLE 4, GUAM CODE ANNOTATED, TO PERMIT GOVERNMENT OF GUAM EMPLOYEES TO RECOVER COURT COSTS AND ATTORNEY FEES UPON SUCCESSFUL CHALLENGES OF ADVERSE ACTIONS AND FOR PREVAILING IN DISCRIMINATION, SEXUAL HARASSMENT OR OTHER GRIEVANCES FILED BEFORE THE CIVIL SERVICE COMMISSION OR ELSEWHERE, AND TO DISAPPROVE CERTAIN RULES AND REGULATIONS.

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

2 **Section 1. §4406.1 of Title 4, Guam Code Annotated, is amended to**  
3 **read:**

4 **"§4406.1. Attorney fees and costs of appeal. If an employee in**  
5 **the classified service, including employees of autonomous agencies**  
6 **and instrumentalities of the government of Guam, retains an**  
7 **attorney to represent him or her before the Civil Service**  
8 **Commission or other applicable administrative body to challenge an**  
9 **adverse action brought against the employee, or to file a complaint**  
10 **of discrimination, sexual harassment or other grievance against his**  
11 **or her department, agency, or other instrumentality, including**  
12 **appeals, and the employee prevails in whole or in part before the**  
13 **Civil Service Commission or other applicable administrative or**  
14 **judicial body (i) by receiving a favorable decision from the**  
15 **Commission or other applicable administrative or judicial body, or**  
16 **(ii) by a withdrawal of the adverse action by the department, agency,**  
17 **or instrumentality that brought the adverse action, or (iii) by**  
18 **withdrawal of a non-frivolous complaint of discrimination or of**  
19 **sexual harassment, including other appeals by the employee, as part**  
20 **of an agreement between the department, agency, and the employee,**  
21 **the employee shall be awarded and paid costs, if any, and reasonable**  
22 **attorney's fees because of such attorney representation from funds of**  
23 **the department, agency, or instrumentality in which the employee**  
24 **was employed. If an employee, either classified or unclassified, who**  
25 **is accused of discrimination based on race, religion, gender or sexual**  
26 **orientation or of sexual harassment, prevails in any action brought**  
27 **against such employee, he or she shall similarly be awarded costs**

1 and reasonable attorney's fees. This section shall apply to attorney's  
2 fees and costs incurred in any appeal filed before the Civil Service  
3 Commission or other applicable administrative or judicial body on or  
4 after January 1, 1989."

5 **Section 2. Disapproval of rules and regulations.** Pursuant to subsection  
6 (b) of §9303, Title 5, Guam Code Annotated, the Legislature hereby  
7 disapproves the Rules and Regulations submitted to the Legislative Secretary  
8 on March 12, 1993 by the Territorial Board of Registration for Professional  
9 Engineers, Architects & Land Surveyors ("PEALS Board").

# TWENTY-SECOND GUAM LEGISLATURE

1993 (FIRST) Regular Session

Date: 9/15/93

## VOTING SHEET

Bill No. B240

Resolution No.

Question: Should B240 be enacted into law notwithstanding the objection of the Governor?

NAME	AYE	NO	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C.	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.		✓		
CAMACHO, Felix P.	✓			
DIERKING, Herminia D.	✓			
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MANIBUSAN, Marilyn D. A.	✓			
NELSON, Ted S.	✓			
PANGELINAN, Vicente	✓			
PARKINSON, Don	✓			
REYES, Edward D.	✓			
SAN AGUSTIN, Joe T.	✓			
<del>ROS, Francisco R.</del>				
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL

19 1 \_\_\_\_\_



Territory of Guam  
Territorio de Guam

OFFICE OF THE GOVERNOR  
LESIANAN MARI GABRIEL  
AGANA, GUAM

OFFICE OF THE LEGISLATIVE SECRETARY  
 ACKNOWLEDGMENT RECEIPT  
 Received By: Mark  
 Time: 2:45 pm  
 Date: 5/3/93

MAY 03 1993

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

LEGISLATIVE SECRETARY  
*[Signature]*

RECEIVED  
 OFFICE OF THE SPEAKER  
 DATE: 5/3/93  
 TIME: 2:45 pm  
 RECD BY: [Signature]

Dear Mr. Speaker:

Attached please find Bill No. 240 (LS), "An Act to Amend §4406.1 of Title 4, Guam Code Annotated, to permit Government of Guam employees to recover court costs and attorney fees upon successful challenges of adverse actions and for prevailing in discrimination, sexual harassment or other grievances filed before the Civil Service Commission or elsewhere, and to disapprove certain rules and regulations," which I have vetoed in its entirety.

First let me state that I have no objection to the principle of the Government of Guam taking care of attorney fees in such cases; indeed, the Government of Guam is already paying fees in a good percentage of these cases.

However, I have serious qualms about the fact that the bill mandates that such fees be paid retroactively to January 1, 1989. Four years is a long time, Mr. Speaker, and there have been many adverse action appeals to the commission and to the courts that have been adjudicated in that time. Has any consideration been given to how much these payments are going to total? Has any consideration been given to the effect of these payments on an already-tight government budget? Not only does this bill set an expensive precedent, it commits this government to what will probably be an expensive proposition of back-payments. It was for this very reason - that it is would not be sound fiscal policy - that I vetoed this very same item last September 29th when it was contained as §29a of the 1993 budget bill.



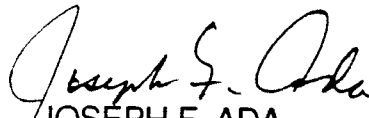
The Honorable Joe T. San Agustin  
Page Two

I believe that this bill sets a dangerous precedent and one we should be mindful of, especially as we strive to reduce costs in our government.

In any event, it seems that attorneys who completed work four years ago should already be paid by now, one way or the other.

Thank you and si Yu'os Ma'ase.

Sincerely,

  
JOSEPH F. ADA  
Governor

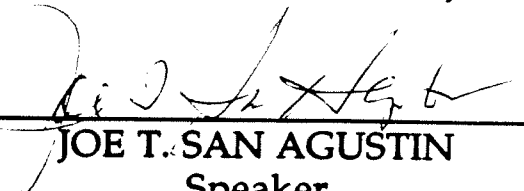
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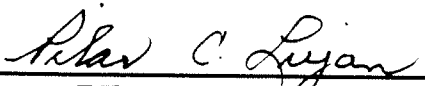
TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

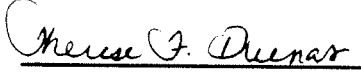
This is to certify that Bill No. 240 (LS), "AN ACT TO AMEND §4406.1 OF TITLE 4, GUAM CODE ANNOTATED, TO PERMIT GOVERNMENT OF GUAM EMPLOYEES TO RECOVER COURT COSTS AND ATTORNEY FEES UPON SUCCESSFUL CHALLENGES OF ADVERSE ACTIONS AND FOR PREVAILING IN DISCRIMINATION, SEXUAL HARASSMENT OR OTHER GRIEVANCES FILED BEFORE THE CIVIL SERVICE COMMISSION OR ELSEWHERE, AND TO DISAPPROVE CERTAIN RULES AND REGULATIONS," was on the 16th day of April, 1993, duly and regularly passed.

  
\_\_\_\_\_  
JOE T. SAN AGUSTIN  
Speaker

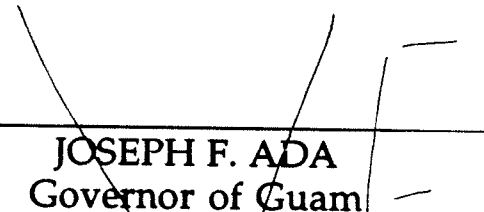
Attested:

  
\_\_\_\_\_  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 21<sup>st</sup> day of April,  
1993, at 7:00 o'clock P.M.

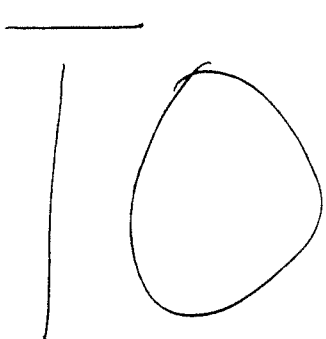
  
\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
\_\_\_\_\_  
JOSEPH F. ADA  
Governor of Guam

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_



TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No. 240 (LS)

As amended by the  
Committee on Rules

Introduced by:

J. P. Aguon  
T. S. Nelson  
T. C. Ada

---

E. P. Arriola  
M. Z. Bordallo  
H. D. Dierking  
C. T. C. Gutierrez  
P. C. Lujan  
V. C. Pangelinan  
D. Parkinson  
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1           **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**

2           Section 1. §4406.1 of Title 4, Guam Code Annotated, is amended to  
3 read:

4           "§4406.1. **Attorney fees and costs of appeal.** If an employee in  
5 the classified service, including employees of autonomous agencies  
6 and instrumentalities of the government of Guam, retains an  
7 attorney to represent him or her before the Civil Service  
8 Commission or other applicable administrative body to challenge an  
9 adverse action brought against the employee, or to file a complaint  
10 of discrimination, sexual harassment or other grievance against his  
11 or her department, agency, or other instrumentality, including  
12 appeals, and the employee prevails in whole or in part before the  
13 Civil Service Commission or other applicable administrative or  
14 judicial body (i) by receiving a favorable decision from the  
15 Commission or other applicable administrative or judicial body, or  
16 (ii) by a withdrawal of the adverse action by the department, agency,  
17 or instrumentality that brought the adverse action, or (iii) by  
18 withdrawal of a non-frivolous complaint of discrimination or of  
19 sexual harassment, including other appeals by the employee, as part  
20 of an agreement between the department, agency, and the employee,  
21 the employee shall be awarded and paid costs, if any, and reasonable  
22 attorney's fees because of such attorney representation from funds of  
23 the department, agency, or instrumentality in which the employee  
24 was employed. If an employee, either classified or unclassified, who  
25 is accused of discrimination based on race, religion, gender or sexual  
26 orientation or of sexual harassment, prevails in any action brought  
27 against such employee, he or she shall similarly be awarded costs

1           and reasonable attorney's fees. This section shall apply to attorney's  
2           fees and costs incurred in any appeal filed before the Civil Service  
3           Commission or other applicable administrative or judicial body on or  
4           after January 1, 1989."

5           **Section 2. Disapproval of rules and regulations.** Pursuant to subsection  
6           (b) of §9303, Title 5, Guam Code Annotated, the Legislature hereby  
7           disapproves the Rules and Regulations submitted to the Legislative Secretary  
8           on March 12, 1993 by the Territorial Board of Registration for Professional  
9           Engineers, Architects & Land Surveyors ("PEALS Board").

61

## TWENTY-SECOND GUAM LEGISLATURE

1993 (FIRST) Regular Session

Date: 4/16/93

### VOTING SHEET

Bill No. 240

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

NAME	AYE	NO	NOT VOTING/ ABSTAN	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C.	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.	✓			
CAMACHO, Felix P.	✓			
DIERKING, Herminia D.	✓			
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MANIBUSAN, Marilyn D. A.	✓			
NELSON, Ted S.	✓			
PANGELINAN, Vicente C.	✓			
PARKINSON, Don	✓			
REYES, Edward D.	✓			
SAN MARTIN, Joe T.	✓			
NTOS, Francisco R.	✓			
SHIMIZU David L. G.	✓			
TANAKA, Thomas V. C.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL

21   0   0   0



# SENATOR TED S. NELSON

*Chairman*

Committee on General Governmental Operations & Micronesian Affairs

Twenty-Second Guam Legislature

297-B West O'Brien Drive, Agaña, Guam 96910

Telephones: 472-3446 - 8/472-3501

March 15, 1993

Honorable Joe T. San Agustin  
Speaker  
21st Guam Legislature  
155 Hessler Street  
Agana, Guam 96910

Dear Mr. Speaker:

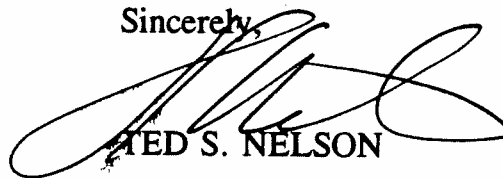
The Committee on General Governmental Operations and Micronesian Affairs, to which was referred **Bill No. 240** (*An Act to amend Section 4406.1 of Title 4 GCA to permit government employees in the classified service to recover court costs and attorney fees upon successful challenge of adverse action or for discrimination, sexual harassment and other grievances filed before the Civil Service Commission*) has had the same consideration and now wishes to report back the same with the recommendation to do pass.

The Committee votes are as follows:

To do pass	<u>9</u>
Not to pass	<u>0</u>
To place in 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,



TED S. NELSON







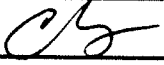


Enclosures

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS  
AND MICRONESIAN AFFAIRS**

**VOTE SHEET ON BILL NO. 240**

*(An Act to amend Section 4406.1 of Title 4 GCA to permit government employees in the classified service to recover court costs and attorney fees upon successful challenge of adverse action or for discrimination, sexual harassment and other grievances filed before the Civil Service Commission)*

**RECOMMENDATION TO DO PASS**

<b>Committee Members</b>	<b>To Do Pass</b>	<b>Not to Pass</b>	<b>Inactive File</b>	<b>Abstain</b>
Ted S. Nelson, Chairman 	✓			
Edward D. Reyes, Vice-Chairman 	✓			
Joe T. San Agustin, Speaker & Ex-Officio Member 	✓			
J. George Bamba, Member 	✓			
Anthony C. Blaz, Member 	✓			
Herminia D. Dierking, Member 	✓			
Carl T.C. Gutierrez, Member 	✓			
Vicente "Ben" C. Pangelinan, Member 	✓			
Thomas V.C. Tanaka, Member 	✓			

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS  
AND MICRONESIAN AFFAIRS  
TWENTY-SECOND GUAM LEGISLATURE  
155 Hessler Street, Agana, Guam 96910**

**COMMITTEE REPORT**

**ON**

**BILL NO. 240**

*An Act to amend Section 4406.1 of Title 4 GCA to permit government employees in the classified service to recover court costs and attorney fees upon successful challenge of adverse action or for discrimination, sexual harassment and other grievances filed before the Civil Service Commission.*

**COMMITTEE MEMBERS:**

Chairman Ted S. Nelson  
Vice-Chairman Edward D. Reyes  
Ex-Officio Member: Speaker Joe T. San Agustin

Thomas Ada  
Herminia D. Dierking  
Carl T.C. Gutierrez  
Vicente C. Pangelinan

J. George Bamba  
Anthony C. Blaz  
Thomas V.C. Tanaka



## **PUBLIC HEARING ON BILL NO. 240:**

The Committee on General Governmental Operations and Micronesian Affairs conducted a public hearing on Monday, February 22, 1993, in the Legislative Public Hearing Room at 9:15 a.m. Senator Ted S. Nelson, Chairman of the Committee conducted the hearing.

Other Committee members present were Senators Eddie Reyes and Ben Pangelinan.

### **TESTIMONIES ON BILL 240:**

**Mayor Greg Borja**, Chairperson of the Committee on Legislative Affairs of the Mayors' Council, appeared before the Committee and voiced support of the Bill on behalf of the Council.

**Dr. Richard Matheny**, Chairman of the Guam Federation of Teachers' Committee on Political Education, appeared before the Committee and also submitted written testimony. He stated that Bill 230 is a good bill and on the right track but made some suggestions for amendments. He recommended that the bill apply to all government agencies and that the academic employees at the University of Guam and at Guam Community College be included. He added that supervisors should be held accountable for their actions, and if found to be responsible for abuse of their office should be fined \$10,000.

Senator Ben Pangelinan questioned how the determination is made that a supervisor's action is willful or punitive.

Dr. Matheny responded that the Committee who has oversight should have a system or means to determine this fact where there is evidence of gross or willful denial of due process.

**Mr. John S. Salas**, Acting Executive Director of the Civil Service Commission, submitted written testimony to the Committee and supports the intent of Bill 240. The Commission's recommendation include limiting the provision to quasi-judicial proceedings and giving discretionary authority to the Commission to determine what constitutes "other appeals." He further notes that the provision regarding sexual harassment complaints be available to unclassified as well as classified employees who are victims of sexual harassment. Also, he recommends the removal of "January 1, 1983" (on page 2, line 5) as this would extend the recovery of attorney's fees for the prior ten years and may include any number and types of proceedings for this time period. Lastly, the Commission recommends that the Legislature enact a law allowing the Commission to award backpay and whether recovery of such backpay should be subject to mitigation.

### **COMMITTEE RECOMMENDATION**

The Committee on General Governmental Operations and Micronesian wishes to report out **Bill No. 240** to the full Legislature with the recommendation to **do pass**.

*ang*

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Bill No. 240 (LS)  
As amended by the  
Committee on Rules

Introduced by:

J. P. Aguon  
T. S. Nelson *[Signature]*  
T. C. Ada

---

E. P. Arriola  
M. Z. Bordallo  
H. D. Dierking  
C. T. C. Gutierrez  
P. C. Lujan  
V. C. Pangelinan  
D. Parkinson  
E. D. Reyes  
J. T. San Agustin  
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AN ACT TO AMEND §4406.1 OF TITLE 4, GUAM CODE ANNOTATED, TO PERMIT GOVERNMENT OF GUAM EMPLOYEES TO RECOVER COURT COSTS AND ATTORNEY FEES UPON SUCCESSFUL CHALLENGES OF ADVERSE ACTIONS AND FOR PREVAILING IN DISCRIMINATION, SEXUAL HARASSMENT OR OTHER GRIEVANCES FILED BEFORE THE CIVIL SERVICE COMMISSION OR ELSEWHERE.

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4 the classified service retains an attorney to represent him or her  
5 before the Civil Service Commission or other applicable  
6 administrative body to challenge an adverse action brought against  
7 the employee, or to file a complaint of discrimination, sexual  
8 harassment or other grievance against his or her department,  
9 agency, or other instrumentality, including appeals, and the  
10 employee prevails in whole or in part before the Civil Service  
11 Commission or other applicable administrative body (i) by [either]  
12 receiving a favorable decision from the Commission or body, or (ii)  
13 by a withdrawal of the adverse action by the department, agency, or  
14 instrumentality that brought the adverse action, or (iii) by  
15 withdrawal of a non-frivolous complaint of discrimination or of  
16 sexual harassment, including other appeals by the employee, as part  
17 of an agreement between the department, agency, and the employee,  
18 the employee shall be awarded and paid costs, if any, and reasonable  
19 attorney's fees because of such attorney representation from funds of  
20 the department, agency, or instrumentality in which the employee  
21 were employed. If an employee, either classified or unclassified, who  
22 is accused of discrimination based on race, religion, gender or sexual  
23 orientation or of sexual harassment, prevails in any action brought  
24 against such employee, he or she shall similarly be awarded costs  
25 and reasonable attorney fees. If such employee so falsely accused is  
26 in the unclassified service, such employee shall be awarded costs and  
27 reasonable attorney fees from the person making the false

1        accusation. This section shall apply to attorney fees and costs  
2        incurred in any appeal filed before the Civil Service Commission or  
3        other applicable administrative or judicial body on or after the  
4        effective date of this section [January 1, 1983]."



# Herminia D. Dierking



Chairperson, Committee on Rules ~ 22nd Guam Legislature

February 03, 1993

**MEMORANDUM**

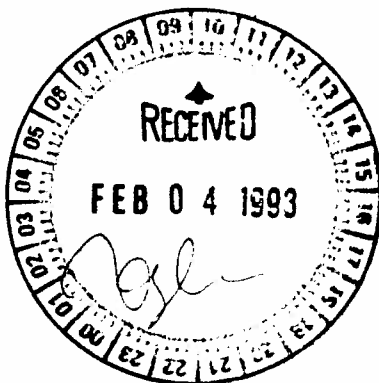
TO: Chairperson, Committee on General Governmental Operations  
and Micronesian Affairs

FROM: Chairperson, Committee on Rules

SUBJ: Referral - Bill No. 240

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

Attachment



*Herminia D. Dierking*  
HERMINIA D. DIERKING

21/1/93  
21/1/93

TWENTY-SECOND GUAM LEGISLATURE  
1993 (First) REGULAR SESSION

Bill No. 240

Introduced by:

J. P. AGUON



AN ACT TO AMEND §4406.1 OF TITLE 4, GUAM CODE ANNOTATED, TO PERMIT GOVERNMENT EMPLOYEES IN THE CLASSIFIED SERVICE TO RECOVER COURT COSTS AND ATTORNEY FEES UPON SUCCESSFUL CHALLENGE OF ADVERSE ACTION OR FOR DISCRIMINATION, SEXUAL HARASSMENT AND OTHER GRIEVANCES FILED BEFORE THE CIVIL SERVICE COMMISSION

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

2 Section 1. §4406.1 of Title 4, Guam Code Annotated, is amended to  
3 read:

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7 challenge an adverse action brought against the employee, or to file a  
8 complaint of discrimination, sexual harassment or other grievance  
9 against his or her department, agency, or other instrumentality,  
10 including appeals, and the employee prevails in whole or in part before  
11 the Civil Service Commission or other applicable administrative body (i)  
12 by receiving a favorable decision from the Commission of body, or (ii)  
13 by a withdrawal of the adverse action by the department, agency, or  
14 instrumentality that brought the adverse action, or (iii) by withdrawal  
15 of a non-frivolous complaint of discrimination or of sexual harassment,  
16 including other appeals by the employee, as part of an agreement  
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1 because of such attorney representation from funds of the department,  
2 agency, or instrumentality in which the employee was employed. This  
3 Section shall apply to attorney fees and costs incurred in any appeal  
4 filed before the Civil Service Commission or other applicable  
5 administrative body on or after January 1, 1983."





# COMMITTEE ON POLITICAL EDUCATION

A POLITICAL ACTION COMMITTEE OF THE  
GUAM FEDERATION OF TEACHERS

TELEPHONE: (671) 734-4391/2/3 • FAX: (671) 734-8085

TESTIMONY OF THE GUAM FEDERATION OF TEACHERS  
COMMITTEE ON POLITICAL EDUCATION  
REGARDING BILL NO. 240, 22nd GUAM LEGISLATURE  
February 22, 1993

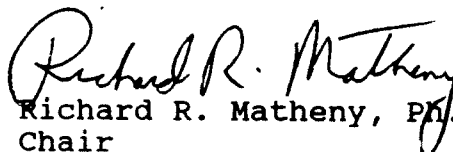
In the judgement of GFT's Committee on Political Education (COPE), Bill No. 240 is a very good bill and GFT commends Senator John Aguon for its introduction. For reasons of both governmental efficiency and accountability, it is absolutely necessary that public employees be protected from abusive actions by their supervisors. The average public employee is, in fact, the eyes and ears of the public and he or she must be encouraged to speak out when the employee observes wrongdoing without fear of unfair retaliation.

COPE respectfully requests that the two suggested amendments below be considered:

1. Since the University of Guam Charter, P.L. 19-40, specifies that UOG must be mentioned by the Legislature if a law is to apply to UOG, we request that the language "academic personnel at the University of Guam" be added to the Bill.

2. It is not enough that an abused public employee merely recover attorney fees. Administrators are quite content to use public funds to hide their intentions. They must be held individually accountable. We therefore request that language be added that makes it a misdemeanor for a public official to knowingly and wrongfully pursue an adverse action or other inappropriate disciplinary action against a public employee. Furthermore, even in case of negligence, there should be some penalty, perhaps a \$10,000 punitive clause.

The Committee on Political Education would like to thank Senator Aguon and other members of this distinguished committee for their continued support of public employees and their efforts to make the operations of the government of Guam more efficient and accountable.

  
Richard R. Matheny, Ph.D.  
Chair



## 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



CSC NO. 93-291

FEB 22 1993

Senator Ted Nelson  
Chairperson  
Committee on General Governmental  
Operations  
Twenty-Second Guam Legislature  
Agana, Guam 96910

RE: Comments on Bill 240

Dear Mr. Chairperson:

The Civil Service Commission supports Bill No. 240.

Bill No. 240 will make recovery of reasonable attorney's fees available to employees who prevail in discrimination complaints and other appeals before the Civil Service Commission or other administrative body.

The Commission believes that extending equal access to attorney fees to prevailing parties in other types of CSC proceedings is the fair thing to do.

The Commission recommends that this provision be limited to quasi-judicial proceedings where legal representation by a duly licensed attorney is mandatory because of the current law prohibiting lay representation other than pro se.

The Commission further recommends that it be given discretion to determine what constitutes "other appeals" as proposed in Bill No. 240, otherwise, it would encourage employee legal representation in non-adjudicatory administrative or informal type proceedings. This would be an unnecessary and intrusive burden upon the administrative process. The Commission should be allowed to identify what proceedings other than adverse actions or discrimination complaints would be appropriate for the recovery of attorney's fees.



Commonwealth Now!

CSC No. 93-291

Page 2

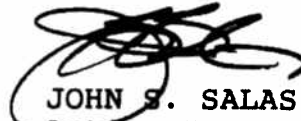
Also, attorney's fees in sexual harassment complaints should be equally available to unclassified and classified employees who are proven victims of sexual harassment.

Reference to "January 1, 1983" on page 2, line 5 should be removed otherwise it opens the door to recovery of attorney's fees for the prior ten (10) years. Additionally, recovery may extend to any number and types of proceedings for this time period. If it is the desire of the Legislature to make the provision retroactive, we recommend that it not be a date too remote in time.

Also, "...of body..." on line 12 of page 1 should be "...or body..."

Finally, the Legislature should enact a law expressly authorizing the Commission to award backpay, since this authority continues to be contested by the government. Also the Legislature should decide in the same provision whether recovery of backpay should be subject to mitigation.

Sincerely,



JOHN S. SALAS  
Acting Executive Director



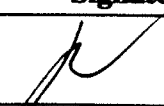

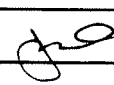
Commonwealth Now!

**COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS  
AND MICRONESIAN AFFAIRS  
Twenty-Second Guam Legislature**

**PUBLIC HEARING**  
9:00 a.m.; Monday, February 22, 1993  
Public Hearing Room, Guam Legislature Temporary Building, Agana

## Bill No. 240

### ATTENDANCE SHEET

Committee Members	Present	Absent	Signature
Sen. Ted S. Nelson Chairman	✓		
Sen. Edward D. Reyes Vice-Chairman	✓		
Speaker Joe T. San Agustin Ex-Officio Member			
Sen. J. George Bamba			
Senator Anthony C. Blaz			
Sen. Herminia D. Dierking			
Sen. Carl T.C. Gutierrez			
Sen. Ben C. Pangelinan	✓		
Sen. Thomas V.C. Tanaka			

Other Senators	Present	Signature

STAFF MEMBERS	



TWENTY-SECOND GUAM LEGISLATURE  
1993 (First) REGULAR SESSION

FEB 26 '93

Bill No. 240 (LS)

Introduced by:

J. P. AGUON 

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