



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 20 1997

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>11:20am</u>
Date	<u>3/20/97</u>

Dear Speaker Unpingco:

Enclosed please find a copy of Bill No. 24 (COR), "AN ACT TO ADD A NEW SUBSECTION (c) TO §4405 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE APPOINTMENT OF AN ADMINISTRATIVE LAW JUDGE, OR JUDGES, FOR THE CIVIL SERVICE COMMISSION.", which I have **signed** into law today as **Public Law No. 24-08**.

This legislation allows the Civil Service Commission to hire an attorney to serve as an Administrative Law Judge, to hear arguments and make decisions on matters of law or procedure which usually occur prior to hearing a case on the merits, or facts.

This would free up a good deal of the time of the members of the Civil Service Commission. At this time, many cases are backlogged because much time of the entire Commission is taken up with hearing attorney arguments of procedural motions and legal issues. The Commission must make a ruling on these items prior to hearing any facts of the cases. If an attorney made preliminary rulings on these matters, which the Civil Service Commission could review quickly and uphold or not, as the case may be, the Commission would have a great deal more time to listen to the facts of the cases at hand, and make decisions accordingly.

This legislation does not mandate that an Administrative Law Judge be hired, but will allow this to happen, either on a part time or full time basis.

Very truly yours,

[Signature]
Carl T. C. Gutierrez

Attachment
00106

Office of the Speaker
ANTONIO R. UNPINGCO
Date: 3/20/97
Time: 10:30am
Rec'd by: [Signature]
Print Name: Monique

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

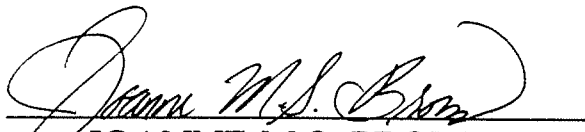
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 24 (COR), "AN ACT TO ADD A NEW SUBSECTION (c) TO §4405 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE APPOINTMENT OF AN ADMINISTRATIVE LAW JUDGE, OR JUDGES, FOR THE CIVIL SERVICE COMMISSION," was on the 8th day of March, 1997, duly and regularly passed.



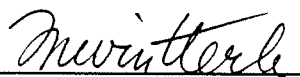
ANTONIO R. UNPINGCO
Speaker

Attested:




JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by the Governor this 12th day of March,
1997, at 8:40 o'clock A.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 3-20-97

Public Law No. 24-08

**TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session**

Bill No. 24 (COR)

As further substituted by
the Committee on Rules,
Government Reform and
Federal Affairs, and
amended on the floor.

Introduced by:

Felix P. Camacho
E. Barrett-Anderson
L. F. Kasperbauer
A. R. Unpingco
A. C. Blaz
J. M.S. Brown
E. J. Cruz
Mark Forbes
A. C. Lamorena V
C. M. Leon Guerrero
J. C. Salas
T. C. Ada
F. B. Aguon, Jr.
Francisco P. Camacho
M. C. Charfauros
W. B.S.M. Flores
L. Leon Guerrero
V. C. Pangelinan
A. L.G. Santos
F. E. Santos
J. WonPat-Borja

**AN ACT TO ADD A NEW SUBSECTION (c) TO §4405
OF TITLE 4 OF THE GUAM CODE ANNOTATED,
RELATIVE TO THE APPOINTMENT OF AN
ADMINISTRATIVE LAW JUDGE, OR JUDGES, FOR
THE CIVIL SERVICE COMMISSION.**

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

2 **Section 1. Legislative Findings and Intent.** The Guam Legislature finds

1 that the Civil Service Commission (CSC), prior to an exemption, was required in
2 accordance with the Administrative Adjudication Act, to provide for a hearing
3 officer, who was an attorney, to preside over every case in which the legal rights,
4 duties or privileges of specific parties were required by law to be determined after a
5 hearing (GCA §24113). In early 1981, after the massive DOE/GFT strike more
6 than 900 government of Guam teachers were suspended from duty. Of that number
7 more than 700 were eventually terminated from their jobs. The CSC was faced for
8 the first time in its existence with adverse action appeal cases of an overwhelming
9 magnitude. Pursuant to §24113, the CSC employed, on a retainer basis, an on-
10 island counsel to act as a hearing officer. The Attorney General's Office could not
11 provide for an attorney to serve as a hearing officer for the CSC because of a
12 conflict of interest. After conducting two (2) cases the CSC was without adequate
13 funding to continue to retain private counsel to act as a hearing officer. The CSC
14 sought, and was granted, an exemption from the requirement of §24113.

15 The caseload of the CSC continues to be tremendous. Government employees,
16 who have had an adverse action taken against them, such as demotion, suspension or
17 dismissal, are very likely to appeal their cases before the Commission. Most
18 members do not come to the Commission with any judicial or quasi-judicial
19 experience, and none to date is legally trained. Commission members who must
20 preside over the course of an administrative trial, with lawyers engaging in
21 sometimes intense trial maneuvers, are placed under a tremendous, and sometimes
22 unfair, burden. In addition, because most Commission members have full jobs
23 elsewhere, hearings are required to be held during limited evening hours. This
24 limitation on when hearings can take place is one factor in the growing caseload of
25 the Commission.

26 The Guam Legislature finds that it is in the best interest of the employees of the
27 government of Guam, the CSC, the government agencies and the appeals process to
28 alleviate the pressure placed on the CSC by employing the use of an Administrative
29 Law Judge (ALJ), or judges, to conduct the hearings and administrative trials. An
30 ALJ would expedite the disposition of all adverse action caseloads. Hearings and

1 trials would be set during the course of working hours, with the full support of the
2 Commission's staff being present. Parties to the action and their counsel would also
3 be more readily available during normal working hours. Parties would be allowed
4 sufficient and ample time within the course of regular working hours to present full
5 and complete cases. Continuances could be greatly reduced, and cases would be set
6 more frequently for final disposition. Trial advocacy would be under the control of
7 the ALJ, subject to all appropriate rulings and sanctions as deemed necessary for the
8 proper conduct of the hearing.

9 Any decision of the ALJ would be subject to review and approval of the CSC,
10 after which such decision would become final, subject only to appeal before the
11 Superior Court of Guam.

12 **Section 2.** Section 4405 of Title 4 of the Guam Code Annotated is hereby
13 amended by adding a new Section (c) to read as follows:

14 "§4405(c). The Commission may employ an Administrative Law Judge
15 (ALJ), full or part-time, to assist the Commission with the adjudicatory
16 responsibilities, or the Commission may retain a private attorney or attorneys to
17 serve as an ALJ on a case-by-case basis. A decision by the ALJ shall be forwarded
18 for review to the Commission, which shall accept or reject in its entirety, the ALJ's
19 decision. The ALJ shall follow procedures approved by the Commission, adopted in
20 compliance with the Administrative Adjudication Law. An ALJ must be a Guam-
21 licensed attorney."