



OFFICE OF THE GOVERNOR  
TERRITORY OF GUAM

JAN 31 1996

The Honorable Ted S. Nelson  
Acting Speaker  
Twenty-Third Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>J. Bordallo</u>
Time	<u>12:00 pm</u>
Date	<u>1-31-96</u>

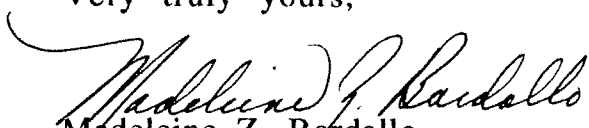
Dear Speaker Nelson:

Enclosed please find a copy of Substitute Bill No. 159 (LS), "AN ACT TO REPEAL AND REENACT §7104 OF CHAPTER 7, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO ALLOWING COMMUNITY ACCESS TO SCHOOL FACILITIES; TO REPEAL SUBSECTION (b) OF P.L. 23-45:IV:8, RELATIVE TO THE 90-DAY FREEZE ON HIRING; AND TO AMEND SUBSECTION (b) OF P.L. 23-46:12, RELATIVE TO VACANCIES AT THE DEPARTMENT OF EDUCATION", which I have signed into law today as **Public Law No. 23-67**.

Governor Gutierrez and I have been supportive of the Guam Teacher Corps program from its inception, and have worked hard to insure its continuation with funding support in every budget since the Twentieth Guam Legislature. The basis of this fine program is to equip our own people with the scholastic degrees, skills, and incentive to become educators of Guam's youth. The Guam Teacher Corps program has now produced an educated cadre of new teaching professionals who can enter the classroom and begin their careers as educators.

We are very happy to sign Substitute Bill No. 159 into law today, to remove an unfortunate legislative impediment to the immediate hiring of our qualified new teachers. We wish each and every one of them the best of success in the career that they have chosen.

Very truly yours,

  
Madeleine Z. Bordallo  
Acting Governor of Guam

Attachment

230956

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TWENTY-THIRD GUAM LEGISLATURE  
1996 (SECOND) Regular Session

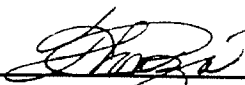
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 159 (LS), "AN ACT TO REPEAL AND REENACT §7104 OF CHAPTER 7, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO ALLOWING COMMUNITY ACCESS TO SCHOOL FACILITIES; TO REPEAL SUBSECTION (b) OF P.L. 23-45:IV:8, RELATIVE TO THE 90-DAY FREEZE ON HIRING; AND TO AMEND SUBSECTION (b) OF P.L. 23-46:12, RELATIVE TO VACANCIES AT THE DEPARTMENT OF EDUCATION," was on the 29th day of January, 1996, duly and regularly passed.



TED S. NELSON  
Acting Speaker

Attested:



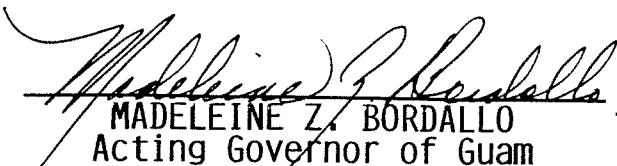
JUDITH WON PAT-BORJA  
Senator and Legislative Secretary

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This Act was received by the Governor this 30th day of January  
1996, at 1:45 o'clock P.M.



Assistant Staff Officer  
Governor's Office

APPROVED:



MADELEINE Z. BORDALLO  
Acting Governor of Guam

Date: 1/31/96

Public Law No. 23-67

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

Bill No. 159 (LS)

As substituted and amended on the floor

Introduced by:

J. Won Pat-Borja  
H. A. Cristobal  
L. Leon Guerrero  
T. C. Ada  
J. P. Aguon  
E. Barrett-Anderson  
A. C. Blaz  
J. S. Brown  
F. P. Camacho  
M. C. Charfauros  
M. Forbes  
A. C. Lamorena V  
C. Leon Guerrero  
T. S. Nelson  
S. L. Orsini  
V. C. Pangelinan  
D. Parkinson  
J. T. San Agustin  
A. L. G. Santos  
F. E. Santos  
A. R. Unpingco

AN ACT TO REPEAL AND REENACT §7104 OF CHAPTER 7, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO ALLOWING COMMUNITY ACCESS TO SCHOOL FACILITIES; TO REPEAL SUBSECTION (b) OF P.L. 23-45:IV:8, RELATIVE TO THE 90-DAY FREEZE ON HIRING; AND TO AMEND SUBSECTION (b) OF P.L. 23-46:12, RELATIVE TO VACANCIES AT THE DEPARTMENT OF EDUCATION.

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

1           **Section 1. Legislative Statement.** The Legislature notes that many  
2 communities throughout Guam lack access to special types of public facilities  
3 such as gymnasiums, libraries, facilities to conduct soccer, football, baseball  
4 and track events, meeting halls and the like. Over the years, many  
5 communities have grown to the extent that the public buildings and facilities  
6 situated in these communities are ill-equipped, too small or inappropriate to  
7 accommodate the many and diverse needs of residents. On the other hand,  
8 Guam's public school facilities have for the most part kept abreast with the  
9 growth and needs of the community from an educational and a physical  
10 development perspective. The Legislature feels that some of the benefits  
11 derived from a fairly modern and well-equipped school facility could also be  
12 enjoyed by the residents of communities who host the schools. There is a  
13 strong desire in the community to tackle common problems in a manner that  
14 generates greater participation and involvement of people who live in the  
15 communities themselves. It is the sense of the Legislature that many of  
16 Guam's public school facilities could open their doors during school off-hours  
17 to accommodate certain needs of the community such as sports and  
18 recreation events, library services, seminar and meeting facilities,  
19 classrooms, etc.

20           **Section 2. Legislative Intent.** The intent of this Act is to allow  
21 community residents and groups, with the approval of the respective school  
22 principal/Tiyan facilities manager/staff development manager and the Board  
23 of Education, to utilize facilities such as classrooms, gymnasiums, sports  
24 fields, libraries, cafeterias, or any other part or portion of a school that can  
25 generate funds, e.g. wall space, for advertising during school off-hours.

26           **Section 3.** §7104 of Chapter 7, Title 17, Guam Code Annotated, is  
27 hereby repealed and reenacted to read as follows:

1           "§7104. **School Facilities; Use of.** The use of school facilities by  
2 person(s) or group(s) during non-school hours is hereby authorized.

3           (a) The Territorial Board of Education (the "Board") may grant  
4 permission for the use of school facilities, including the gymnasium, theater,  
5 staff development center, and other DOE facilities located at Tiyan, NAS,  
6 Agana. The principal or his/her designee shall arrange the scheduling of any  
7 non-school activity authorized by the Board and, in addition, serve as liaison  
8 between the Board and the requesting party or user group.

9           (b) The Board, in collaboration with the Director of Education (the  
10 "Director") and the various school principals/Tiyan facilities manager/staff  
11 development manager, shall prescribe such rules and regulations governing  
12 the use of school facilities as it may deem necessary.

13           (c) The Board is authorized to establish a fee schedule and charge  
14 according to such schedule for the use of school facilities.

15           (d) There are hereby established revolving funds for each public school  
16 on a school-by-school basis, to be known as "I Salappe' Facilidadat", which  
17 shall be maintained separate and apart from other funds of the government  
18 of Guam and wherein all proceeds generated from user fees collected  
19 pursuant to the provisions of this Act shall be deposited. Said accounts shall  
20 be under the custody and trust of the principal and vice-principal of the  
21 respective schools. The principal and vice-principal may expend such funds  
22 for the purpose of off-setting or defraying any added cost(s) incurred by the  
23 school as a result of extraordinary community use, or for the purpose of  
24 maintaining or improving the school facilities affected by this Act. The fund  
25 shall be used to purchase small items and or services for direct school  
26 maintenance or repairs which do not exceed the cost of two hundred dollars  
27 (\$200.00) per item . The procurement of items or services costing more than

1 two hundred dollars (\$200.00) each shall require authorization of the  
2 Director. Each principal shall prepare a quarterly financial status report on  
3 the fund to be transmitted to the Chairperson of the Territorial Board of  
4 Education, the Director of Education, and the Legislature on or before the  
5 end of the quarter of each fiscal year. Additionally, notwithstanding any  
6 other provision of law, the Board is authorized to accept donations to "I  
7 Salappe' Facilidat" on behalf of any school or department facility.

8 (e) Person(s) or group(s) using the public school facilities shall be liable  
9 for any damage done over and above ordinary wear and tear. Neither the  
10 Government of Guam nor the Board shall be liable for damage or injury to  
11 person or property suffered by any person(s) resulting from a dangerous or  
12 defective condition of the school recreational facilities.

13 (f) Any reservation of the facility may be cancelled, by notice given 30  
14 days in advance, in the event that a school function must be conducted. Said  
15 cancellation shall be approved by the school principal."

16 **Section 4.** Subsection (b) of Section 8 of Public Law 23-45: IV is hereby  
17 repealed.

18 **Section 5.** Subsection (b) of Section 12 of Public Law 23-46 is hereby  
19 amended to read:

20 "(b) All restrictions in filling the vacancies within the  
21 Department of Education, with regards to school based  
22 instructional and principals positions, are hereby exempted  
23 for those positions that were filled at the beginning of the 1995  
24 school year and became vacant."

# TWENTY-THIRD GUAM LEGISLATURE

1995 (FIRST) Regular Session

Date: 11/29/96

## VOTING SHEET

Bill No. 159

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

Question: Passage of

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.				✓
FORBES, -MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.				✓
PANGELINAN, Vicente C	✓			
PARKINSON, Don				✓
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.				✓
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL

17   0   \_\_\_\_\_   4

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Recording Secretary

PL 23-67



**SENATOR JUDITH WON PAT-BORJA**  
Senator

January 29, 1996

Honorable Don Parkinson  
Speaker  
Twenty-Third Guam Legislature  
Agana, Guam

VIA: Chairman, Committee on Rules

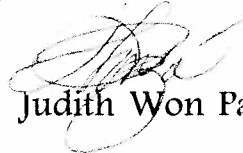
Dear Mr. Speaker

The Committee on Education to which was referred **Bill No. 159** as substituted by the Committee on Education **"An Act to Repeal and Reenact § 7104, Chapter 7, of Title 7, Guam Code Annotated, Relative to Allowing Community Access to School Facilities."** wishes to report its findings and recommendations for passage of **Bill No. 159**

The Voting record is as follows:

<b>To Pass</b>	<u>10</u>
<b>Not To Pass</b>	<u>0</u>
<b>Abstain</b>	<u>0</u>
<b>To Place in Inactive File</b>	<u>0</u>

Attached are all pertinent documents for your review.

  
Judith Won Pat-Borja

Attachments



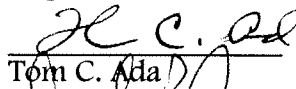
TWENTY-THIRD GUAM LEGISLATURE  
COMMITTEE ON EDUCATION

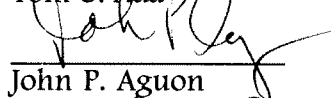
VOTE SHEET ON BILL NO. 159

Committee Member	To Do Pass	Not To Pass	Abstain
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 Judith Won Fat-Borja	✓ _____	_____ _____	_____ _____
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Hope A. Cristobal	_____	_____	_____
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 Tom C. Ada	✓ _____	_____ _____	_____ _____
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 John P. Aguon	✓ _____	_____ _____	_____ _____
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 Mark C. Charfauros	✓ _____	_____ _____	_____ _____
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 Lou Leon Guerrero	✓ _____	_____ _____	_____ _____
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 Ted S. Nelson	✓ _____	_____ _____	_____ _____
--	------------	----------------	----------------

 Vicente Pangelinan	✓ _____	_____ _____	_____ _____
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 Angel L.G. Santos	✓ _____	_____ _____	_____ _____
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Elizabeth Barret-Anderson	_____	_____	_____
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Joanne S. Brown	_____	_____	_____
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 Felix P. Camacho	✓ _____	_____ _____	_____ _____
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 Mark Forbes	✓ _____	_____ _____	_____ _____
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● Committee on Education ●  
Senator Judith Won Pat-Borja, Chairperson  
Twenty-Third Guam Legislature

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October 30, 1995

Attendance to Mark-up Hearing on Bill No.'s 159 & 269, dated October 27, 1995.

Senator Judith Won Pat-Borja  
Senator Tom C. Ada  
Senator Ben Pangelinan

Representatives:

John Fernandez / Senator Hope Cristobal  
Mike Flynn / Senator Carlotta Leon Guerrero  
Fred Nishihara / Senator Barrett-Anderson  
Henry Cruz / COE  
Don "Gach" Ploke / COE  
Alice Tajaron / COE  
Randy Quitevis / COE

**COMMITTEE ON EDUCATION**  
*SENATOR JUDITH WON PAT-BORJA, CHAIRPERSON*  
*TWENTY-THIRD GUAM LEGISLATURE*

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October 27, 1995

**MEMORANDUM**

**To: Members, Committee on Education**  
**Senator Francis E. Santos**  
**Senator Carlotta A. Leon Guerrero**

**Fr: Chairperson**

**Re: Mark-up Hearing on Bill No.'s 159 & 269**

Please be advised that the Committee Mark-up Hearing scheduled **Friday, October 27, 1995 at 2:00 pm** has been moved to **3:00 pm to 5:00 pm** in the Committee's Conference Room.

This notice should supersede the memorandum, dated October 18, 1995. Should you have further clarifications in regard this time change, please contact Mr. Randy Quitevis from my office.



Judith Won Pat-Borja

**Judith Won Pat-Borja**  
Senator

October 18, 1995

**MEMORANDUM**

To: Members, Committee on Education

Fr: Chairperson

Re: Mark-up Hearing

Please be advised that the Committee on Education has scheduled a Mark-up Hearing commencing on **Friday, October 27, 1995 at 2:00PM** in the Committee's Conference Room, to address Bill No's:

**NO. 159 "AN ACT AUTHORIZING PUBLIC ACCESS TO GUAM PUBLIC SCHOOL SYSTEM FACILITIES DURING SCHOOL OFF-HOURS."** by J.W.P-Borja

**NO. 269 "THE INTERSCHOLASTIC SPORTS FUND"**  
by C.A. Leon Guerrero

Should you have further inquiries in regard to the scheduled Mark-up Hearing, please feel free to contact our office.



Judith Won Pat-Borja

cc: Senator Carlotta Leon Guerrero  
Senator Frances Santos



6ACT

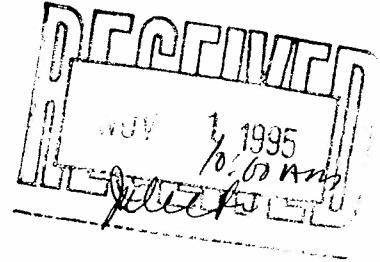
23rd Guam Legislature  
Office of  
Senator Elizabeth Barrett-Anderson

Tel: (671) 472-3431

Capitol Plaza Building,  
120 Father Duenas Ave., Suite 110  
Agana, Guam 96910

Fax: (671) 472-3432

October 30, 1995



MEMORANDUM

To: Senator Judith Won-Pat Borja  
Chairperson, Committee on Education

From: Senator Elizabeth Barrett-Anderson

Subject: Bill 159, ammendments

Per your request on Friday, October 27, 1995 the following language is submitted to amend Bill 159.

Add a new subsection (d) & (e) to §7104 of your proposed Bill to read:

“(d) Notwithstanding any other provision of law, the Territorial Board of Education is authorized to accept on behalf of any school or department facility donations made to support interscholastic sports.”

“(e) Persons using the public school facilities shall be liable for any damage done over and above ordinary wear and tear. Neither the Government of Guam nor the Board of Education shall be liable for damage or injury to person or property suffered by any person resulting from a dangerous or defective condition of the school recreational facilities.”

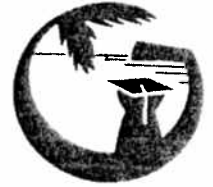
The remaining body of the bill should be re-lettered accordingly.

ELIZABETH BARRETT-ANDERSON



GUAM PUBLIC SCHOOL SYSTEM  
GOVERNMENT OF GUAM

P.O. BOX DE  
AGANA, GUAM 96910



September 6, 1995

Director, Guam Public School System

ORDOT-CHALAN PAGO  
ELEMENTARY SCHOOL  
Tel: 477-9645/472-4687  
Fax: 477-2188

Senator Judith Won Pat-Borja  
Chairperson, Committee on Education  
Twenty-Third Guam Legislature  
Agana, Guam 96910  
Fax: 472-3500

Dear Senator Won Pat-Borja,

Thank you for the opportunity to provide input on Bill 159 Relative to Allowing Community Access to School Facilities.

In surveying our faculty and staff, we found that all persons surveyed were in support of school facilities being fully utilized by the community. Reasons cited in support of this act were recent trends toward community-based schools, the small percentage of time that some school facilities are currently occupied (e.g. classrooms, cafeteria), and the need for the community to become responsible for, i.e. to assume "ownership" of the schools and their goals as well as their problems.

There were some concerns in the implementation of this Act. Recommendations were as follows:

- (1) That the school property be well protected from theft and vandalism and be fully maintained and clean, ready for the children's instruction each day.
- (2) That persons be employed and paid for ensuring the above, and not given extra duty or "comp" time to carry out these duties. (Because of the current austerity program, many of our school are operating with a skeleton staff. Additional time taken from employees' regular duties would create an undue hardship on the school.)
- (3) That the collection of fees and disbursement of funds require a minimum of time and paperwork on the part of the school administrator. These discretionary funds received through the use of the school facilities could be a real help in terms of defraying school maintenance costs. However, the process could also be so burdensome that it would provide little benefit to either the school or the community user.

Again, those surveyed had positive reactions to the bill and fully supported its passage. It was especially commendable that the bill provides for school personnel (the Board, Director, and School Principals) to prescribe rules and regulations governing the use of school facilities. These persons have had first-hand experience in supervising the use and maintenance of these facilities and will be able to produce realistic and practical rules and regulations for the successful implementation of the Act.

As a school administrator, I appreciated the opportunity to review this proposed bill and to provide information which may be useful to lawmakers.

Sincerely,

  
Margaret S. Baza  
Acting Principal

CC: Dr. Gayle Hendricks, Interim Director  
Mrs. Gloria Nelson, Chairperson, Territorial Board of Education



# Department of Education Government of Guam

P.O. Box DE  
Agana, Guam 96910  
Tel: (671) 475-0457  
Fax: (671) 472-5003



Senator Judith Won Pat-Borja  
Chairperson  
Committee on Education  
Twenty-Third Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Dear Senator Won Pat-Borja:

Thank you for inviting our input relative to Bills 159 and 269. On behalf of the elected Board of Education, I would like to commend senators of the Twenty-Third Guam Legislature for having an interest in our school system and our department.

However, I would like to advise the senators that ideas such as those embodied in Bills 159 and 269 should be transmitted to the Board of Education for consideration and for development of proposed legislation. At this time, I would like to inform the Committee on Education that the Board of Education is in the process of crafting legislation relative to the ideas contained in Bills 159 and 269.

Just recently, this body repealed several laws that were considered "unfunded mandates". We would like to ensure that we do not turn the clock backwards and have the Legislature craft and pass statutes subsequent to the creation of an elected Board of Education, which is charged with developing and transmitting for review and adoption, educational legislation.

Once again, thank you for involving us in the dialogue for the betterment of our educational system.

Si Yu'os Ma'ase,

A handwritten signature in black ink, appearing to read "Roland L.G. Taimanglo".

ROLAND L.G. TAIMANGLO, Acting  
Director of Education



Commonwealth Now!

**Twenty-Third Guam Legislature  
Committee on Education**

**Committee Report on Bill No. 159**

**An Act to Repeal and Reenact § 7104, Chapter 7,  
of Title 7, Guam Code Annotated, Relative to  
Allowing Community Access to School Facilities.**

**Prepared by: Committee on Education**

**Senator Judith Won Pat-Borja, Chairperson**

**Publicly Heard:  
August 24, 1995; 6:00 PM  
Session Hall, Temporary Legislature Building  
155 Hesler St., Agana, Guam**



## **I. Introduction**

The Committee on Education of the Twenty-Third Guam Legislature conducted a public hearing on Bill No. 159 on August 24, 1995, at 6:00 PM in the Legislature's Session Hall, Temporary Legislature Building, 155 Hesler St., Agana, Guam.

The record of committee members in attendance is as follows:

### **Committee on Education**

Judith Won Pat-Borja  
Vicente Pangelinan

Chairperson  
Member

## **II. Testimony and Input on Bill No. 159**

Persons appearing to testify before the Committee:

- \* Norma Jean Taitano -- Department of Education
- \* Mary Gutierrez -- Parent-Teacher Congress

## A. Written Testimony

Interim Director of the Department of Education, Roland Taimanglo, submitted written testimony commending the Senators for their interest in the school system. He did, however, advise the Senators that the ideas embodied in the bill be transmitted to the Board of Education for consideration and development for proposed legislation (please see attachment).

School administrator Margaret Baza submitted written testimony in support of the bill, citing that practically all of those surveyed were also supportive of school facilities being fully utilized by the community. Acting principal Baza and her colleagues found it commendable that the bill provides for school personnel, who are most experienced with school facilities, to prescribe rules and regulations governing their use. In addition, a few concerns were mentioned regarding the implementation of the measure (please see attachment).

## B. Oral Testimony

Mary Gutierrez of the Parent-Teacher Congress supported Bill No. 159. She would, however, prefer that the author reconsider mentioning the use of the libraries and the classrooms. She asked that this

portion of the language be amended to give the principals more say as to which classes may be used.

Norma Jean Taitano came as a representative of the Department of Education. She read the written testimony submitted by DOE Interim Director Roland Taimanglo.

Although not present at the public hearing, the principals of many other schools had communicated personally with the author expressing their support for Bill No. 159. The principals welcomed the idea that funds generated from the use of their facilities (facilities to mean anything that is built or installed to perform some particular function, or as defined by the school administrator and/or the site-based management team where applicable), would be directly used for the capital improvement of their campus, for programs or projects related to the respective facility being utilized (e.g. sports equipment for the gymnasium, periodicals for the library, etc.) or for the procurement of items needed to supplement the needs of the school but not limited to supplies and materials or the minor maintenance and repair of the school, facility. Furthermore, the use of school facilities by community residents would only encourage a stronger sense of school community, ownership and pride, thereby making education a shared responsibility within the community. With proper monitoring and enforcement of established guidelines, there is much public benefit

to be realized via community accessibility to school facilities during after-school hours.

### III. Committee Findings

The Committee finds that although there is a degree of support at the educational level of the administrators, students, as well as the parent-teacher organization, it recommends that: 1) the word nominal be deleted from the language of the bill since many administrators and students feel that this would tie their hands as to the rate and fee to be charged by the school; 2) the amount of the **I Salappe' Facilitat** be increased to two hundred dollars (\$200) as most principals stated that it would be difficult to make purchases under the original one hundred dollar (\$100) allocation. It must be understood that the monies generated from the use of the school facility will go directly to that school via the **I Salappe' Facilitat** and not the I Salappe' Principat; 3) per the request of school principals, DOE officials and the Parent-Teacher Congress, the decision for the use of the different facilities within each school should be left up to the school administrator and or the site-based management team where applicable. The Board may also grant permission for the use of school facilities, including the gymnasium, theater, staff development center, and other DOE facilities located at Tiyan, NAS, Agana.

#### **IV. Committee Recommendations**

The Committee on Education has completed its review and deliberation on Bill No. 159 and does hereby recommend **“To Do Pass”** said measure: **“An Act to Repeal and Reenact § 7104, Chapter 7, of Title 7, Guam Code Annotated, Relative to allowing Community Access to School Facilities.”**

FISCAL NOTE  
BUREAU OF BUDGET AND MANAGEMENT RESEARCH

BBMR-FZ

Bill No. 159  
Amendatory Bill

YES  NO

Date Received 11/17/95  
Date Reviewed 11/17/95

Department/Agency Affected: Department of Education  
Department/Agency Head: Cayle Hendricks, Acting Director  
Total FY Appropriation to Date: \$150,543,705

Bill Title (preamble): AN ACT TO REPEAL AND REENACT § 7104, CHAPTER 7, of TITLE 7,  
GUAM CODE ANNOTATED, RELATIVE TO ALLOWING COMMUNITY ACCESS  
TO SCHOOL FACILITIES.

Change in Law: An Act to Repeal and Reenact.

Bill's Impact on Present Program Funding:  
 Increase  Decrease  Reallocation  No Change

Bill is for:  Operations  Capital Improvement  Other ( )

FINANCIAL/PROGRAM IMPACT

PROGRAM CATEGORY	ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)		TOTAL
	GENERAL FUND	OTHER	
Education	See Attached.		

FUND	ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)					TOTAL
	1st	2nd	3rd	4th	5th	
GENERAL FUND	See Attached.					
OTHER						
TOTAL						

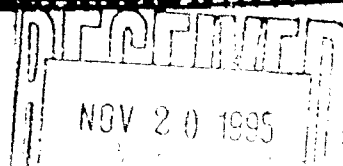
FUNDS ADEQUATE TO COVER INTENT OF THE BILL? YES/NO-IF NO, ADD'L AMOUNT REQUIRED \$ See Attached.  
AGENCY/PERSON/DATE CONTACTED: Education / HERBIE PEREZ /

FUND	ESTIMATED POTENTIAL MULTI-YEAR REVENUES					TOTAL
	1st	2nd	3rd	4th	5th	
GENERAL FUND	See Attached.					
OTHER						
TOTAL						

ANALYST: JOSE S. CALVO DATE: 11/20/95 DIRECTOR: JOSEPH E. RIVERA, Acting DATE: NOV 20 1995

FOOTNOTES:

SEE ATTACHED.



FISCAL NOTE - Bill No. 159

No financial data was received from the Department of Education as of fiscal note preparation time. However, the financial impact from the enactment of Bill No. 159 would be from funds generated via user fees from the use of school facilities which would then be used to fund operational needs.

● ●

**TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session**

Bill No. 159

(As substituted and amended by the Committee on Education)

Introduced By:

J. Won Pat-Borja

H. A. Cristobal

L. Leon Guerrero *LS*.

**“An Act to Repeal and Reenact §7104, Chapter 7 of Title 7, Guam Code Annotated, Relative to Allowing Community Access to School Facilities.”**

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

2           **Section 1. Legislative Statement.** The Legislature notes that many  
3 communities throughout Guam lack access to special types of public facilities such  
4 as gymnasiums, libraries, facilities to conduct soccer, football, baseball and track  
5 events, meeting halls and the like. Over the years, many communities have grown  
6 to the extent that the public buildings and facilities situated in these communities  
7 are ill-equipped, too small or inappropriate to accommodate the many and diverse  
8 needs of residents. On the other hand, Guam’s public school facilities have for the  
9 most part kept abreast with the growth and needs of the community from an  
10 educational and a physical development perspective. The Legislature feels that  
11 some of the benefits derived from a fairly modern and well-equipped school facility  
12 could also be enjoyed by the residents of communities who host the schools. There  
13 is a strong desire in the community to tackle common problems in a manner that  
14 generates greater participation and involvement of people who live in the  
15 communities themselves. It is the sense of the Legislature that many of Guam’s  
16 public school facilities could open its doors during school off-hours to accommodate



1 certain needs of the community such as sports and recreation events, library  
2 services, seminar and meeting facilities, classrooms, etc.

3 **Section 2. Legislative Intent.** The intent of this Act is to allow community  
4 residents and groups, with the approval of the respective school principal/Tiyan  
5 facilities manager/staff development manager and the Board of Education, to utilize  
6 facilities such as classrooms, gymnasiums, sports fields, libraries, cafeterias, or any  
7 other part or portion of a school that can generate funds, e.g. wall space, for  
8 advertising during school off-hours. Said usage shall require a fair **user fee** which  
9 shall be deposited in an account of the respective school under the trust of the  
10 principal and vice-principal of the school. The account shall be called "**I Salappe'**  
11 **Facilidat.**" With approval of the Board, the principal and vice-principal may expend  
12 such funds for the purpose of off-setting or defraying any added cost(s) incurred by  
13 the school as a result of extraordinary community use.

14 **Section 3.** §7104 of Chapter 2, of Title 17, Guam Code Annotated, is hereby  
15 repealed and reenacted to read as follows:

16 **§7104. School Facilities; Use of.** The use of school facilities by person(s) or  
17 group(s) during non-school hours is hereby authorized.

18 (a) The Territorial Board of Education may grant permission for the use of  
19 school facilities, including the gymnasium, theater, staff development center, and  
20 other DOE facilities located at Tiyan, NAS, Agana. The principal or his/her designee  
21 shall arrange the scheduling of any non-school activity authorized by the Board and,  
22 in addition, serve as liaison between the Board and the requesting party or user  
23 group.

1 (b) The Board, in collaboration with the Director and the various school  
2 principals/Tiyan facilities manager/staff development manager, shall prescribe  
3 such rules and regulations governing the use of school facilities as it may deem  
4 necessary.

5 (c) The Board is authorized to establish a fee schedule for the use of school  
6 facilities.

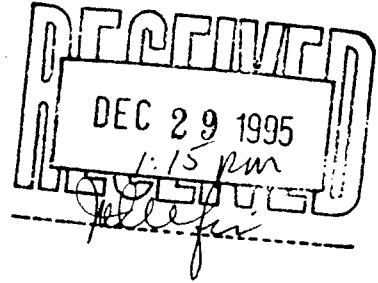
7 (d) There is hereby created a fund to be known as "I Salappe' Facilitat"  
8 wherein all proceeds generated from user fees collected pursuant to the provisions  
9 of this Act shall be deposited. Expenditures from this fund shall be made for the  
10 purpose of maintaining or improving the school facilities affected by this Act.  
11 Notwithstanding any provision of the procurement law, the fund shall be used to  
12 purchase small items and or services for direct school maintenance or repairs which  
13 do not exceed the cost of two hundred dollars (\$ 200.00) per item . The procurement  
14 of items or services costing more than two hundred dollars (\$ 200.00) each shall  
15 require authorization of the Board. Each principal shall prepare a quarterly financial  
16 status report on the fund to be transmitted to the Chairperson of the Territorial  
17 Board of Education and the Director of Education on or before the end of the quarter  
18 of each fiscal year. Additionally, notwithstanding any other provision of law, the  
19 Board is authorized to accept on behalf of any school or department facility  
20 donations made and shall decide how funds remaining in the said account are to be  
21 disbursed or expensed at the end of the fiscal year.

22 (e) Person(s) or group(s) using the public school facilities shall be liable for  
23 any damage done over and above ordinary wear and tear. Neither the Government

1 of Guam nor the Board shall be liable for damage or injury to person or property  
2 suffered by any person(s) resulting from a dangerous or defective condition of the  
3 school recreational facilities.

155 Hesler St. Agaña, Guam 96910  
(671) 472-3482

December 27, 1995



**MEMORANDUM**

**TO:** Senator Judith Won Pat-Borja  
Chairwoman, Committee on Education

**FROM:** Therese M. Terlaje,  
Legislative Counsel

**SUBJECT:** Hiring by the Department of Education

In your memorandum of November 27, 1995, two issues were presented for analysis. These will be discussed separately in parts A and B below.

A. You have asked for an opinion as to the effect of Section 12 of P. L. 23-46 and Section 8 of P. L. 23-45 on hiring by the Department of Education ("DOE"). These Sections provide as follows:

**Section 8. Vacancies.** (a) All classified positions funded one hundred (100%) by the General Fund which are vacant as of October 1, 1995 shall be funded at fifty percent (50%) of the total allocated for salaries and benefits. (b) Any classified position funded one hundred (100%) by the General Fund which becomes vacant during Fiscal Year 1996 through either voluntary or involuntary separation shall remain unfilled for a period of no less than ninety (90) calendar days from the effective date of the vacancy. All funds budgeted for the vacant position shall only be used to fill the vacant position with a classified appointment in conformance with the merit system. (P. L. 23-45).

percent (100%) by the General Fund which are vacant as of October 1, 1995, shall be funded at fifty percent (50%) of the total allocated for salaries and benefits. (b) all restrictions in filling the vacancies within the Department of Education, with regards to school based instructional and principals positions, are hereby exempted, for those positions that were filled at the beginning of the 1995 school year and became vacant prior to October 1, 1995. (P. L. 23-46).

Section 8 of P. L. 23-45 contains two provisions. First, subsection (a) sets a general "cap" on funding at 50 percent for those positions vacated prior to October 1, 1995. Second, subsection (b) freezes the filling of vacant positions throughout FY 1996 for ninety (90) days after such vacancy. Both of these provisions apply to classified positions which are fully funded by the General Fund.

Subsection (a) of Section 12 of P. L. 23-46 in effect mirrors subsection (a) of Section 8 of P. L. 23-45, which sets funding at 50 percent for those positions vacated prior to October 1, 1995. Because of the mirroring, the terms "notwithstanding any other provisions of law" in P. L. 23-46: 12(a) have no real effect on the application of P. L. 23-45: 8(a). Also, because P. L. 23-46: 12(a) can be read consistently with P. L. 23-45: 8(b), the phrase does not effectively repeal the application of subsection 8(b) to DOE or any other department.

Subsection (b) of P. L. 23-46: 12 exempts DOE from "all restrictions in filling the vacancies within the Department" for those positions vacated as of October 1, 1995, which were previously filled at the beginning of the school year. In other words, the Legislature, in enacting P. L. 23-46, exempted DOE from the ninety (90) day freeze required by P. L. 23-45: 8(b) and also from the

1, 1995.

Accordingly, DOE is subject to the ninety (90) day freeze for vacancies after October 1, 1995. In addition, vacancies after October 1, 1995, for any department are not subject to the 50 percent cap.

B. You have also asked for an opinion as to whether the exemption of P. L. 23-46: 12(b) allows DOE to hire school aides and assistant school principals.

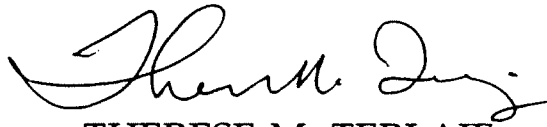
The exemption in subsection 12(b) is specifically provided "with regards to school based instructional and principals positions.". Determining whether an employee is "school based" requires evaluating where the majority of that employee's time is spent while working; i.e., is the employee assigned to a particular school for more than 50 percent of his working hours?

It is clear that the Legislature intended to draw a distinction among the various DOE employees based at schools, and to prioritize those who perform the "action, practice, or profession of teaching." Webster's Ninth New Collegiate Dictionary 627 (1988) (defining "instruction"). The term "instruction" usually suggests a methodical or formal manner of imparting information or skill so that others may know. Webster's Ninth New Collegiate Dictionary 1209 (1988) (defining "teach").

17 GCA §5116 provides, in pertinent part, that the duties of teachers' aides shall be dictated by the Board of Education, and may include the supervision of instruction. Accordingly, determining whether a school aide or an assistant principal is an instructional position requires a review of the official position descriptions to ascertain whether their duties include instruction, or other action or practice of teaching or imparting knowledge.

positions," it is reasonable to conclude that assistant principals take on the duties of the school principals in the latter's absence, as well as share responsibility for indispensable tasks on a daily basis. It is further reasonable to also conclude that assistant principals were intended to be and are included within the terms "principals position."

If there are any questions regarding this memorandum or should you require additional information or clarification, please do not hesitate to contact my office.



THERESE M. TERLAJE

TMT/sg

EXCERPTS TAKEN FROM LEGISLATIVE PROCEEDINGS OF  
OCTOBER 12, 1995, IN THE DISCUSSION OF BILL 395,  
SECTION 12, "VACANCIES"

" ...

THE CHAIR: Senator Pangelinan.

SENATOR PANGELINAN: I have a floor amendment, it doesn't have my name, but it just has the following language: I would like to add a new section...This would be Section 12. Basically, it would be a new section 12; it's been passed out, it was passed out. All it would read would be: "All restrictions in filling vacancies within the Department of Education with regards to school base", and I want to just add, if you could pen in "School based instructional and principal positions are hereby exempted". We have just read the last few weeks here with the number of retirees at DOE with regards to teachers that now we got unqualified school aides in the classrooms and therefore we need to fill these positions based upon the retirees and therefore we like to get teachers back in the classrooms. (end of tape)

(beginning of side 2)

SENATOR PANGELINAN; ... to be below the ....

SENATOR AGUON: No, I am talking about the overall five hundred thirteen million. Based on the findings and recommendation of the Chairman of the Committee on Ways and Means. I gather that the budget by fifty percent of the Department of Education that would effectively reduce the allocation down to hundred forty seven million but if you allow the exemption to happen then in actuality you are increasing this, increasing the overall budget for the Department of Education. What does this overall do to the entire budget in terms of overall appropriation by the Legislature?

SENATOR F. E. SANTOS: Mr. Speaker.



SENATOR UNPINGCO: I will yield. Actually the amendment that was passed by Senator Mark Forbes of the 513 cap, it, that breaks any amount. In other words, even if the appropriated six hundred million dollars, the cap should be still 513 and what normally this would do, of course, is to give free hand to the Department of Education and this is where BBMR and the Governor would have to, sort of, enforce the requirement of the Forbes' amendment.

SENATOR PANGELINAN: That's right.

SENATOR AGUON: Thank you, Senator Unpingco, but in terms of dollars, as Chairman of the Ways and Means, what has this ....

SENATOR FRANCIS SANTOS: Thank you, Senator Aguon. The vacancies that were saved as a result of the fifty percent is in the neighborhood of three million dollars. The real question is, I think, am not sure Senator Pangelinan knows it. How many vacancies are there for teaching positions and principal positions? Well, if we know that number then if it is not in the neighborhood of three million dollars, and I don't think it is.

SENATOR PANGELINAN: Basically, what we are doing is, because of the end of the school year or the beginning of the school year and the beginning of the budget year, we've had people who retired from DOE after the school year started. And basically the way the law reads or if 233 is enacted, these positions have to remain vacant for ninety days. You can't have that; these guys are out of the classroom; we've got unqualified school aides in there now instructing our kids, so it would exempt them from the ninety day thing for those people that have retired recently and the vacancies are still budgeted at fifty percent, but we need to fill those positions, the ones that have retired.

THE CHAIR: Senator Brown, on the motion by Senator Pangelinan

SENATOR BROWN: Thank you very much, Mr. Speaker. I do support the intent of Senator Pangelinan's desire to put a new section. I was at DOE earlier this week and I am aware that there were couple of hundred employees, including teachers and principals, that retired at the end of September. They are faced with a very difficult problem because there are a number of school principals that have retired and they cannot fill those positions. There are also a number of teaching positions in the classroom that cannot be filled for a ninety day period, and as you know, we have these children, all of our children in class, we need to ensure that there is qualified teacher available. I think it is incumbent upon DOE to ensure that they live within their budget constraint. But these positions of these individuals that just retired a couple of weeks ago were budgeted for this fiscal year, and as long as they don't exceed their ceiling, I think, in this particular case, we do need to make an exception to ensure that there are qualified teachers and qualified principals that are running the school system. The ninety-day limitation is a tremendous burden that we're placing within the school system, if we continue to allow this. I certainly do support the intent of Senator Pangelinan's desire to add this new section. Thank you very much, Mr. Speaker.

THE CHAIR: Senator Lamorena.

SENATOR PANGELINAN: Taigue. Mapos. Senator Camacho, then Barrett-Anderson, then Forbes.

SENATOR CAMACHO: Thank you, Mr. Speaker, I'll say exactly what Tony would say. Earlier when I had mentioned, you know, in comparison to the forty four positions that the Guam Police Department, I was making reference, of course, to the positions in DOE, again as was mentioned by my colleagues with the recent retirement of a lot of teachers, what in effect is the current bill as presented will require that DOE replace all these teachers who retired with substitute teachers for a period of ninety days and again is a matter can they live with it or not, that has been the

question. I think the real question is can we afford the level of education that our children will receive for ninety days with substitute teachers in their place? I don't think so and I think that's the major concern. Again I think the issue of funding from what I understand many of these positions were part of the amount budgeted, so I don't think it is going to affect the overall numbers going up and a violation of the budget cap. So I think for the welfare of our kids and the need of qualified teachers in there verses substitute teachers, I definitively support this amendment and congratulate Senator Pangelinan in beating me to it. Thank you.

THE CHAIR; Senator Barrett-Anderson, on the Pangelinan amendment.

SENATOR BARRETT-ANDERSON: I am in support of the Pangelinan amendment, however I would like to make an amendment to Senator Pangelinan's provision. If you all follow closely which I know you are not. Mr. Speaker, this is how I would like to do it. Senator Pangelinan and I both have amendments to the vacancy provisions of Bill 233. If you will turn to my floor amendment here. It says my name, floor amendment, section blank to Bill 395 to read as follows: let me explain what I would like to do, I would like to add Senator Pangelinan's sentence, "All restrictions in filling the vacancies within the Department of Education with regard to the school base positions or instructional or administrative positions are hereby exempted". I like to add that as the last paragraph to my amendment here, because I do support his amendment. Let me indicate I am amending it. I am amending his amendment, so that's the issue on the floor right now, because both his amendment and mine refer to the same section in the budget bill that is currently on the Governor's desk. What I would like to do, is explain why I have amended that section. If you could all turn to page 160 of Bill 233, beginning at line 22, during the session or markup session we added the line "All funds budgeted for the vacant positions shall only be used to fill the vacant position with a classified appointment in conformance with the merit system". What my

amendment, with Senator Pangelinan's addition, would do, would be to delete that line, it would say "Notwithstanding the budget bill and that provision that's on the Governor's desk, this provision would prevail". Let me tell you why I want to take out that sentence. There are numerous, numerous positions that are filled by limited term appointments as well as temporary employees and I know we have criticized this present Governor for his excessive use of the LTA appointments as well as temporary employees, but I have to impress upon this body that those limited term and temporary positions are important to every director in every department and agency. When we state that those vacancies can only be filled by a classified employee it eliminates entirely, limited term appointments and temporary appointments. Why do I say that? You have also on your desk a copy of 4GCA section 4102. I ask you to turn to Subsection 6, the unclassified service consists of persons employed on a temporary basis, so therefore if we are saying that only classified positions or appointments can be made to these vacancies, we have completely eliminated appointments on a temporary basis. I don't think that was our intent, certainly when I look at classified appointments, it was my understanding that limited term appointments, as well as temporary ninety day appointments were within the classified appointment procedure. I am wrong in that analysis because 4102 GCA section 6 does indicate that any LTA and any limited term appointee is in the unclassified service. I don't think it's wise for this Legislature to completely eliminate that mechanism of appointment. I do know that limited term appointees, although unclassified, must otherwise be qualified for the position that they are filling and although they have had, there are instances that I believe whether it is the past governor or the current governor that tends to abuse that, I don't think we should throw the baby out with a bath. So, therefore, my amendment to Senator Pangelinan's amendment would eliminate that sentence and combine his and my amendment together.

THE CHAIR: On the amendment to the amendment. Senator Blaz.

SENATOR BLAZ: On a point of information, will the author yield?

THE CHAIR: Will Senator Barrett-Anderson yield?

SENATOR BARRETT-ANDERSON: Yes, I yield.

SENATOR BLAZ: So what you are trying to do, Senator Barrett-Anderson, basically, is to ensure that the limited term appointments that are currently in place today will not be eliminated by some inadvertent action on the part of the body in passing the bill.

SENATOR BARRETT-ANDERSON: No, not necessarily. What am saying is that if we leave that section on page 160 of Bill 233 that's in front of the Governor's Desk, which is Section 8 of Chapter 5, we will effectively prohibit every director in every agency from ever filling the vacancy by a limited-term appointee or temporary appointee.

SENATOR BLAZ: Okay, I understand that. Now, in your section (b) of this new amendment to the amendment, are you saying here that, by the way there is a typographic error, the Legal Counsel take note to correct it, but it says here "any classified positions funded hundred percent (100%) by the general fund which become vacant shall remained unfilled for a period for not less than ninety calendar days from the effective date of the vacancy, so you're saying then, that when the limited term appointment expires that person is out of job because then they can't renew that limited term for another ninety days, if that person did not go into the classified service.

SENATOR BARRETT-ANDERSON: The ninety day provision is nothing new. It was what we approved before and that it does say that any vacancy that occurs in the '96 Fiscal Year shall remain unfilled for a period of ninety days. Senator Blaz, I am not making an amendment to remove that. Certainly, Senator Pangelinan, in order to get around that very restrictive ninety day provision, is asking

that we exempt teaching positions and principal positions, I am explaining it to you only as we had passed it several weeks ago.

THE CHAIR: Senator San Agustin. On the amendment by Senator Barrett-Anderson.

SENATOR SAN AGUSTIN: I think, Mr. Speaker, what we had before us, is first the heading should read: "Section 8 of Chapter 4, "Miscellaneous Provisions" of Bill 233 is repealed and amended to read."

SENATOR BARRETT-ANDERSON: I disagree. I disagree only because that bill is no longer before us.

SENATOR SAN AGUSTIN: That's what we're doing, repealing it and then to substitute it with your version. Otherwise, you are going to have two versions before the body, so all am saying is to repeal and then amend it to read and then add your section and then at the end of the vacancy, which is on line 8, add Senator Pangelinan's amendment and that makes it complete, because you take it away from Bill 233 and then it is substituted by this new version, which is under Section 12 of Bill 395.

SENATOR BARRETT-ANDERSON: I understand exactly what you are trying to say. That is why I've added the words "Notwithstanding any other provisions of law".

SENATOR SAN AGUSTIN: I am not saying, that's why, but you got to make reference to that; otherwise you have two sections that is in conflict with each other.

SENATOR BARRETT-ANDERSON: What happens, what happens if he has to sign one first and then the other. If you have two pieces of legislation, and Senator San Agustin you are correct, we will have the version in Bill 233 and we will have the version in Bill 395, the latter will repeal the earlier one especially with the words "Notwithstanding any other provisions of law". Senator San Agustin,

if you have a better procedural way of doing it as long as it is clear on this floor, for the record, and then I will defer.

SENATOR SAN AGUSTIN: I would like to offer this, Mr. Speaker, this says "Section 8 of Chapter 4 of Bill 233, passed by the Legislature on October 2, 1995 and transmitted to the Governor on October 11, 1995 and the Public Law which results from its enactment is hereby repealed and is reenacted to read". And then you have that so that way you'll be, no. I want to be sure that there are no two provisions, so once you have that, then I would like Senator Barrett-Anderson's amendment and then at the end on line 8, add Senator Pangelinan's amendment. That would make it a complete picture, a package.

SENATOR PANGELINAN: What happens if the Governor signs 395 and not 233?

THE CHAIR: No, he won't sign, no, he won't sign Bill 233 first. He assured me first; otherwise...

SENATOR SAN AGUSTIN: He wants to sign both bills at the same time, that's why I keep referencing to it.

THE CHAIR: Senator Pangelinan, do you have any objection to ...? No objection? Senator Santos.

SENATOR F.E. SANTOS: I just have to clarify in my mind. Will the author of the "vacancies" please yield?

THE CHAIR: Senator Barrett-Anderson or Senator Pangelinan

SENATOR F. E. SANTOS: Senator Barrett-Anderson. Senator Barrett-Anderson, are you trying to say that LTA's are a management tool to be used by a director?

SENATOR BARRETT-ANDERSON: Absolutely, and I will give an example. If I find it very hard to recruit classified - Senator Santos, you have never been in government service.

SENATOR F. E. SANTOS; And I know why.

SENATOR BARRETT-ANDERSON; Let me explain. Do you want to hear my explanation? Or I'll sit down.

SENATOR F. E. SANTOS: I want to hear it from the government bureaucracy that we created that we are now magnifying.

SENATOR BARRETT-ANDERSON: You want to hear an explanation or you want to argue.

THE CHAIR: Senators, look at me.

SENATOR BARRETT-ANDERSON: Yes, Mr. Speaker, I apologize. Would you like to hear my explanation?

THE CHAIR: Yes, you have to address the Chair.

SENATOR BARRETT-ANDERSON: Mr. Speaker, if there are classified positions that, for example, let's say a Communication or Telecommunication Engineer that is very difficult to fill because we do not have the number of qualified applicants on island. You cannot select unless you, at least, have five, the rule of five. Isn't that correct, Senator Camacho? The rule of five to give five classified applicants to send it to a director. A director would not be able to fill that unless at least five qualified applicants, well supposing there is none except there is one person who otherwise is as qualified, how can he compete since he's the only one on island. Well, what DOA usually does is to allow a director to put that person in on a limited-term basis so that within the period of a year the advertisements continue and hopefully perhaps another one, another two and another three qualified applicants, then that person who is an LTA, typically should then compete with the other



applicants there, so that usually, in hard to fill classified positions it is definitely a management tool with regards to temporary employees in times of emergency, in times of crisis. Temporary employees are critical to management, as well as to the people of Guam.

SENATOR F. SANTOS: Mr. Speaker, just a point of clarification for the Senators. You know that the vacancies in DOE, seventy, almost seventy percent of them, are teachers. So, you know, I want to alert you that these provisions have a dramatic impact on the provisions that we just passed on the fifty percent vacancies. So, you know, keep that in mind.

THE CHAIR: Go ahead. Wait, please, there are other speakers. I'll recognize you, Senator Pangelinan. Senator Unpingco, Blaz and then Pangelinan.

SENATOR UNPINGCO: I know that right now, as I've mentioned earlier, as far as many, you know just recently within about twelve days ago, there is a lot of vacancy positions in the teaching profession and I know for a fact that right now they are using substitute teachers like those custodians are being placed in there to take care of the classrooms and other available personnel within the Department of Education to be placed in the classroom. Yes, I think this is urgently needed and if for any other reason I think this section in itself would warrant you as a Speaker to certify that the need, that this is an emergency in nature because I for one, I do not want to have my kids being taught by a substitute teacher for six months. You know we talk about certified teachers, we talk about kids being given the best education, quality education and this is one area right now that is suffering throughout the entire agencies of the Government of Guam. So I do support, you know, the amendment made by Senator Pangelinan, as well as the motion made by Senator Barrett-Anderson.

THE CHAIR: Thank you. So Yuus Maase, Senator Unpingco. Senator Blaz, and then Senator Pangelinan.

Transcript of Discussion on "Vacancies"

Amendment in Bill 395

October 12, 1995

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SENATOR BLAZ: All, my own concern is, after listening to Senator Barrett-Anderson's eloquent explanation regarding the limited term appointment authority and using it as a management tool because clearly, as in the case of Senator Pangelinan's amendment, what we are now exempting school base positions because of an urgent necessity to ensure, as Senator Unpingco pointed out, we do not have situation where substitute teachers are teaching classes for six months until we get a permanent teacher in because of these restrictions of the ninety days. And I have a problem with this ninety days, this ninety-day hold on some of these limited term appointments then if that's the case because you are going to have a situation where, when these limited term appointments, as in the case of the teachers, are when their appointment expires. I don't know how long are limited term appointments usually. Senator Barrett-Anderson, what is the period of a limited term?

SENATOR BARRETT-ANDERSON: One year and temporaries are 120.

SENATOR BLAZ: So, if it extends to a year then I guess the point is moot, that's okay, I will withdraw then my concern of the ninety days, I thought that limited-term appointments are usually just ninety days, the ninety day wonders, I thought that's where we got that.

THE CHAIR: One year. Senator Pangelinan.

SENATOR PANGELINAN: I just want to say, of course, that it's critical that we get qualified teachers in the classroom and obviously some of the problems we have with regards to the law we passed needs to be fixed and I think this is the way of fixing it I also want to say that I agree with Senator Barrett-Anderson that limited-term appointments are a management tool; they are a campaign management tool.

THE CHAIR: Thank you. Senator Camacho, then Senator Forbes.

SENATOR CAMACHO: I just want to touch a bit on some of the comments made by my colleague, Senator Barrett-Anderson on LTA's. I understand, yeah, the intent behind many of the rules and regulations that this legislative body passes in the creation of positions such as LTA's or temporary hires and so forth. The intent is always good but the bureaucracy in this government always seems to find a way to take what's good and abuse it. In the LTA positions, in critical situations such as what Senator Barrett-Anderson had mentioned, it is used as a management tool but realistically and practically, for the most part, it is used, as Senator Pangelinan mentioned, for political hires and throughout the years I have been in government, which is a very limited amount of time, but my eyes have been wide open, there is not one LTA that I know of that has not eventually become a permanent position. So it's used as an avenue to get employees into the government and as the old saying goes, "we'll get you in and we'll find a way to permanize you". That is my concern on the LTA's. So, again, for the sake of maintaining LTA as a management tool I can understand that but the practical application of it in the government and how governors and administrators have used it, it has abused the intent of what was originally a good and well-intended piece of legislation to serve as a management tool, and that is my concern in this whole thing. It's been used by governors and administrations throughout the years to get some one in, and as long as we get you in, buddy, we're going to permanize you, and we will find a way. That is my concern, you know. Thank you, Mr. Speaker.

THE CHAIR: Thank you, Senator Camacho. Perhaps the next speaker can enlighten the group. Governor Forbes.

SENATOR M. FORBES: Actually, Mr. Speaker. Mr. Speaker, because you are assuming the seat that you are in today, I have noticed the absence of the type of rhetoric that you normally provide, and therefore I intend to provide, I intend to fill that gap in providing the rhetoric that normally you will provide to this body.

I would like to inject a note of reality on this a little bit, everyone who had spoken on this issue so far has spoken on an element of truth. It is true that in many aspects of Government of Guam hiring, including the classified service, there is a political element, including the classified service. It is also true that in many circumstances LTA's are required for simple managerial reasons. It is the quickies way to get some body on board, if you need some body on board. Everyone has spoken an element of truth and I want to inject one more element of truth, the fact of the matter is that the practice of using LTA is so wide spread in the Government of Guam that I would not be surprised if there are literally hundreds of GovGuam workers who right now are sitting in a limited-term appointment. Now, if this language does not get changed, quite frankly, I am of the opinion that the ninety-day provision needs to be taken a look at in terms of the practical applications of that. If this language is not changed, then every time one of those individuals who is on an LTA and that is not just the people who are hired by the Gutierrez Administration. There are people who were hired during the Ada Administration who are still on LTA's working in the Government of Guam, hundreds. Every time their anniversary date comes up they are fired because the ninety day provision says that that position must be vacant therefore that person is going to loose his job. There is a practical aspect to this, folks, if we passed this or if we allow the language to stand, then we are, as best as I can figure out right now, with my non-legal view condemning potentially hundreds and hundreds of GovGuam workers to termination this fiscal year, maybe someone thirty days from now because their anniversary date comes up, maybe someone forty five days from now because their anniversary came up, and now if that's what we want to do, you know, I will go with the will of the body here, but I just want to ask the body, do you want to see all of our Rapid Response at PWC fired in the next, in this fiscal year? Because most of the people that am aware of at Rapid Response are LTA'S. Is that what we want to have happen? I don't think it is and I think we need, you know, a lot of times we dance around this but we just need to come face to face with this simple fact. Do we want to be responsible for dis-

employing hundreds and hundreds of GovGuam workers. Is that what we want to do? Is that our interest? I think if we're concerned about fiscal responsibility we've made a very strong statement for fiscal responsibility by a simple virtue of the fact that for the first time in my memory, which is not universal, but for the first time in my memory, this Legislature has passed a budget that is substantially less than the identified revenues for the first time. Every other budget that I have ever seen is either right on the revenue nose. In other words, every dime that can be appropriated is appropriated or on other legislatures the revenue projection jumps by twenty or thirty million dollars in order to accommodate a requirement, so I think we've already taken a strong stand in terms of keeping the costs of government as low as we can, there is a lot of other things we can do. I'll grant you that. But we have made some progress. My question to the body is: Do we want to make that progress on the backs of hundreds and hundreds of potentially GovGuam employees who work for almost every department and agency in the Government of Guam? I don't think so.

THE CHAIR: Si Yuus Maase, Senator Forbes. The last speaker is Senator Barrett-Anderson. On the amendment to the amendment.

SENATOR BARRETT-ANDERSON: I am going to make an amendment to my amendment, and this is to take into consideration, and I ask anyone to certainly consider these words that section (b) is a hiring freeze and if you all remember about three or four, I would like to delete "Section (b)" entirely. That is my amendment.

Section (b) is a hiring freeze section, if you recall several months ago, in May, we were working very feverishly to have a hiring freeze and we had prepared (buccal) language to carefully exempt certain positions, make sure we don't foul up Government of Guam by the hiring freeze. Hearing what Senator Blaz was taking about, we did not seriously consider the impact of a ninety day hiring freeze when we passed the vacancy section in Bill 233. We had no problem with the fact that we were reducing the funding by fifty

percent of any vacancy that occurs in 1996 budget year, but did we understand the impact of a ninety day hiring freeze when those vacancies occur? It means not only that we for ninety days we cannot hire a limited term, a temporary employee. It means we cannot hire anybody in a classified service for ninety days. Senator Forbes has indicated that if, let's say tomorrow, there is a warm body out there who is a limited term appointment or temporary appointment or classified appointment is ended, that LTA temporary employee cannot be re-appointed for ninety days, that person is without a job, that person is without a pay check for ninety days. It is very very serious and I don't think we looked at this provision as a hiring freeze and talk enough about it. In consideration for what Senator Blaz is talking about and Senator Forbes is talking about, then, I would like to take out "Section (b)" of my amendment.

THE CHAIR: Section (b)?

SENATOR SAN AGUSTIN: And in lieu thereof, add the Pangelinan amendment and make it as a (b).

SENATOR BARRET-ANDERSON: I am not eliminating the Pangelinan amendment.

SENATOR SAN AGUSTIN That's what I mean, so Pangelinan's amendment will be a (b).

SPEAKER: Senator, you are withdrawing your amendment?

SENATOR BARRETT-ANDERSON: No

SENATOR SAN AGUSTIN: No, No. She is only deleting line 4 of this, (b).

SENATOR BARRET-ANDERSON: My amendment will have the provision of subsection (a). (b) will be eliminated; (b) will be replaced by Senator Pangelinan's exemption for the Department of Education.

SENATOR SAN AGUSTIN: No objection.

SPEAKER: Line 4 all the way to line 8 will be deleted, and in lieu thereof to be substituted by the Pangelinan version.

SENATOR SAN AGUSTIN: That's right. No objection.

THE CHAIR: Any objection?

SENATOR SAN AGUSTIN: I move for the previous question.

THE CHAIR: On the amendment, as amended. Senator Pangelinan.

SENATOR PANGELINAN: So, is my amendment now a stand alone amendment? Oh, okay.

SENATOR SAN AGUSTIN: It's (a) and (b); yours become (b).

SENATOR PANGELINAN: What am trying to do is, the main concern of my amendment, maybe I need to further amend my amendment, as the last speaker, is we have some teachers that have retired to take advantage of the COLA, basically, and I think it's those positions that are critical because, according to the Department of Education, we went into the new year fully staffed and the problem with the understaffing was created for those that stayed on board and retired before September 30, to take advantage of the COLA provision, so I don't want to open it up and put this thing in, you know, send everything (asunder) here but I do want to rectify the problems of those vacant classrooms of qualified teachers now that was a provisions of those retirement, so perhaps I don't know if, I mean I want it to state that because that's the intent of my amendment. It's not to give DOE *carte blanche* to hire for all the vacancies. It is to give them the authority and the flexibility to hire for those vacancies that were created due to, yeah, so, so and so, maybe, I've been talking to some of the Bureau of BBMR staff and I would like to further amend by further amending that portion of that amendment to say "to hire". I will try to restructure this as I

go along and to setup a cut-off date that they can hire those, for those vacancies that were created, that became vacant, after, that were filled and became vacant after the beginning of the school year up to September 30, 1995. So that it is only those, see those were the guys that left, the other vacancies were never in the classrooms. It is those people that were in the classrooms and in the schools that have left due to the COLA restrictions in the bills that we passed, that have then taken advantage and retired and have created a void now and those are the ones I want to replace. I don't want, again let me say that am very conscious of the fiscal integrity of the bill that we are trying to pass, and of Senator Santos' work with regards to the vacancies, and that's what am trying to address.

THE CHAIR: Could you repeat that? Senator Pangelinan., repeat that for the Legal Counsel and the Recording Secretary.

SENATOR PANGELINAN: The restrictions are for those positions that were filled at the beginning of the school year and became vacant as of September or October 1, 1995..

THE CHAIR: Will you write that down and bring it up here?

SENATOR SAN AGUSTIN: Let me just clarify.

SENATOR PANGELINAN: The school base positions.

SENATOR SAN AGUSTIN: That means that if it was vacant in December 1,1995, it is subject to the restriction?

SENATOR PANGELINAN: No, I shouldn't be, I don't want it to be, okay?

SENATOR SAN AGUSTIN: The way you worded it is the only ones vacant as of September 30, and so October 1 of this year, they can fill it.



SENATOR PANGELINAN: And other positions that become vacant during the school year.

SENATOR SAN AGUSTIN: I don't know, your language is just as blanket that they exempt. Period.

SENATOR PANGELINAN: No, because there are some vacancies that were never filled when the school year began, am excluding those vacancies.

THE CHAIR; Senator Camacho, on Pangelinan's amendment.

SENATOR CAMACHO: Mr. Speaker am just trying to understand the amendment proposed by Senator Pangelinan. I can understand it on one aspect of it and that he's trying to limit the impact, the financial impact on the exemption for all vacancies, the blanket exemption for all vacancies within DOE for teaching positions. Secondly, by restricting it and having a cutoff date, I think Senator Pangelinan, from what I understand, is trying to identify these critical positions that are affected in the classrooms due to retirement, and I'm wondering if the author of this amendment has any specific number, on the number of positions that we're talking about here. BBMR personnel had told me it is in excess of seventy, seventy-seven or so some odd positions. Ben, do you happen to know?

SENATOR PANGELINAN: I think there are about seventy to ninety.

SENATOR CAMACHO: About seventy to ninety positions, so at least we have some idea on the financial impact that this vacancy amendment will have on the overall budget. Then another point of concern, I think that perhaps Senator Pangelinan's amendment clearly identifies is under teaching positions there are some positions that are neither "fish" nor "fowl". For example, school health counselors, which are in effect registered nurses, that for some reason or another are considered teaching positions. Now, again, that is not a classroom positions. Do these fall under that if

it's school base positions, it is school base positions, it's still a teacher position although it's not in the classroom. Now, how do you handle a situation like that? So, anyway, these are just some of the points, at least with my interpretation on Senator Pangelinan's amendment.

THE CHAIR: Any other speaker on Senator Pangelinan's amendment? Senator Barrett-Anderson.

SENATOR BARRETT-ANDERSON: Senator Pangelinan, if you will yield?

SENATOR PANGELINAN: I yield.

SENATOR BARRETT-ANDERSON: Currently, the vacancy provision as it has been amended, amended, and amended, has fifty percent freeze on funding from the General Fund, so then your provisions, you are trying to get to the point that any vacancy that has occurred in a teaching position because of retirement would not be restricted by that fifty percent. What about a position that became vacant in May of last school year? Generally, most of the vacancies, by May, are filled as of the school year opening, that's correct.

SENATOR PANGELINAN: Yes, and the report by the Board of Education at the beginning of the school year was that all teaching positions were filled.

SENATOR BARRETT-ANDERSON: Then what I would like to suggest that perhaps the language as it is currently written that says "all classified positions funded by the general fund hundred percent which are vacant as of October 1, 1995 shall be funded at fifty percent and that your provisions at all restrictions on that fifty percent funding does not apply to DOE. Wouldn't that take care of everybody, because we have identified in the first part of October 1. All vacancies as of October 1 shall be funded at fifty percent but DOE is exempted from that fifty percent freeze. Is that what you're trying to accomplish?

SENATOR PANGELINAN: No, no, no.

SENATOR BLAZ: Point of information. By doing that then we will defeat the amendment that Senator Santos had tried to do earlier, from one hundred fifty million to one hundred forty seven. We don't want to do that.

SENATOR SANTOS: Why don't we just delete Section 8. Let's just wipe out "vacancies". Why are we so concerned? We already agreed; we exempt one, we exempt everybody else.

SENATOR PANGELINAN: Here's the language: "All restrictions in filling the vacancies within the Department of Education with regards to school base instructional and principal positions are hereby exempted for those positions that were filled at the beginning of the 1995 school year and became vacant after October 1, 1995."

THE CHAIR: On the Pangelinan amendment to the amendment. As many as are in favor, say "aye"; as are opposed, say "nay".

SENATOR F. E. SANTOS; No.

THE CHAIR: The "ayes" has it. On the amendment, as amended. As many as are in favor say "aye"; those opposed say "nay".

SENATOR F. E. SANTOS: No.

THE CHAIR: As many as are in favor of the amendment by Senators Pangelinan and Barrett, as amended, please signify by raising your hand. It needs eleven votes. Count fan. Raise them up, please. One, two, three, four, five, six, seven, eight, nine, ten votes; plus my vote made it possible...You owe me one, Ben. . . "

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

Introduced

MAR 13 1995

BILL NO. 159(LS)

Introduced by:

Judith Won Pat-Borja

Hope A. Cristobal

Lou Leon Guerrero

*2. e. A. ...*

*V. C. ...*

**An Act Authorizing Public Access to Guam Public  
School System Facilities During School Off-hours.**

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

2 Section 1. Legislative Statement. The Legislature notes that many

3 communities throughout Guam lack access to special types of public facilities

4 such as gyms, libraries, facilities to conduct soccer, football, baseball and

5 track events, meeting halls and the like. Over the years, many communities

6 have grown to the extent that the public buildings and facilities situated in these

7 communities are ill-equipped, too small or inappropriate to accomodate the

8 many and diverse needs of residents. On the other hand, Guam's public school

9 facilities have for the most part kept abreast with the growth and needs of the

10 community from an educational and a physical development perspective. The

11 Legislature feels that some of the benefits derived from a fairly modern and

12 well-equipped school facility could also be enjoyed by the residents of

1 communities who host the schools. There is a strong desire in the community to  
2 bring families, the youth, civic groups and the residents closer together so that  
3 problems of the community can be addressed in a manner that generates full  
4 participation greater involvement of the people who live in the communities  
5 themselves. It is the sense of the Legislature that many of Guam's public school  
6 facilities could open its doors during school off-hours to accommodate certain  
7 needs of the community such as sports and recreation events, library services,  
8 seminar and meeting facilities, classrooms, etc.

9       **Section 2. Legislative Intent.**     The intent of this Act is to allow  
10 community residents through coordination with their respective Mayor, to  
11 utilize facilities such as classrooms, gymnasiums, sports fields, libraries,  
12 cafeterias, etc. during school off-hours. It is envisioned by the Legislature that  
13 the Mayors of Guam, having greater access to such facilities, will use this  
14 opportunity to augment the community's capacity to serve its residents while at  
15 the same time encourage a greater number of community-based and supervised  
16 activities for the benefit of residents. By enacting and implementing the  
17 provisions of this measure, the Legislature intends to strengthen community  
18 interaction, involvement and communication. The most important feature of  
19 this Act is perhaps the opportunities that it creates for bonding youth, parents

1 and members of the community together to collectively tackle problems that  
2 affect the community and its residents as a whole.

3       **Section 3. Authorization.** The Mayors of Guam shall develop a plan for  
4 their respective village or municipality indicating how and what Guam Public  
5 School System facilities could be opened for joint use during school off-hours.  
6 The Mayors shall submit a "Facility Access Plan" to the Board of Education of  
7 the Guam Public School System for approval. Said plan shall indicate but not  
8 be limited to the name of the public school facility, its location, the proposed  
9 use, the requested hours of operation (during school off-hours) and the manner  
10 in which the Mayors will manage, supervise, maintain and safeguard the  
11 facility authorized and opened for community use by approval of the Board of  
12 Education. The Board of Education shall develop guidelines to manage the  
13 arrangements that shall apply to those facilities identified by a respective  
14 Mayor for joint use during school off-hours. Said guidelines shall be adhered  
15 to by the Mayor, the Municipal Planning Council and the residents of any  
16 respective community who elects to access public school facilities during school  
17 off-hours. Responsibility for implementation of this program shall rest with the  
18 Mayors and the Board of Education subject to the terms and conditions agreed  
19 to by both. Responsibility for securing and safeguarding public facilities during  
20 school off-hours shall rest with the Mayor requesting usage.