



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JUN 18 2002

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Sais na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature
Suite 200
130 Aspinal Street
Hagåtña, Guam 96910

Dear Legislative Secretary Brown:

Enclosed please find Bill No. 323 (COR) "AN ACT TO ADD ARTICLE 13 TO CHAPTER 5 OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING MINIMUM AND PREVAILING WAGE DETERMINATIONS, LEAVE REQUIREMENTS AND BENEFIT REQUIREMENTS FOR EMPLOYEES OF SERVICE AND OTHER CONTRACTORS OF THE GOVERNMENT OF GUAM" which I have signed into law as **Public Law No. 26-111**.

Very truly yours,

Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachments: original bill for vetoed legislation or
copy of bill for signed or overridden legislation
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco
Speaker

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>CE</u>
Time	<u>2:53pm.</u>
Date	<u>06/18/02</u>

0841

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

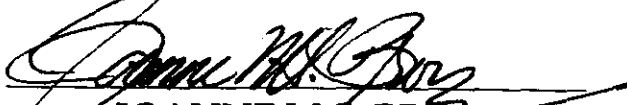
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 323 (COR), "AN ACT TO ADD ARTICLE 13 TO CHAPTER 5 OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING MINIMUM AND PREVAILING WAGE DETERMINATIONS, LEAVE REQUIREMENTS AND BENEFIT REQUIREMENTS FOR EMPLOYEES OF SERVICE AND OTHER CONTRACTORS OF THE GOVERNMENT OF GUAM" was on the 17th day of May, 2002, duly and regularly passed.




ANTONIO R. UNPINGCO
Speaker

Attested:



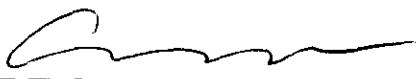
JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 6th day of June, 2002,
at 11:35 o'clock a.M.



Assistant Staff Officer
Maga'laha'i's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guåhan

Date: 6-18-02

Public Law No. 26-111

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>EC</u>
Time	<u>2:53pm</u>
Date	<u>06/18/02</u>

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

Bill No. 323 (COR)

As amended by the Committee
on Rules, General Governmental
Operations, Reorganization, Reform,
and Federal, Foreign and General Affairs
and further amended.

Introduced by:

Mark Forbes
V. C. Pangelinan
J. M.S. Brown
J. F. Ada
T. C. Ada
F. B. Aguon, Jr.
E. B. Calvo
F. P. Camacho
M. C. Charfauros
L. F. Kasperbauer
L. A. Leon Guerrero
K. S. Moylan
A. L.G. Santos
A. R. Unpingco
J. T. Won Pat

**AN ACT TO ADD ARTICLE 13 TO CHAPTER 5 OF
TITLE 5 OF THE GUAM CODE ANNOTATED,
RELATIVE TO ESTABLISHING MINIMUM AND
PREVAILING WAGE DETERMINATIONS, LEAVE
REQUIREMENTS AND BENEFIT REQUIREMENTS
FOR EMPLOYEES OF SERVICE AND OTHER
CONTRACTORS OF THE GOVERNMENT OF GUAM.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that there are no prevailing wages, or set benefits, established for
4 employees of private contractors awarded service and other contracts by the
5 government of Guam, *except* to the extent that the minimum wage law
6 applies, and specifically to the extent that the Federal prevailing wage applies
7 to construction contractors.

8 This lack of minimum standards sets an insecure and uneven playing
9 field for businesses wishing to do business with the government of Guam in
10 the service area. Moreover, and more critically, it forcefully depresses wages
11 and benefits among employees of firms doing business with the government
12 of Guam, as firms are compelled to reduce bids in order to remain
13 competitive with other bidders. *I Liheslaturan Guåhan* finds this to be
14 inequitable and detrimental for the employees of these private firms.

15 **Section 2.** Article 13 is hereby *added* to Chapter 5 of Title 5 of the Guam
16 Code Annotated to read as follows:

17 **"ARTICLE 13.**

18 **WAGE AND BENEFIT DETERMINATION.**

19 **Section 5801. Wage Determination Established.** In such
20 cases where the government of Guam enters into contractual
21 arrangements with a sole proprietorship, a partnership or a corporation
22 ('contractor') for the provision of a service to the government of Guam,
23 and in such cases where the contractor employs a person(s) whose
24 purpose, in whole or in part, is the direct delivery of service contracted

1 by the government of Guam, then the contractor shall pay such
2 employee(s) in accordance with the Wage Determination for Guam and
3 the Northern Mariana Islands issued and promulgated by the U.S.
4 Department of Labor for such labor as is employed in the direct delivery
5 of contract deliverables to the government of Guam.

6 The Wage Determination most recently issued by the U.S.
7 Department of Labor at the time a contract is awarded to a contractor by
8 the government of Guam shall be used to determine wages, which shall
9 be paid to employees pursuant to this Article. Should any contract
10 contain a renewal clause, then at the time of renewal adjustments, there
11 shall be made stipulations contained in that contract for applying the
12 Wage Determination, as required by this Article, so that the Wage
13 Determination promulgated by the U.S. Department of Labor on a date
14 most recent to the renewal date shall apply.

15 **Section 5802. Benefits.** In addition to the Wage
16 Determination detailed in this Article, any contract to which this Article
17 applies shall also contain provisions mandating health and similar
18 benefits for employees covered by this Article, such benefits having a
19 minimum value as detailed in the Wage Determination issued and
20 promulgated by the U.S. Department of Labor, and shall contain
21 provisions guaranteeing a *minimum* of ten (10) paid holidays per annum
22 per employee.

23 **Section 5803. Department of Labor Monitoring and**
24 **Penalizing Authority.** The Guam Department of Labor, or its
25 successor, shall monitor compliance with the provisions of this Article.

1 The Director of the Department of Labor, or that person's successor,
2 shall investigate possible or reported violations of the provisions of this
3 Article, and shall forward such findings to the Chief Procurement
4 Officer of the General Services Agency, or that person's successor.

5 The Department of Labor, or its successor, shall promulgate rules
6 and regulations, pursuant to the Administrative Adjudication Law, as
7 needed to ensure the equitable investigation of violations and the
8 maintenance of due process, as well as the assessment of monetary
9 penalties in the event of a violation, providing that such monetary
10 penalties shall be limited to the assessment of daily penalties of *no less*
11 *than* One Hundred Dollars (\$100.00) per day, and *no more than* One
12 Thousand Dollars (\$1,000.00) per day, until such time as a violation has
13 been corrected, as well as the payment of all back wages and benefits
14 due.

15 **Section 5804. Probation and Appeal.** A contractor who
16 violates the provisions of this Article, as determined by the process
17 authorized in § 5803 of this Article, may be placed on a probationary
18 status by the Chief Procurement Officer of the General Services Agency,
19 or its successor, for a period of one (1) year. During such probationary
20 status, a contractor shall *not* be awarded any contract by any
21 instrumentality of the government of Guam. A contractor who has been
22 placed on probationary status pursuant to this Article, or who has been
23 assessed a monetary penalty pursuant to this Article, may appeal such
24 penalty or probationary status to the Superior Court of Guam."



MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN

Kumitehan Areklamento, Hina'ao Guå etnamenton Hini'at, Rifotma yan Rinueba,
yan Asunton Fidirat, Taotao Hiyong yan Hini'at

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurat*

17 MAY 2002

Speaker Antonio R. Unpingco
I Mina' Bente Sais Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 323, was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 323, as amended**, "An Act To Add A New Article 13, To Chapter 5, Division 1, 5GCA To Establish Minimum And Prevailing Wage Determinations, Leave Requirements And Benefit Requirements For Employees Of Service And Other Contractors Of The Government Of Guam In Order To Ensure Equitable Treatment Of Private Sector Employees And A Level Playing Field For All Contractors Doing Business With The Government Of Guam."

The voting record is as follows:

TO PASS	<u>6</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>
TO REPORT OUT	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.


MARK FORBES

Attachments

6

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 5/17/02

VOTING SHEET

Bill No. 323 (COR)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.					✓
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.					✓
WON PAT, Judith T.	✓				

TOTAL

13 0 0 0 2

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

2nd
5/17/02 *3rd*
5/17/02

6
5/17/02

**MINA'BENTE SAIS NA LIHESLATURAN GUAHAN
2002 (SECOND) Regular Session**

Bill No. 323 (COR)

as amended by the committee
Introduced by: _ _

Mark Forbes
v.c. pangelinan
J.M.S. Brown

AN ACT TO ADD A NEW ARTICLE 13, TO CHAPTER 5, DIVISION 1, 5GCA TO ESTABLISH MINIMUM AND PREVAILING WAGE DETERMINATIONS, LEAVE REQUIREMENTS AND BENEFIT REQUIREMENTS FOR EMPLOYEES OF SERVICE AND OTHER CONTRACTORS OF THE GOVERNMENT OF GUAM IN ORDER TO ENSURE EQUITABLE TREATMENT OF PRIVATE SECTOR EMPLOYEES AND A LEVEL PLAYING FIELD FOR ALL CONTRACTORS DOING BUSINESS WITH THE GOVERNMENT OF GUAM.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Intent. I Liheslaturan Guahan finds that there are no prevailing wages, or set benefits established for employees of private contractors awarded service and other contracts by the government of Guam except to the extent that the minimum wage law applies and specifically to

1 the extent that the federal prevailing wage applies to construction contractors.
2 This lack of minimum standards sets an insecure and uneven playing field for
3 businesses wishing to do business with the government of Guam in the
4 service area. Moreover and more critically, it forcefully depresses wages and
5 benefits among employees of firms doing business with the government of
6 Guam, as firms are compelled to reduce bids in order to remain competitive
7 with other bidders. I Liheslatura finds this to be inequitable and detrimental
8 for the employees of these private firms.

9
10 **Section 2.** A new Article 13 is added to Chapter 5, Division 1, 5CGA to
11 read:

12 **“Article 13**

13 **WAGE AND BENEFIT DETERMINATION**

14 **Section 5801. Wage determination established.** In such cases where
15 the government of Guam enters into contractual arrangements with a sole
16 proprietorship, a partnership or a corporation (hereinafter referred to as the
17 contractor) for the provision of a service to the government of Guam, and in
18 such cases where the contractor employs a person or persons whose purpose,
19 in whole or in part, is the direct delivery of service contracted by the
20 government of Guam, then the contractor shall pay such employee or
21 employees in accordance with the Wage Determination for Guam and the
22 Northern Marianas Islands issued and promulgated by the United States
23 Department of Labor for such labor as is employed in the direct delivery of
24 contract deliverables to the government of Guam. The Wage Determination
25 most recently issued by the United States Department of Labor at the time a

1 contract is awarded to a contractor by the government of Guam shall be used
2 to determine wages which shall be paid to employees pursuant to this Article.
3 Should any contract contain a renewal clause, then at the time of renewal
4 adjustments shall be made to stipulations contained in that contract for
5 application of the Wage Determination as required by this Article so that the
6 Wage Determination promulgated by the United States Department of Labor
7 on a date most recent to the renewal date shall apply.

8 **Section 5802. Benefits.** In addition to the Wage Determination detailed
9 in this Article, any contract to which this Article applies shall also contain
10 provisions mandating health and similar benefits for employees covered by
11 this article, such benefits having a minimum value of as detailed in the Wage
12 Determination issued and promulgated by the U.S. Department of Labor and
13 shall contain provisions guaranteeing a minimum of ten (10) paid holidays
14 per annum per employee.

15 **Section 5803. Department of Labor to monitor and assess penalties**
16 **for violations.** The Guam Department of Labor, or its successor, shall
17 monitor compliance with the provisions of this Article. The Director of the
18 Department of Labor, or his successor, shall investigate possible or reported
19 violations of the provisions of this Article and shall forward such findings to
20 the Chief Procurement Officer of the General Services Agency, or his
21 successor. The Department of Labor, or its successor, shall promulgate rules
22 and regulations, pursuant to the Administrative Adjudication Act, as needed
23 to ensure the equitable investigation of violations and the maintenance of due
24 process, as well as the assessment of monetary penalties in the event of a

1 violation, providing that such monetary penalties shall be limited to the
2 assessment of daily penalties of no less than one hundred dollars (\$100.00) per
3 day and no more than one thousand dollars (\$1,000.00) per day, until such
4 time as a violation has been corrected, as well as the payment of all back
5 wages and benefits due.

6 **Section 5804. Probation and appeal.** A contractor who violates the
7 provisions of this Article, as determined by the process authorized in section
8 5803. of this Article, may be placed on a probationary status by the Chief
9 Procurement Officer of the General Services Agency, or its successor, for a
10 period of one (1) year. During such probationary status, a contractor shall not
11 be awarded any contract by any instrumentality of the government of Guam.
12 A contractor who has been placed on probationary status pursuant to this
13 Article, or who has been assessed a monetary penalty pursuant to this Article,
14 may appeal such penalty or probationary status to the Superior Court of
15 Guam."



MINA ' BUNTE SAIS NA LIHESI ATURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gebilu
Kabisiyon Mayurát*

14 MAY 2002

MEMORANDUM

TO: Chairman
Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs

FROM: Chairman
Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs

SUBJECT: Principal Referral - Bill No. 323 (LS)

The above bill is referred to your Committee as the Principal Committee, in accordance with Section 6.04.05.01. of the Standing Rules. Your Committee is the Committee authorized to perform the public hearing on this bill and to amend or substitute the bill, as well as report the bill out to the Body. It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment





MINA 'YENTE SAIS NA LIHEF ATURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asuntón Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gebilu
Kabisiyon Mayurát*

14 MAY 2002

MEMORANDUM

TO: Committee Members

FROM: ~~Chairman~~
Committee on Rules, General Governmental Operations,
Reorganization and Reform, and Federal, Foreign
and General Affairs

SUBJECT: Public Hearing – 9:30 A.M., Wednesday, May 15, 2002

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs will conduct a Public Hearing beginning at 9:30 a.m. on Wednesday, May 15, 2002 in the Conference Room of the Office of Vice Speaker Larry Kasperbauer, Temporary Legislature Building in Hagatña.

The following Bill will be on the Agenda:

* **Bill No. 323:** An Act to establish minimum and prevailing wage determinations, leave requirements and benefit requirements for employees of service and other contractors of the government of Guam in order to ensure equitable treatment of private sector employees and a level playing field for all contractors doing business with the government of Guam.

I invite all senators to attend and look forward to your input and participation.

Thank you and si Yu'os ma'ase.

MARK FORBES
Senator

cc: Protocol
Audio
All Media

MAY 14' ~ MAY 15'

ACTIVITY REPORT (SEND)

NO.	REMOTE STATION	MODE	START	DURATION	PAGES	RESULT	NOTE
006	25th GUAM LEGISLATUR	STD	14,10:47	00'44	01	OK	SEND
007	GUAM LEGISLATURE	STD	14,10:51	00'42	01	OK	SEND
008	4725084	STD	14,15:50	01'17	01	OK	SEND
009	COMMITTEE ON JUDICIA	STD	14,16:40	00'44	01	OK	SEND
010	SEN. THOMAS C. ADA	STD	14,16:41	00'44	01	OK	SEND
011	4724090	STD	14,16:42	00'47	01	OK	SEND
012	4724100	STD	14,16:43	00'47	01	OK	SEND
013	4723534	STD	14,16:45	00'46	01	OK	SEND
014	6714752000	STD	14,16:47	00'39	01	OK	SEND
015	4723591	STD	14,16:48	00'38	01	OK	SEND
016	+6714723440	STD	14,16:49	00'40	01	OK	SEND
017	+6714723556	STD	14,16:50	00'40	01	OK	SEND
018	6714723562	STD	14,16:52	00'39	01	OK	SEND
DN (-57) 019	4773079	STD	14,16:53	00'43	01	OK	SEND
020	671 477 5700 137	STD	14,16:55	00'50	01	OK	SEND
UAM uam activity 021	KUAM NEWS	STD	14,16:57	00'41	01	OK	SEND
022	6716482007	STD	14,16:58	00'39	01	OK	SEND
001	BARRIGADA MAYORS .	STD	15,08:02	01'07	02	OK	SEND
002	671+477+7131	STD	15,08:07	01'06	02	OK	SEND
003	671+477+7131	STD	15,08:27	00'39	01	OK	SEND

ACTIVITY REPORT (RECEIVE)

NO.	REMOTE STATION	MODE	START	DURATION	PAGES	RESULT	NOTE
001	COMMITTEE ON JUDICIA	STD	14,12:18	00'44	01	OK	
002	PDN ADVERTISING	FINE	14,14:25	02'01	02	OK	
003	6716491154	FINE	14,17:10	03'08	02	OK	
004	Advance Management	FINE	14,18:46	01'36	02	OK	
001	4724090	STD	15,08:52	01'58	03	OK	



MINA ' BENTE SAIS NA LIHESLATURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurát*

WAIVER OF FISCAL NOTE

In accordance with §9105 Title 2 GCA, I hereby certify that prompt committee action on Bill 323 is necessary to the proper conduct of legislative business. Therefore, I am waiving requirement of a fiscal note on Bill 323.



MARK FORBES

Chairman,
Committee on Rules, General Governmental Operations,
Reorganization and Reform, and Federal, Foreign
and General Operations



MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

Kumitchan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gebilu
Kabisiyon Mayurát*

17 MAY 2002

Speaker Antonio R. Unpingco
I Mina' Bente Sais Na Liheslaturan Guahan
155 Hesler Street
Hagátña, Guam 96910

26-111


Dear Mr. Speaker:

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 323, was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 323, as amended**, "An Act To Add A New Article 13, To Chapter 5, Division 1, 5GCA To Establish Minimum And Prevailing Wage Determinations, Leave Requirements And Benefit Requirements For Employees Of Service And Other Contractors Of The Government Of Guam In Order To Ensure Equitable Treatment Of Private Sector Employees And A Level Playing Field For All Contractors Doing Business With The Government Of Guam."

The voting record is as follows:

TO PASS	<u>6</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>
TO REPORT OUT	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.


MARK FORBES

Attachments



MINA ' BENTE SAIS NA LIHESLATURAN GUAHAN


Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurát*

17 MAY 2002

MEMORANDUM

TO: Committee Members

FROM: Chairman 

SUBJECT: Committee Report- BILL NO. 323, as amended: "An Act To Add A New Article 13, To Chapter 5, Division 1, 5GCA To Establish Minimum And Prevailing Wage Determinations, Leave Requirements And Benefit Requirements For Employees Of Service And Other Contractors Of The Government Of Guam In Order To Ensure Equitable Treatment Of Private Sector Employees And A Level Playing Field For All Contractors Doing Business With The Government Of Guam."

Transmitted herewith for your information and action is the report on Bill No. 323, as amended, from the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No 323, as amended
4. Public Hearing Sign-in Sheet
5. Fiscal Note/Fiscal Note Waiver
6. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

MARK FORBES

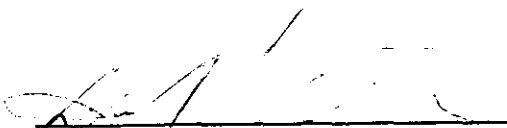
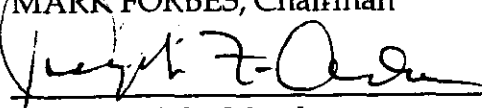
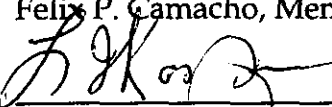

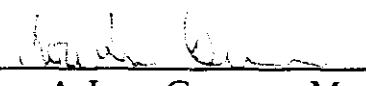
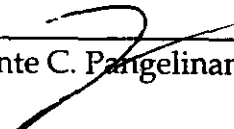
Attachments

**Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal,
Foreign and General Affairs**
I Mina' Bente Sais Na Liheslaturan Guåhan

Voting Record

BILL NO. 323, as amended: "An Act To Add A New Article 13, To Chapter 5, Division 1, 5GCA To Establish Minimum And Prevailing Wage Determinations, Leave Requirements And Benefit Requirements For Employees Of Service And Other Contractors Of The Government Of Guam In Order To Ensure Equitable Treatment Of Private Sector Employees And A Level Playing Field For All Contractors Doing Business With The Government Of Guam."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO ABSTAIN</u>	<u>INACTIVE FILE</u>	<u>REPORT OUT</u>
--	--------------------	------------------------	-----------------------	--------------------------	-----------------------

 MARK FORBES, Chairman	✓	_____	_____	_____	_____
 Joseph F. Ada, Member	✓	_____	_____	_____	_____
_____ Joanne M.S. Brown, Member	_____	_____	_____	_____	_____
_____ Eddie B. Calvo, Member	_____	_____	_____	_____	_____
_____ Felix P. Camacho, Member	_____	_____	_____	_____	_____
 Lawrence F. Kasperbauer, Ph. D., Member	K	_____	_____	_____	_____
_____ Kaleo S. Moylan, Member	_____	_____	_____	_____	_____
_____ Antonio R. Unpingco, <i>Ex-Officio Member</i>	_____	_____	_____	_____	_____
 Thomas C. Ada, Member	✓	_____	_____	_____	_____
 Lou A. Leon Guerrero, Member	✓	_____	_____	_____	_____
 Vicente C. Pangelinan, Member	✓	_____	_____	_____	_____

I MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN

**COMMITTEE ON RULES, GENERAL GOVERNMENTAL
OPERATIONS, REORGANIZATION AND REFORM, AND
FEDERAL, FOREIGN AND GENERAL AFFAIRS**

SENATOR MARK FORBES, CHAIRMAN

COMMITTEE REPORT

ON

BILL NO. 323, as amended,

**“AN ACT TO ADD A NEW ARTICLE 13, TO CHAPTER 5,
DIVISION 1, 5GCA TO ESTABLISH MINIMUM AND
PREVAILING WAGE DETERMINATIONS, LEAVE
REQUIREMENTS AND BENEFIT REQUIREMENTS FOR
EMPLOYEES OF SERVICE AND OTHER CONTRACTORS OF
THE GOVERNMENT OF GUAM IN ORDER TO ENSURE
EQUITABLE TREATMENT OF PRIVATE SECTOR EMPLOYEES
AND A LEVEL PLAYING FIELD FOR ALL CONTRACTORS
DOING BUSINESS WITH THE GOVERNMENT OF GUAM.”**

I. OVERVIEW

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs held a public hearing at 9:30 a.m. on May 15, 2002 in the Conference Room, Office of the Vice Speaker Lawrence Kasperbauer, I Liheslaturan Guahan. Public notice was provided to the media on Tuesday, May 14, 2002.

Senators present at the public hearing were:
Senator Mark Forbes, Chairman

II. SUMMARY OF TESTIMONY

Individuals appearing before the Committee to present oral and written testimony on the bill are as follows:

Monty McDowell, Director, Chamber of Commerce and General Manager of Advance Management Inc. (Oral testimony).

Jeff Jones, Director, Chamber of Commerce and Executive Vice President of Triple J Ent. (Oral testimony).

Mr. Monty McDowell, Director, Chamber of Commerce and General Manager of Advance Management Inc., testified before the Committee in support of Bill No. 323. Mr. McDowell said the bill allows standards for service providers of the government of Guam for wage standards and benefits packages for employees of those service providers. He said service providers currently bidding with the government of Guam bid with the least amount of money for their employees and very little in the way of a benefits package. He said the bill will allow GovGuam to have compassionate outsourcing and compassionate privatization.

Jeff Jones, Director, Chamber of Commerce and Executive Vice President of Triple J Ent., testified before the Committee in support of Bill No. 323. Mr. Jones said that it is important that this bill is passed as soon as possible so that we can move forward on implementing it with various contracts.

III. FINDINGS AND RECOMMENDATION

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs finds that Bill No. 323 is a desirable measure that ensures that private sector employees who work for contractors of the government of Guam are treated fairly and equitably, and in this time of economic crisis, such a measure is crucial.


Accordingly, the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 323 was referred does hereby submit its findings and recommendations to I Mina' Bente Sais Na Liheslaturan Guahan **TO DO PASS BILL NO. 323, as amended**, "An Act To Add A New Article 13, To Chapter 5, Division 1, 5GCA To Establish Minimum And Prevailing Wage Determinations, Leave Requirements And Benefit Requirements For

Employees Of Service And Other Contractors Of The Government Of Guam In Order To Ensure Equitable Treatment Of Private Sector Employees And A Level Playing Field For All Contractors Doing Business With The Government Of Guam.”

MINA'BENTE SAIS NA LIHESLATURAN GUAHAN
2002 (SECOND) Regular Session

Bill No. 323^{LS} (EOR)

Introduced by:

Mark Forbes 
v.c. pangelinan
J.M.S. Brown

**AN ACT TO ADD A NEW ARTICLE 13, TO CHAPTER
5, DIVISION 1, 5GCA TO ESTABLISH MINIMUM
AND PREVAILING WAGE DETERMINATIONS,
LEAVE REQUIREMENTS AND BENEFIT
REQUIREMENTS FOR EMPLOYEES OF SERVICE
AND OTHER CONTRACTORS OF THE
GOVERNMENT OF GUAM IN ORDER TO ENSURE
EQUITABLE TREATMENT OF PRIVATE SECTOR
EMPLOYEES AND A LEVEL PLAYING FIELD FOR
ALL CONTRACTORS DOING BUSINESS WITH THE
GOVERNMENT OF GUAM.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Intent. I Liheslaturan Guahan finds that there are no prevailing wages, or set benefits established for employees of private contractors awarded service and other contracts by the government of Guam except to the extent that the minimum wage law applies and specifically to the

1 extent that the federal prevailing wage applies to construction contractors.
2 This lack of minimum standards sets an insecure and uneven playing field for
3 businesses wishing to do business with the government of Guam in the
4 service area. Moreover and more critically, it forcefully depresses wages and
5 benefits among employees of firms doing business with the government of
6 Guam, as firms are compelled to reduce bids in order to remain competitive
7 with other bidders. I Liheslatura finds this to be inequitable and detrimental
8 for the employees of these private firms.

9

10 **Section 2.** A new Article 13 is added to Chapter 5, Division 1, 5CGA to
11 read:

12

“Article 13

13

WAGE AND BENEFIT DETERMINATION

14

Section 5801. Wage determination established. In such cases where
15 the government of Guam enters into contractual arrangements with a sole
16 proprietorship, a partnership or a corporation (hereinafter referred to as the
17 contractor) for the provision of a service to the government of Guam, and in
18 such cases where the contractor employs a person or persons whose purpose,
19 in whole or in part, is the direct delivery of service contracted by the
20 government of Guam, then the contractor shall pay such employee or
21 employees in accordance with the Wage Determination for Guam and the
22 Northern Marianas Islands issued and promulgated by the United States
23 Department of Labor for such labor as is employed in the direct delivery of
24 contract deliverables to the government of Guam. The Wage Determination

1 most recently issued by the United States Department of Labor at the time a
2 contract is awarded to a contractor by the government of Guam shall be used
3 to determine wages which shall be paid to employees pursuant to this Article.
4 Should any contract contain a renewal clause, then at the time of renewal
5 adjustments shall be made to stipulations contained in that contract for
6 application of the Wage Determination as required by this Article so that the
7 Wage Determination promulgated by the United States Department of Labor
8 on a date most recent to the renewal date shall apply.

9 **Section 5802. Benefits.** In addition to the Wage Determination detailed
10 in this Article, any contract to which this Article applies shall also contain
11 provisions mandating health and similar benefits for employees covered by
12 this article, such benefits having a minimum value of two dollars and fifty
13 cents (\$2.50) per hour per employee and shall contain provisions guaranteeing
14 a minimum of ten (10) paid holidays per annum per employee.

15 **Section 5803. Department of Labor to monitor.** The Guam Department
16 of Labor, or its successor, shall monitor compliance with the provisions of this
17 Article. The Director of the Department of Labor, or his successor, shall
18 investigate possible or reported violations of the provisions of this Article and
19 shall forward such findings to the Chief Procurement Officer of the General
20 Services Agency, or his successor.

21 **Section 5804. Penalties.** Violation of the provisions of this Article on
22 the part of a contractor shall constitute grounds to void such contract. A
23 contractor who violates the provisions of this Article shall be placed on a
24 probationary status by the Chief Procurement Officer of the General Services