



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

AUG 15 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 Substitute Bill No. 217 (LS) "AN ACT TO REPEAL AND REENACT §§ 4401 AND 4403 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE JURISDICTION AND AUTHORITY OF THE CIVIL SERVICE COMMISSION" which was vetoed and overridden. This legislation is now designated as **Public Law No. 26-121**.

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	
Time	5:23
Date	8/16/02

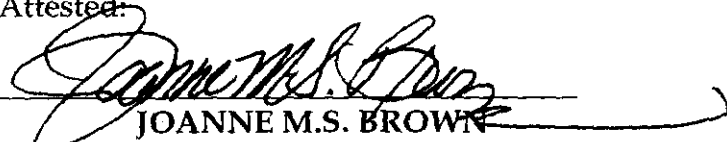
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MINA'BENTE SAIS NA LIHESLATURAN GUAHAN
2002 (SECOND) Regular Session

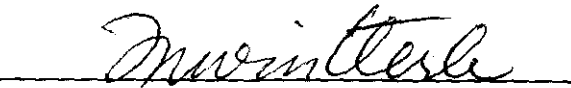
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 217 (LS) "AN ACT TO REPEAL AND REENACT §§ 4401 AND 4403 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE JURISDICTION AND AUTHORITY OF THE CIVIL SERVICE COMMISSION," returned without approval of *I Maga'láhen Guáhan*, was reconsidered by *I Liheslaturan Guáhan* and after such consideration, did agree, on the 14th day of August 2002, to pass said bill notwithstanding the veto of *I Maga'láhen Guáhan* by a vote of fifteen (15) members.


ANTONIO R. UNPINGCO
Speaker

Attested:

JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'láhen Guahan* this 15th day of August, 2002,
at 1:15 o'clock P.M.


Assistant Staff Officer
Maga'láhi's Office

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 217 (LS)

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

Introduced by:

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

**AN ACT TO REPEAL AND REENACT §§ 4401 AND
4403 OF TITLE 4 OF THE GUAM CODE**

**ANNOTATED, RELATIVE TO THE JURISDICTION
AND AUTHORITY OF THE CIVIL
COMMISSION**



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

AUG 15 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

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Very truly yours,

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I Maga'Lahen Guåhan
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cc: The Honorable Antonio R. Unpingco
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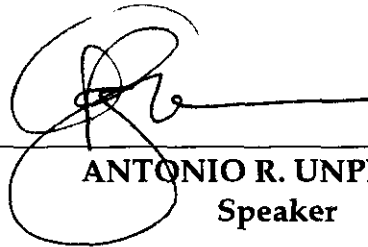
OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	5:43
Date	8/16/02

0887


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

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


This is to certify that Substitute Bill No. 217 (LS) "AN ACT TO REPEAL AND REENACT §§ 4401 AND 4403 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE JURISDICTION AND AUTHORITY OF THE CIVIL SERVICE COMMISSION," returned without approval of *I Maga'lahaen Guahan*, was reconsidered by *I Liheslaturan Guahan* and after such consideration, did agree, on the 14th day of August 2002, to pass said bill notwithstanding the veto of *I Maga'lahaen Guahan* by a vote of fifteen (15) members.


ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 15th day of August, 2002,
at 1:15 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

Public Law No. 26-121

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 217 (LS)

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

Introduced by:

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

AN ACT TO REPEAL AND REENACT §§ 4401 AND 4403 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE JURISDICTION AND AUTHORITY OF THE CIVIL SERVICE COMMISSION.

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

2 **Section 1. Legislative Findings and Intent. I *Liheslaturan Guåhan***
3 finds that the Civil Service Commission ("Commission") has erroneously

1 determined that it was granted jurisdiction to act to hear appeals of persons
2 *not* within the classified service of the government of Guam, that being
3 persons who obtained employment by means *other* than having been hired
4 through the competitive hiring procedures established under the personnel
5 rules of the government of Guam.

6 The Commission has heard appeals of persons who claim that they were
7 demoted or dismissed from employment of the government of Guam who
8 were at the time of the termination *not* persons who had been hired to the
9 classified service through the competitive hiring practices of the personnel
10 rules of the government of Guam, despite the prohibition of such actions as
11 set forth in § 4403(b) of Title 4 of the Guam Code Annotated, as this Section
12 applies to §§ 4403(d) and 4406 of Title 4 of the Guam Code Annotated.

13 In particular, the Commission has heard appeals of persons whose
14 employment was *not* in the classified service of the government of Guam and
15 whose employment ended as a result of the position *not* being funded by the
16 fiscal year October 1, 2001 to September 30, 2002, budget. The Commission
17 has ignored the laws of Guam in so hearing such appeals and *I Liheslaturan*
18 *Guåhan* finds it beneficial to the People of Guam for *I Liheslaturan Guåhan* to
19 clarify the law so that the Commission will *not* perpetuate its mistake and
20 continue to hear appeals from persons who were *not* hired through
21 competitive hiring practices as set forth in the personnel rules of the
22 government of Guam.

23 **Section 2.** Section 4403 of Article 4, Chapter 4 of Title 4 of the Guam
24 Code Annotated is hereby *repealed and reenacted* to read as follows:

1 **"Section 4403. Duties of the Commission.** The Commission
2 has the following duties, powers and responsibilities:

3 (a) it shall provide by rules standards relating to position
4 classification, creation of new classified positions or classes of
5 positions, as provided in § 6210 of this Title, and as required for
6 positions in the other branches of the government as such
7 positions are placed within the jurisdiction of the Commission;

8 (b) it shall hear appeals from the adverse actions taken to
9 suspend, demote or dismiss an employee from the classified
10 service *if* such right of appeal to the Commission is established in
11 the personnel rules governing the employee; *however*, it may *not*
12 hear any appeal of an action taken to suspend, demote or dismiss
13 an employee of the government of Guam who has *not* been hired
14 through the competitive hiring procedures of the personnel rules
15 of the government of Guam, as such personnel rules required at
16 the time of the hiring of the employee, nor any unclassified
17 employee;

18 (c) it shall investigate conditions of government
19 employment as it deems necessary, and report findings and
20 recommendations to *I Maga'lahaen Guåhan* and *I Liheslaturan*
21 *Guåhan* annually;

22 (d) it may set aside and declare null and void any
23 personnel action taken by any entity of the government under its
24 jurisdiction when it has found that such action was taken without

1 compliance with personnel laws or rules; provided, however, that
2 this Section shall *not* be deemed to permit appeals by employees
3 from adverse actions *not* covered by Subsection (b), above, which
4 employee was *not* hired into the classified service of the
5 government of Guam through competitive hiring as set forth in
6 the personnel rules of the government of Guam, as those
7 personnel rules existed at the time of the hiring of the employee
8 by the government, *except* that the Commission may declare null
9 and void the hiring of any unclassified employee done
10 improperly, or reduce the compensation of any unclassified
11 employee improperly compensated;

12 (e) it shall review the salaries of positions in the
13 unclassified service, including judges and elected officials and
14 recommend adjustments to *I Liheslaturan Guåhan* on an annual
15 basis; *provided*, that the Commission shall *only* recommend salary
16 adjustments for unclassified employees to *I Liheslaturan Guåhan*
17 and has no authority to order, compel or effect increases in salary
18 or compensation for unclassified employees;

19 (f) administer, as provided in law and in Executive
20 Orders, the Equal Employment Opportunity Programs of the
21 government;

22 (g) the provisions of this Section shall *not* apply to the
23 Judiciary or *I Liheslaturan Guåhan* in compliance with the doctrine
24 of Separation of Powers, *unless* such separate Branch opts to make

1 them applicable by submitting to the jurisdiction of the
2 Commission; and all reference to classified employees will be
3 deemed to mean classified employees of the Executive Branch,
4 including agencies and authorities; *and*

5 (h) the jurisdiction of the Commission shall *not* extend to
6 academic personnel of the Guam Community College and the
7 University of Guam, *except* upon mutual consent by the governing
8 board of the respective institution and the Commission, nor to any
9 position or person, appeal or proceeding of whatever kind or
10 description *if* the position is denominated '*unclassified*' in this Title,
11 *except* to the extent explicitly permitted in this Section, nor shall
12 such jurisdiction extend to the determination of whether it is
13 practicable to place a position in the classified service."

14 **Section 3.** Section 2 of Chapter III of Public Law Number 26-35 is
15 hereby *repealed and reenacted* to read as follows:

16 "**Section 2. Appropriation for Government Claims Fund.** The
17 sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) is hereby
18 appropriated from the General Fund for Fiscal Year 2002 to the
19 Government Claims Fund under the Department of Administration
20 ('DOA') for the payment of eligible and approved Government Claims.

21 Notwithstanding any other provision of law, no money from the
22 Government Claims Fund, whether appropriated herein or otherwise,
23 shall be used to pay any claim, *except* upon order of a trial and/or
24 appellate court after reviewing and ruling upon the substantive merits

1 of Civil Service Commission's decision, arising from decisions rendered
2 by the Civil Service Commission subsequent to September 30, 2001
3 which attempted to classify previously unclassified positions, or
4 reinstate a position eliminated by the General Appropriations Act of
5 2002 or its subsequent amendments."

6 **Section 4. AG to Defend Government of Guam's Interests.** The
7 Office of the Attorney General, Department of Law, shall defend the
8 government of Guam's legal interests as stated in Guam statutory law,
9 including, but not limited to, the classified and unclassified personnel
10 classifications and the General Appropriations Act of 2002, as elicited in
11 Public Law Number 26-35, and its subsequent amendments. The Office of the
12 Attorney General shall appeal in Court any decision of the Civil Service
13 Commission ("Commission"), or seek the appropriate writs of prohibition or
14 other legal recourses, against any decision of the Commission subsequent to
15 September 30, 2001 which attempts to classify any unclassified position. The
16 Office of the Attorney General shall also defend against and not settle any
17 attempt to compel the payment of government funds to reinstate or settle
18 claims by previously unclassified employees who were given classified status
19 by the Commission *subsequent* to September 30, 2001.

20 **Section 5.** Section 4102(d) is hereby *added* to Article 1, Chapter 4 of Title
21 4 of the Guam Code Annotated to read as follows:

22 "(d) Notwithstanding any other provision of law, there shall be
23 no other personnel classifications in the government of Guam, other
24 than the classified and unclassified services as set forth in this Section.

1 The Commission shall *not* create any unclassified positions nor hear any
2 appeal in that regard.”

3 **Section 6. Severability.** *If* any provision of this Act or its
4 application to any person or circumstance is found to be invalid or contrary to
5 law, such invalidity shall *not* affect other provisions or applications of this Act
6 which can be given effect without the invalid provisions or application, and to
7 this end the provisions of this Act are severable.

Orenstein

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 8/14/02

VOTING SHEET

Vetoed
S Bill No. 217 (LS)

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 15 0 0 0 0

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

Voting File
8/13/02

Overridden
8/14/02

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

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

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- L. F. Kasperbauer
- J. F. Ada
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- F. B. Aguon, Jr.
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- E. B. Calvo
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1 of Civil Service Commission's decision, arising from decisions rendered
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15 September 30, 2001 which attempts to classify any unclassified position. The
16 Office of the Attorney General shall also defend against and not settle any
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19 by the Commission *subsequent* to September 30, 2001.

20 **Section 5.** Section 4102(d) is hereby *added* to Article 1, Chapter 4 of Title
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23 no other personnel classifications in the government of Guam, other
24 than the classified and unclassified services as set forth in this Section.

2-2
8/13/02



4
8/14/02

CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

DEC 26 2001

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

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>2:44 pm</u>
Date	<u>12-26-01</u>

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 217 (LS) "AN ACT TO REPEAL AND REENACT §§ 4401 AND 4403 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE JURISDICTION AND AUTHORITY OF THE CIVIL SERVICE COMMISSION" which I have **vetoed**.

This legislation directly interferes into the realm of both the Executive Branch and the Judicial Branch of government. While members of the Legislature may agree or disagree with recent decisions of the Civil Service Commission, passing laws to interfere in the executive and judicial processes of ongoing cases violates the separation of powers needed for a democratic government based on the principles of the United States Constitution to function.

The legislative findings and intent section of this legislation makes statements that pass judgment on the actions of the Civil Service Commission. This is the realm of the courts.

The amendments contained in this legislation are inconsistent in that for some purposes, the Civil Service Commission may take an action relative to the employment of an unclassified employee, and for some other purposes, it may not. As a matter of fact, for any judicial body, or quasi-judicial body such as the Civil Service Commission, that body must make the decision whether or not the body has or does not have jurisdiction to consider the matter before it. Even under the terminology contained in this legislation, the CSC must go into the facts of the employee's employment situation, thereby taking jurisdiction, in order to decide necessary issues at hand.

The sentence beginning on line 22 of Page 3 and ending on line 11 of Page 4 is so convoluted and cumbersome that a number of different interpretations can be made of the verbiage.

0628

Legislative Secretary
SB217;veto
December, 2001
Page 2

Direct attempts to interfere into ongoing cases by the Legislature is inappropriate and violative of the separation of powers concept. This only further erodes our democratic 3-branch form of government.

Very truly yours,



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

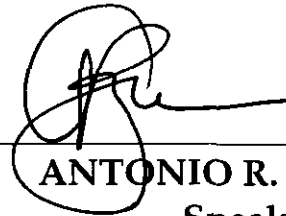
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cc: The Honorable Antonio R. Unpingco
Speaker

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session


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

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ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 14th day of December, 2001,
at 4:40 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

DEC 26 2001

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

OFFICE OF THE LEGISLATIVE SECRETARY ACKNOWLEDGMENT RECEIPT Received By <u>[Signature]</u> Time <u>2:44 pm</u> Date <u>12-26-01</u>
--

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 217 (LS) "AN ACT TO *REPEAL AND REENACT* §§ 4401 AND 4403 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE JURISDICTION AND AUTHORITY OF THE CIVIL SERVICE COMMISSION" which was I have **vetoed**.

This legislation directly interferes into the realm of both the Executive Branch and the Judicial Branch of government. While members of the Legislature may agree or disagree with recent decisions of the Civil Service Commission, passing laws to interfere in the executive and judicial processes of ongoing cases violates the separation of powers needed for a democratic government based on the principles of the United States Constitution to function.

The legislative findings and intent section of this legislation makes statements that pass judgment on the actions of the Civil Service Commission. This is the realm of the courts.

The amendments contained in this legislation are inconsistent in that for some purposes, the Civil Service Commission may take an action relative to the employment of an unclassified employee, and for some other purposes, it may not. As a matter of fact, for any judicial body, or quasi-judicial body such as the Civil Service Commission, that body must make the decision whether or not the body has or does not have jurisdiction to consider the matter before it. Even under the terminology contained in this legislation, the CSC must go into the facts of the employee's employment situation, thereby taking jurisdiction, in order to decide necessary issues at hand.

The sentence beginning on line 22 of Page 3 and ending on line 11 of Page 4 is so convoluted and cumbersome that a number of different interpretations can be made of the verbiage.

0628

Legislative Secretary
SB217;veto
December, 2001
Page 2

Direct attempts to interfere into ongoing cases by the Legislature is inappropriate and violative of the separation of powers concept. This only further erodes our democratic 3-branch form of government.

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

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 217 (LS) "AN ACT TO REPEAL AND REENACT §§ 4401 AND 4403 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE JURISDICTION AND AUTHORITY OF THE CIVIL SERVICE COMMISSION," was on the 7th day of December, 2001, duly and regularly passed.



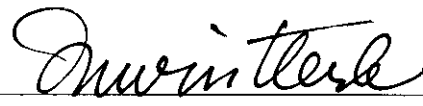
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 14th day of December, 2001,
at 4:40 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 217 (LS)

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

Introduced by:

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

**AN ACT TO REPEAL AND REENACT §§ 4401 AND
4403 OF TITLE 4 OF THE GUAM CODE
ANNOTATED, RELATIVE TO THE JURISDICTION
AND AUTHORITY OF THE CIVIL SERVICE
COMMISSION.**

- 1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**
- 2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
- 3 finds that the Civil Service Commission ("Commission") has erroneously

1 determined that it was granted jurisdiction to act to hear appeals of persons
2 *not* within the classified service of the government of Guam, that being
3 persons who obtained employment by means *other* than having been hired
4 through the competitive hiring procedures established under the personnel
5 rules of the government of Guam.

6 The Commission has heard appeals of persons who claim that they were
7 demoted or dismissed from employment of the government of Guam who
8 were at the time of the termination *not* persons who had been hired to the
9 classified service through the competitive hiring practices of the personnel
10 rules of the government of Guam, despite the prohibition of such actions as
11 set forth in § 4403(b) of Title 4 of the Guam Code Annotated, as this Section
12 applies to §§ 4403(d) and 4406 of Title 4 of the Guam Code Annotated.

13 In particular, the Commission has heard appeals of persons whose
14 employment was *not* in the classified service of the government of Guam and
15 whose employment ended as a result of the position *not* being funded by the
16 fiscal year October 1, 2001 to September 30, 2002, budget. The Commission
17 has ignored the laws of Guam in so hearing such appeals and *I Liheslaturan*
18 *Guåhan* finds it beneficial to the People of Guam for *I Liheslaturan Guåhan* to
19 clarify the law so that the Commission will *not* perpetuate its mistake and
20 continue to hear appeals from persons who were *not* hired through
21 competitive hiring practices as set forth in the personnel rules of the
22 government of Guam.

23 **Section 2.** Section 4403 of Article 4, Chapter 4 of Title 4 of the Guam
24 Code Annotated is hereby *repealed and reenacted* to read as follows:

1 **“Section 4403. Duties of the Commission.** The Commission
2 has the following duties, powers and responsibilities:

3 (a) it shall provide by rules standards relating to position
4 classification, creation of new classified positions or classes of
5 positions, as provided in § 6210 of this Title, and as required for
6 positions in the other branches of the government as such
7 positions are placed within the jurisdiction of the Commission;

8 (b) it shall hear appeals from the adverse actions taken to
9 suspend, demote or dismiss an employee from the classified
10 service *if* such right of appeal to the Commission is established in
11 the personnel rules governing the employee; *however*, it may *not*
12 hear any appeal of an action taken to suspend, demote or dismiss
13 an employee of the government of Guam who has *not* been hired
14 through the competitive hiring procedures of the personnel rules
15 of the government of Guam, as such personnel rules required at
16 the time of the hiring of the employee, nor any unclassified
17 employee;

18 (c) it shall investigate conditions of government
19 employment as it deems necessary, and report findings and
20 recommendations to *I Maga’lahen Guåhan* and *I Liheslaturan*
21 *Guåhan* annually;

22 (d) it may set aside and declare null and void any
23 personnel action taken by any entity of the government under its
24 jurisdiction when it has found that such action was taken without

1 compliance with personnel laws or rules; provided, however, that
2 this Section shall *not* be deemed to permit appeals by employees
3 from adverse actions *not* covered by Subsection (b), above, which
4 employee was *not* hired into the classified service of the
5 government of Guam through competitive hiring as set forth in
6 the personnel rules of the government of Guam, as those
7 personnel rules existed at the time of the hiring of the employee
8 by the government, *except* that the Commission may declare null
9 and void the hiring of any unclassified employee done
10 improperly, or reduce the compensation of any unclassified
11 employee improperly compensated;

12 (e) it shall review the salaries of positions in the
13 unclassified service, including judges and elected officials and
14 recommend adjustments to *I Liheslaturan Guåhan* on an annual
15 basis; *provided*, that the Commission shall *only* recommend salary
16 adjustments for unclassified employees to *I Liheslaturan Guåhan*
17 and has no authority to order, compel or effect increases in salary
18 or compensation for unclassified employees;

19 (f) administer, as provided in law and in Executive
20 Orders, the Equal Employment Opportunity Programs of the
21 government;

22 (g) the provisions of this Section shall *not* apply to the
23 Judiciary or *I Liheslaturan Guåhan* in compliance with the doctrine
24 of Separation of Powers, *unless* such separate Branch opts to make

1 them applicable by submitting to the jurisdiction of the
2 Commission; and all reference to classified employees will be
3 deemed to mean classified employees of the Executive Branch,
4 including agencies and authorities; *and*

5 (h) the jurisdiction of the Commission shall *not* extend to
6 academic personnel of the Guam Community College and the
7 University of Guam, *except* upon mutual consent by the governing
8 board of the respective institution and the Commission, nor to any
9 position or person, appeal or proceeding of whatever kind or
10 description *if* the position is denominated '*unclassified*' in this Title,
11 *except* to the extent explicitly permitted in this Section, nor shall
12 such jurisdiction extend to the determination of whether it is
13 practicable to place a position in the classified service."

14 **Section 3.** Section 2 of Chapter III of Public Law Number 26-35 is
15 hereby *repealed and reenacted* to read as follows:

16 **"Section 2. Appropriation for Government Claims Fund.** The
17 sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) is hereby
18 appropriated from the General Fund for Fiscal Year 2002 to the
19 Government Claims Fund under the Department of Administration
20 ('DOA') for the payment of eligible and approved Government Claims.

21 Notwithstanding any other provision of law, no money from the
22 Government Claims Fund, whether appropriated herein or otherwise,
23 shall be used to pay any claim, *except* upon order of a trial and/or
24 appellate court after reviewing and ruling upon the substantive merits

1 The Commission shall *not* create any unclassified positions nor hear any
2 appeal in that regard.”

3 **Section 6. Severability.** *If* any provision of this Act or its
4 application to any person or circumstance is found to be invalid or contrary to
5 law, such invalidity shall *not* affect other provisions or applications of this Act
6 which can be given effect without the invalid provisions or application, and to
7 this end the provisions of this Act are severable.

12

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 3/12/02

12:57 am

VOTING SHEET

Bill No. _____
 Resolution No. 217 (COR)
 Question: _____

hand count

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 _____

CERTIFIED TRUE AND CORRECT:

 Clerk of the Legislature

* 3 Passes = No vote
 EA = Excused Absence

6

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 12/7/01

VOTING SHEET

5 Bill No. 217 (LS)

Resolution No. _____

Question: _____ VETO

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. 11	✓				
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 14 0 0 0 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



MINA BENTE SAIS NA LIHL LATURAN GUÅHAN

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

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurát*

29 NOV 2001

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. 217, was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 217, as substituted**: "An act to clarify the grant of jurisdiction to the Civil Service Commission under Title 4 Guam Code Annotated Chapter 4, Sections 4403 and 4401, Relative to hearing the appeals of any person employed by the Government of Guam".

The voting record is as follows:

TO PASS

8

NOT TO PASS

0

ABSTAIN

0

TO PLACE IN INACTIVE FILE

0

TO REPORT OUT

0

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 ' ENTE SAIS NA LIHE LATURAN GUÅHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hiniråt, Rifotma yan Rinueba,
yan Asunton Fidiråt, Taotao Hiyong yan Hiniråt

*Senadot Mark Forbes, Gebilu
Kabisiyon Mayuråt*

29 NOV 2001

MEMORANDUM

TO: Committee Members

FROM: Chairman

SUBJECT: Committee Report- BILL NO. 217, as substituted: "An act to clarify the grant of jurisdiction to the Civil Service Commission under Title 4 Guam Code Annotated Chapter 4, Sections 4403 and 4401, Relative to hearing the appeals of any person employed by the Government of Guam."

Transmitted herewith for your information and action is the report on Bill No. 217, as substituted, 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. 217, as substituted
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.


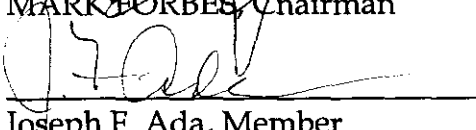

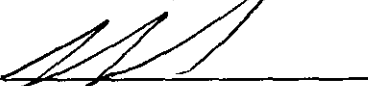
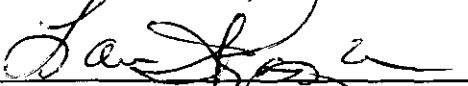
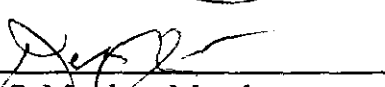

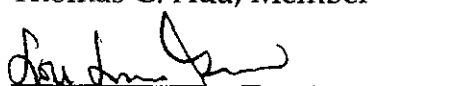

MARK FORBES

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. 217, as substituted: "An act to clarify the grant of jurisdiction to the Civil Service Commission under Title 4 Guam Code Annotated Chapter 4, Sections 4403 and 4401, Relative to hearing the appeals of any person employed by the Government of Guam."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>	<u>TO 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	X				
 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. 217, as substituted**

**“AN ACT TO CLARIFY THE GRANT OF JURISDICTION TO
THE CIVIL SERVICE COMMISSION UNDER TITLE 4 GUAM
CODE ANNOTATED CHAPTER 4, SECTIONS 4403 AND 4401,
RELATIVE TO HEARING THE APPEALS OF ANY PERSON
EMPLOYED BY 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 10:00 a.m. on November 16, 2001 in the Public Hearing Room, I Liheslaturan Guahan. An emergency waiver was given for the requirement for public notice, pursuant to Public Law No. 24-109.

Senators present at the public hearing were:

Senator Mark Forbes, Chairman
Senator Joanne Brown, Member
Senator Tom Ada, Member
Senator Lou Leon Guerrero, Member
Senator Ben Pangelinan, Member

II. SUMMARY OF TESTIMONY

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

Joe T. San Agustin, former Speaker, Guam Legislature (Oral and written testimony)
Luis Baza, Executive Director, Civil Service Commission (Oral testimony)

Joe T. San Agustin, Chairman of the Democratic Party and former Speaker of the Guam Legislature, testified before the Committee in favor of Bill No. 217. He discussed the history of GovGuam employment and the classified system. The merit system was created to attract qualified workers and to protect them once they were in the job. The Civil Service Commission was created as an umbrella organization that workers could make appeals to, even those in autonomous GovGuam agencies. The CSC was designed for classified employees, never for unclassified. He mentioned that even classified employees already in a position would have to compete for that position if the qualifications and requirements of the position were changed. He disagrees with the recent actions of the CSC (to reinstate unclassified employees who were laid off by the budget act), but he added that even unclassified employees should be laid off gradually, with notice.

Sen. Forbes asked if San Agustin thinks that directors, deputy directors or the Governor's chief of staff require two months notice, and San Agustin replied no, not even two minutes.

San Agustin said that undermining the non-political merit system is dangerous, because if the employees become political, they'll provide service and selective enforcement based on political preference. He said the merit system is becoming a sham, and if the Legislature doesn't correct it now, it'll never regain the confidence in the merit system.

Sen. Leon Guerrero asked San Agustin about the Haueser decision and how the CSC is using it to change the merit system. San Agustin replied that he doesn't know what "merit protection" means, as the CSC is using the court case to mean, for unclassified employees - does it mean a layoff procedure, a lack of funds, etc.? He fears this will be used for even department heads.

Luis Baza, executive director of the Civil Service Commission, testified before the Committee on Bill No. 217. He stated that his mission is to service all GovGuam employees, and that he can't discriminate (if they ask him for information or training). He said that if an unclassified employee is hired in violation of the uniform employment law, this bill would prevent the CSC from taking action.

III. FINDINGS AND RECOMMENDATION

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs finds that Bill No. 217, as substituted, is necessary to clarify that the merit system is intended to protect only classified employees, in light of recent actions by the Civil Service Commission to reinstate unclassified employees. These recent actions threaten to destroy the entire GovGuam merit system, and could do further harm to the basic services provided by the government.

Accordingly, the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 217 was referred does hereby submit its findings and recommendations to I Mina' Bente Sais Na Liheslaturan Guahan **TO DO PASS BILL NO. 217, as substituted**, "An act to clarify the grant of jurisdiction to the Civil Service Commission under Title 4 Guam Code Annotated Chapter 4, Sections 4403 and 4401, Relative to hearing the appeals of any person employed by the Government of Guam."



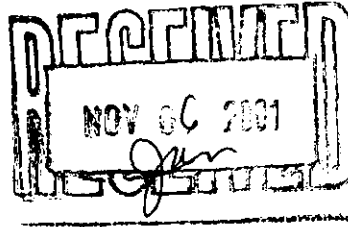
MINA ' PENTE SAIS NA LIHES^T ATURAN GUÅHAN

Kumitchan Areklamento, Hinanao Gubetnamenton Hiniråt, Rifotma yan Rinueba,
yan Asunton Fidiråt, Taotao Hiyong yan Hiniråt

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayuråt*

06 NOV 2001

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. 217 (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'BENTE SAIS NA LIHESLATURAN GUAHAN
2001 (FIRST) Regular Session

Bill No. 217 (LS)

As Substituted by the Committee

Introduced by:

Mark Forbes

AN ACT TO CLARIFY THE GRANT OF
JURISDICTION TO THE CIVIL SERVICE
COMMISSION UNDER TITLE 4 GUAM CODE
ANNOTATED CHAPTER 4, SECTIONS 4403 AND
4401, RELATIVE TO HEARING THE APPEALS OF
ANY PERSON EMPLOYED BY THE GOVERNMENT
OF GUAM.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan*
3 finds that the Civil Service Commission has erroneously determined that it
4 was granted jurisdiction to act to hear appeals of persons not within the
5 classified service of the government of Guam, that being persons who
6 obtained employment by means other than having been hired through the
7 competitive hiring procedures established under the personnel rules of the
8 government of Guam.

1 The Civil Service Commission has heard appeals of persons who claim
2 that they were demoted or dismissed from employment of the government of
3 Guam who were at the time of the termination not persons who had been
4 hired to the classified service through the competitive hiring practices of the
5 personnel rules of the government of Guam despite the prohibition of such
6 actions as set forth in Title 4 of Guam Code Annotated Chapter 4, Section 4403
7 (b), as this Section applies to Title 4 of Guam Code Annotated Chapter 4,
8 Sections 4403 (d) and 4406.

9 In particular, the Civil Service Commission has heard appeals of
10 persons whose employment was not in the classified service of the
11 government of Guam and whose employment ended as a result of the
12 position not being funded by the fiscal year October 1, 2001 to September 30,
13 2002, budget. The Civil Service Commission has ignored the laws of Guam in
14 so hearing such appeals and *I Liheslaturan Guahan* finds it beneficial to the
15 people of Guam for *I Liheslaturan Guahan* to clarify the law so that the Civil
16 Service Commission will not perpetuate its mistake and continue to hear
17 appeals from persons who were not hired through competitive hiring
18 practices as set forth in the personnel rules of government of Guam.

19 **Section 2.** Title 4 Guam Code Annotated, Chapter 4, Section 4403 is
20 hereby repealed and reenacted to read as follows:

21 **“§4403. Duties of the Commission.**

22 The Commission has the following duties, powers and
23 responsibilities:

1 (a) It shall provide by rules standards relating to position
2 classification, creation of new positions or classes of positions, as
3 provided in §6210 of this Title, and as required for positions in the other
4 branches of the Government as such positions are placed within the
5 jurisdiction of the Commission;

6 (b) It shall hear appeals from the adverse actions taken to
7 suspend, demote or dismiss an employee from the classified service if
8 such right of appeal to the Commission is established in the personnel
9 rules governing the employee; however it may not hear any appeal of
10 an action taken to suspend, demote or dismiss an employee of the
11 government of Guam who has not been hired through the competitive
12 hiring procedures of the personnel rules of the government of Guam as
13 such personnel rules required at the time of the hiring of the employee;

14 (c) It shall investigate conditions of government employment as
15 it deems necessary and report findings and recommendations to the
16 Governor and Legislature annually;

17 (d) It may set aside and declare null and void any personnel
18 action taken by any entity of the Government under its jurisdiction
19 when it has found that such action was taken without compliance with
20 personnel laws or rules, provided, however, that this Section shall not
21 be deemed to permit appeals by employees from adverse actions not
22 covered by Subsection (b), above, which employee was not hired into
23 the classified service of the Government of Guam through competitive
24 hiring as set forth in the personnel rules of the government of Guam as

1 those personnel rules existed at the time of the hiring of the employee
2 by the government, except that the commission may declare null and
3 void the hiring of any unclassified employee done improperly, or
4 reduce the compensation of any unclassified employee improperly
5 compensated;

6 (e) It shall review the salaries of positions in the unclassified
7 service, including judges and elected officials and recommend
8 adjustments to the Legislature on an annual basis;

9 (f) Administer, as provided in law and in Executive Orders, the
10 Equal Employment Opportunity Programs of the Government;

11 (g) The provisions of this Section shall not apply to the Judiciary
12 or Legislature in compliance with the doctrine of separation of powers
13 unless such separate branch opts to make them applicable by
14 submitting to the jurisdiction of the Civil Service Commission. All
15 reference to classified employees will be deemed to mean classified
16 employees of the Executive Branch including agencies and authorities.

17 (h) The jurisdiction of the Civil Service Commission shall not
18 extend to academic personnel of the Guam Community College and the
19 University of Guam, except upon mutual consent by the governing
20 board of the respective institution and the commission."

21 **Section 3.** Title 4 Guam Code Annotated, Chapter 4, Section 4401 is
22 hereby repealed and reenacted to read as follows:

23 "§4401. **Civil Service Commission.**

24 (a) There is established, in and for the government of Guam, a

1 Civil Service Commission composed of seven (7) members appointed by
2 the Speaker of the Guam Legislature. The members shall serve for a
3 term of six (6) years and until their successors are appointed, provided
4 that of the initial members appointed under this Chapter, appointments
5 shall be made so that two members of the Commission, newly
6 appointed shall serve for two (2) years, two members, newly appointed
7 shall serve for a term of four (4) years and three members, newly
8 appointed shall serve for a term of six (6) years. Two (2) members of the
9 Commission shall be classified employees of the government of Guam
10 selected by the Speaker of the Guam Legislature from among the pool of
11 classified employees of the government of Guam who have been
12 certified as to have received and completed training in government of
13 Guam personnel grievance procedures. In the event that a grievance or
14 challenge is heard by the Civil Service Commission which involves an
15 employee of the same government of Guam department, agency or
16 instrumentality in which one or more of the members of the
17 Commission are employed, that member or members who are
18 employed in the same department, agency or instrumentality of the
19 government of Guam as the employee either appealing to or having a
20 grievance heard by the Commission shall be recused on such matter and
21 the balance of the Commission may temporarily, by majority vote, select
22 a classified employee to serve temporarily as a Commission member
23 exclusively for the purpose of that appeal or grievance, provided such
24 temporary member is not similarly in a position requiring recusal

1 pursuant to this subsection.

2 (b) When a vacancy occurs, the Speaker shall appoint a new
3 member within sixty (60) days of the commencement of the vacancy.

4 (c) The Speaker may remove members of the Civil Service
5 Commission but only for conviction of a crime constituting a felony or a
6 misdemeanor involving moral turpitude, willful misconduct in office,
7 willful and persistent failure to perform the duties of office, or any
8 conduct which is prejudicial to the administration of the merit system of
9 the government of Guam. Nothing in this Section shall require the
10 reappointment of any member. A person sought to be removed may
11 challenge the decision by an action for declaratory judgment in the
12 Superior Court.

13 (d) Notwithstanding any other provision of law, the members of
14 the Civil Service Commission sitting at the date of enactment of this
15 Chapter shall cease to serve as members of the Civil Service
16 Commission and shall be rendered unable to perform any of the duties
17 or functions of members of the Civil Service Commission.

18 (e) Civil Service Commissioners, shall, without limitation, each
19 receive Fifty Dollars (\$50.00) for every meeting attended to adjudicate
20 appeals, complaints, grievances or other disputes, or to perform rule-
21 making functions as provided in statute, rule or regulation.”

Committee on Rules, General Governmental Operations,
 Reorganization & Reform, and Federal, Foreign & General Affairs
 Senator Mark Forbes, Chairman

Public Hearing
 November 16, 2001
 10:00 A.M.
 I Liheslaturan Guahan, Hagåtña

Bill No. 217: Relative to hearing the appeals of any person employed by the Government of Guam".

CONTACT NUMBER	NOT IN FAVOR	IN FAVOR	WRITTEN TESTIMONY	ORAL TESTIMONY	AGENCY/ ORGANIZATION	NAME (please print)
			<i>✓</i>			<i>JOE I SAO KIGAT</i>

Mr. Chairman and Members of this Committee.

At the outset, permit me to extend my appreciation for the opportunity to share my views and thoughts regarding the State of the Merit System as being employed within the Government of Guam. And the vehicle being used now to display such state of affairs in the proposed Bill 217.

At the outset, let me address the historical background of the Government of Guam Civil Service Commission before perhaps we can appreciate, if you will, the urgent need to response to what appears to be a threat to the Merit System for Government of Guam Employees as envisioned by our elected leaders from the First Guam Legislature thru the Ninth Guam Legislature.

I have with me a copy of the late Governor Guerrero 's letter, dated July 6, 1967 to the Ninth Guam Legislature requesting the introduction of a Bill to establish the Civil Service Commission, as Bill No. 308 and became Public Law 9-86 on August 7, 1967.(Said copy was obtained from the University of Guam and the Guam Public Library)

The establishment of the Civil Service Commission was prompted after a realizations that employees in the newly created Guam Memorial Hospital Authority would have no "appeals" process beyond the Hospital Board of Directors. The Personnel Board then was for employees in the non-autonomous agencies. With the creation of the Civil Service commission to act as the umbrella organization, the Personnel Board was abolished.

Within the last few weeks, I had submitted two letters to the Pacific Daily News Editor regarding my views and I shall like to include them as part of testimony today.

For the record, I shall like to read them.

I want to once again thank you for the opportunity to appear before. you and I would answer any questions pose to me by any member of this Committee.

Joe T. San Agustin
November 16, 2001

MR. EDITOR, GUAM PDN-----OCTOBER 26, 2001

I AM CONCERN WITH THE FUTURE IMPACT OF THE CIVIL SERVICE COMMISSION'S DECISION REGARDING THE REINSTATEMENT OF MR. RON DEVERISH. FIRST, I WOULD LIKE TO STATE THAT MY COMMENTS BELOW ARE MADE, WITHOUT DISPUTING THE QUALIFICATIONS AND EXPERIENCES OF MR. RON DEVERISH OR FOR THAT MATTER, ATTORNEY HOUSER IN HIS COURT CASE SEVERAL YEARS AGO.

LET ME FIRST ESTABLISH SOME BASIC FRAMEWORK.

THE MERIT SYSTEM FUNDAMENTALLY CONSIST OF THREE BASIC COMPONENTS:

1. THE POSITION HAS TO BE ESTABLISHED BY THE CSC OR SOME STATUTE THAT THE POSITION SHALL BE IN THE "CLASSIFIED POSITION"
2. THE ESTABLISHED POSITION HAS A PRESCRIBED JOB DESCRIPTIONS, ESTABLISHED SALARY PAY RANGE AND DOLLAR AMOUNT, STATING THE NECESSARY QUALIFICATIONS FOR ANY APPLICANT TO MEET
3. THE POSITION HAS TO BE FILLED THROUGH THE COMPETITIVE PROCESS-- THAT IS THE JOB HAS TO BE ADVERTISED, A LIST OF QUALIFIED APPLICANTS WOULD BE ESTABLISHED, AND AMONG THESE QUALIFIED APPLICANTS, THROUGH THE INTERVIEW PROCESS, A SELECTION WOULD BE MADE BY THE APPOINTING AUTHORITY, I.E. THE DEPARTMENT HEAD, ETC.

NOW THE "UNCLASSIFIED POSITION" IS ESTABLISHED AND AUTHORIZED BY LAW ALLOWING CERTAIN AREAS DEEMED TO BE "POLITICALLY- SENSITIVE", SUCH AS THE POSITIONS IN THE LEGISLATURE AND THE GOVERNOR'S IMMEDIATE STAFF. FOR EACH DEPARTMENT, IT HAS BEEN ESTABLISHED THAT THE DIRECTOR, THE DEPUTY DIRECTOR AND DIRECTOR'S PRIVATE SECRETARY WILL ALL BE IN THE "UNCLASSIFIED" SERVICE.

GIVEN THE ABOVE, ONE WONDER WHY DO WE HAVE SO MANY "UNCLASSIFIED" EMPLOYEES?

BOTH PAST AND CURRENT ADMINISTRATIONS HAVE EXTREME RECRUITMENT DIFFICULTIES IN FILLING POSITIONS IN THE "CLASSIFIED" AREAS.

THESE DIFFICULTIES CONSISTED PRIMARILY OF BEING UNABLE TO FIND QUALIFIED APPLICANTS BECAUSE OF THE "SALARY OR COMPENSATION AS ESTABLISHED BY EITHER LAW OR CSC", NOTWITHSTANDING THE POLITICAL DESIRES TO SELECT A PARTICULAR INDIVIDUAL.

UNDER THE CSC RULES, ANY DEPARTMENT HEAD MAY ASK THE CSC TO HIRE A QUALIFIED APPLICANT, THRU THE COMPETITIVE PROCESS, ABOVE THE INITIAL SALARY STEP, CITING RECRUITMENT DIFFICULTIES. IF CSC APPROVES THE REQUEST, THE EMPLOYEE IS THEN HIRED, AT A HIGHER PAY RANGE STEP, AND STILL BE IN THE "CLASSIFIED SERVICE"

HOWEVER, WHAT HAS DEVELOPED OVER THE YEARS, "EMPLOYEES" GET HIRED WITHOUT GOING THRU THE "MERIT SYSTEM PROCESS", OCCUPYING POSITIONS THAT ARE IN THE "CLASSIFIED SERVICE". THESE "UNCLASSIFIED EMPLOYEES" DID NOT

COMPETE FOR THEIR JOBS NOR WERE THE POSITIONS EVER ADVERTISED TO ALLOW OTHER APPLICANTS TO APPLY, NOTWITHSTANDING THE FACT THAT MANY OF THESE EMPLOYEES MAY OR MAY NOT HAVE THE NECESSARY QUALIFICATIONS FOR THE POSITIONS THEY OCCUPIED.

I AM CONCERN THAT THE CSC'S DECISIONS AND THE HOUSER'S COURT CASE, GAVE MERIT SYSTEM PROTECTION THRU THE "BACKDOOR METHOD".

ONE CAN ARGUE THAT THE POSITIONS THAT WERE OR ARE IN THE "CLASSIFIED" SERVICE BEING OCCUPIED BY EMPLOYEES NOT SELECTED THRU THE MERIT SYSTEM PROCESS SHOULD REMAIN IN THE "CLASSIFIED SERVICE", BUT THE INCUMBENTS CAN NOT. THIS IS BECAUSE THESE EMPLOYEES DID NOT HAVE TO COMPETE TO OBTAIN THEIR JOBS, LIKE THE REST OF THE VAST GOVERNMENT OF GUAM EMPLOYEES. IF THE CSC RULES THAT THE POSITIONS ARE INDEED CLASSIFIED, THEN THEY SHOULD ALSO RULED THAT THE INCUMBENTS HIRED CAN NOT REMAIN UNLESS THEY ARE "GRAND FATHERED IN".

OBVIOUSLY, THESE APPEARS TO WHAT THE CSC FUNDAMENTALLY RULED AS WELL AS THE HOUSER'S CASE.

THE REAL FUNDAMENTAL QUESTION IS WHY HAVE A MERIT SYSTEM, IF A "BACKDOOR METHOD" IS TO BE TOLERATED OR CONDONED?

WHY DO WE NEED A CSC FOR? THE REAL REASON WHY THE CSC IS ESTABLISHED IS TO IMPLEMENT THE LEGISLATIVE ORGANIC ACT MANDATE THAT THERE SHALL BE A MERIT SYSTEM ESTABLISHED.

JOE T. SAN AGUSTIN
170 IGLESIA CIRCLE
DEDEDO, GUAM 96929

632-5703

Nov. 8, 2001

Ltr to the PDN Editor

It looks like the CSC is doing some fancy "tap-dancing" movements regarding their ill advised ruling in providing Merit Protection to employees originally hired outside the Merit System Process, citing the Houser case as the authority for them to entertain such appeals for termination..

What appears to be the application of the Houser case was the "tailoring of the position which had at birth of being classified and grown up to be unclassified" due to the inability of the Government-employer- to meet the salary demands of the prospective candidate employee. In other words, the position as designated to be classified was "plucked-out" from underneath the "umbrella of the Merit System Selection Process" in order for the hiring authority- the Government- to meet the salary demands of the designated individual. Thus, the designated individual has a position to occupy for the purposes of legally having a job descriptions specified as to what would be expected to perform; but also the legal means for compensation. In this case, the designated individual/employee has "negotiated" his job with the Government agreeing to meet his salary level demands.

For the CSC under the above circumstances to rule at a latter date to provide merit protection to the Individual employee who obtained his position thru "negotiations" is once again "backdoor" method.

In other words, what we have under the Merit System is a three legged stool--underneath the top of the stool are three legs supporting. One leg represent the job descriptions for a specific functional performance; the other leg specifying what would be the necessary requirements, experiences and other qualifications, to support the "top" of the stool, along with the descriptions of the job, itself. The third leg is the "price of the other two legs" necessary to carry the load that will be placed on the "top of the stool"

Civil Service Commission's ruling allows any one of the "legs" to be dislodged just to get an individual to be placed " on top of the stool", only to find out later that all three legs will be required to support the individual hired. What CSC did was an "accommodation" at the expense of the many individuals who "sat" on the stool, having all three legs of the stool collectively withstands the "weight" . . . These merited employees earned their rights to sit on the "stool"; thru the "application, competitive, selection process" meeting the job requirements as established. This is the strength of the Merit System that should not ever be compromised.

So no matter how the CSC "tap dance" their way, it is still " not right"

Our past Governors, Senators and other Island Leaders who are all gone would all be "moving in their graves" troubled by the Actions of the Civil Service Commission. It was predicted by our forefathers that the CSC must be "insulated" from undue influence from the powers it be, ,in order for the Merit System as was envisioned to be the guardian of the civil service employees to ensure that the current situation would not happen. Apparently, it was not insulated enough to prevent so many "cracks" that managed to creep in.

Senator Mark Forbes's Bill 217 should be the focal point of discussion towards getting the CSC back on track. This is certainly not the Civil Service Commission as envisioned by the late Governor Manuel Guerrero who introduced the concept to the Legislature nor is it the Commission that had as its Executive Directors, the late Mr. Sabino Flores, Eloy O'hara or now Senator Felix Camacho. Hopefully, if and when said Bill 217 ever gets to have a public hearing, the rank and file of the civil service servants of the Government of Guam would be provided an opportunity to express their views

Joe T. San Agustin- 632-5703- Dededo

Personnel Hiring Incentives as an Attraction To Work

Have you ever wondered why Government of Guam has so many perquisites in its personnel management system?

With the number of legal holidays, more than one finds in any State or Federal Government, additional compensations over the prescript salary establish by law or by the Civil Service Commission, an unusual and generous retirement benefits, including work leave benefits, shouldn't these perquisites needs to be revisited or reevaluated?

To really to understand why these perquisites exist, we need to go back to the evolution of the Government of Guam.

During the naval government eras covering from 1898- 1950 (except under Japanese occupation 1941-1945), the government was more or less a caretaker unit within the Navy Department. Members of the U.S. Navy, mostly naval commissioned officers, headed every governmental unit. After WW II, the U.S. Navy resumed control of the island, and the Commander of the Pacific Fleet was the Governor of Guam. However, a Naval Commander, who for all intents and purposes was the Governor of Guam, headed the day-to-day island governmental affairs. The Government was the major employer on the island, and the work methods and procedures were mostly written in naval rules and regulations. Many of these rules and regulations in conceptual and attitudes behaviors continued to be in vogue to this date. This is why we hear so often from our elders remembering the good-all-Navy Days when everything, and I mean, everything is taken care of.

Immediately after the Guam Organic Act was passed in 1950, which created the Government of Guam as a civilian governmental entity, there was only an immediate "name change". During the period when our civilians Governors were essentially federal employees, the Governmental affairs were under continued scrutiny by the Interior Secretary. There were gradual duties and responsibilities granted to the local Legislature and every enacted legislations were understood to be subject to the review and can be "annulled" by the U.S. Congress, and for a limited time after one year. This proviso has been changed after a Circuit Court of Appeals decision regarding the tax qualifying certificates issues which ruled that the issuance of tax qualifying certificates were organic due to the U.S. Congress failure to annul such law within the year. The repeal of the Organic Act provision regarding this matter has the effect of re-establishing the close scrutiny requirements deemed necessary by the Federal Government. As I said there was an "immediate name change" of the island governmental structure—i.e. from the Navy to the Interior An example of the day-today scrutiny was the requirements for the Governor to send/or forwarded all copies of correspondence (initiated or replied by the Governor) .to the designated office within the Interior Department on a weekly basis. From time to time, depending on the urgency of the matter in questioned, the Governor would either

Joe T. San Agustin—August 22, 2001

There was one significant step accomplished during the first term of the Gutierrez Administration. The beginning of the “direct contribution retirement system” as opposed to the “defined benefit retirement system” The “defined benefit system” which has existed from 1950 to 1995—was designed to “attract, recruit and retain” qualified local people to work for the Government. Because of the basic improvements in the personnel management system over the last forty-five years, not to mention the continuing and rising cost of the defined benefit retirement systems, Government of Guam no longer need to be the employment area of last resort. Furthermore, conversion from a “defined benefit program to a direct contribution” provides an avenue to pursue privatization of government functions, enabling employees affected under the “direct contribution” the portability of retirement benefits.

Lately, because of the Government of Guam financial situation, and in order to live within our means, perhaps, the opportunity now exists to really try to reorganize, streamline, and eliminate or reduce several “costly salary inducements”, including minimizing the number of legal holidays.

The basic problem is that we continually “legislate” additional mandates, as well as require the establishment of work performance standards, without an overall and comprehensive policy direction. Once this basic policy direction is firmly established, the implementation actions can be in several phases, such as the review and evaluation of the current methods and procedures, functional reviews, determination and selection of which and what areas need to be either “outsource” or “privatize”. All of these necessary steps would, of course, need the funding requirement, similar to the funding requirements to develop an “A&E” footprint. Once this “foot print” is considered and approved by all the elected leaders as a matter of law, the implementation phase can now begin.

This proposal will not, I know, answer all objections. There will be changes, but it is necessary to make a beginning. I invite your careful consideration.

Respectfully yours,

1s7 Manuel P.L. Guerrero
MANUEL P. L. GUERRERO

Enclosure

**CC: Attorney General
HWBurnett:fb
7-6-67**

**NINTH GUAM LEGISLATURE
1967 (FIRST) Regular Session**

Bill No. _____

Introduced by: _____

**Request of the Governor
in accordance with
Section 6(b) of the
Organic Act of Guam.**

**AN ACT TO AMEND THE PERSONNEL AND COMPEN-
SATION LAWS, TO ESTABLISH A CIVIL SERVICE
COMMISSION, TO PROVIDE GENERALLY APPLICABLE
STANDARDS AS TO GOVERNMENT EMPLOYMENT, AND
FOR OTHER PURPOSES.**

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

**Section 1. Sections 4000.1, 4000.2, 11108.1, and
49006, Government Code of Guam, are hereby repealed.**

**Section 2. Section 4001, Government Code of Guam,
is hereby repealed, and new Section 4001 enacted, to read as
follows:**

**"Section 4001. Personnel policy. Employment
in the service of the Government of Guam shall be
based on merit, and selection methods shall be
free of personal or political considerations. All
personnel actions, including appointments and
promotions, shall be based, insofar as practicable,
on competitive practical tests and evaluations.
Continuity of employment shall be dependent upon
good behavior, satisfactory performance of work,
and availability of funds."**

**Section 3. Section 4003, Government Code, is hereby
repealed, and new Section 4003 is hereby enacted to read as
follows:**

"Section 4003. Preference. No preference

1 as required by Section 9(a), Public Law 630,
2 81st Congress, and except that residents of Guam
3 who are veterans of the Armed Forces of the
4 United States, or members of the Guam Police
5 Combat Patrol, as certified by the Director of
6 Public Safety, shall receive a preferential
7 credit of five points which shall be added to
8 their competitive examination score."

9 Section 4. Sections 4004, 4005, and 4006, Government
10 Code of Guam, are hereby repealed.

11 Section 5. New Section 4004, Government Code, is
12 hereby enacted to read as follows:

13 "Section 4004. Departmental Personnel
14 Rules. Rules and regulations, subject to
15 criteria established by this Chapter governing
16 selection, promotion, performance evaluation,
17 demotion, suspension and other disciplinary
18 action, shall be adopted by the Board of
19 Education, the Board of Regents of the College
20 of Guam, and by the Board of Trustees of Guam
21 Memorial Hospital, with respect to personnel
22 matters within their respective agencies or
23 departments, and by the Director of Labor and
24 Personnel as to all other government employment.
25 Such regulations shall, to the extent practicable,
26 provide standard conditions for entry into, and
27 other matters concerning the government service,
28 and shall take effect upon their approval by
29 Executive Order of the Governor."

1 Section 6. New Section 4005, Government Code, is
2 hereby enacted to read as follows:

3 "Section 4005. Civil Service Commission.

4 There is hereby established, in and for the
5 Government of Guam, a Civil Service Commission,
6 composed of seven members, appointed by the
7 Governor, with the consent of the Legislature.
8 Members shall include representatives of the
9 Board of Education, the Board of Regents of the
10 College of Guam, the Board of Trustees of the
11 Guam Memorial Hospital, and the Director of
12 Labor and Personnel, and shall serve for a term
13 of three years. The Commission is authorized to
14 employ its own clerical staff and shall be
15 provided such further logistic support as it may
16 require by the Bureau of Management Research."

17 Section 7. New Section 4006, Government Code, is
18 hereby enacted to read as follows:

19 "Section 4006. Same: duties. The
20 Commission shall provide by rule for all
21 matters relating to position classification,
22 creation of new positions or classes of
23 positions as provided in Section 4107,
24 reassignment of positions or classes of
25 positions pursuant to Section 4108, and for
26 appeals to the Commission of administrative
27 action to suspend or dismiss an employee in
28 the classified service. It shall have the
29 authority to conduct such investigations into

1 necessary, and shall report its findings and
2 recommendations to the Governor and Legislature
3 annually."

4 Section 8. Section 4007, Government Code, is hereby
5 repealed, and a new Section 4007 is hereby enacted to read as
6 follows:

7 "Section 4007. Personnel Rules. The
8 personnel rules provided for by Section 4004
9 shall provide procedures for the employment
10 of persons on the basis of merit, and shall
11 include an orderly and systematic method of
12 recruitment and the establishment of qualified
13 lists for employment purposes. They shall provide
14 for a probationary period of not less than three
15 nor more than twelve months for all original and
16 promotional appointments, during which time the
17 employee may be dismissed at any time without
18 right of appeal. Specific procedures and
19 policies shall be included governing the
20 following: (1) The announcement of vacancies
21 and acceptance of applications for employment;
22 (2) preparation and conduct of examinations;
23 (3) establishment and use of employment lists
24 containing names of persons eligible for employ-
25 ment; (4) establishment of promotional policies;
26 (5) certification of employment of persons from
27 employment lists to fill vacancies and the making
28 of temporary and emergency appointments; (6) eval-
29 uation of the work of employees including those

1 promotion, and reinstatement of employees in the
2 competitive service; (8) separation from the
3 service of employees by resignation, layoff,
4 suspension, dismissal, and for incapacity to
5 perform required duties; (9) establishment of
6 hours of work, attendance and leave regulations,
7 and working conditions; (10) development of
8 employee morale, welfare, and training; (11) rules
9 governing the outside employment of territorial
10 employees; (12) maintenance and use of necessary
11 records and forms; (13) a uniform system of
12 handling all grievances; and (14) such other
13 matters as may be necessary to properly carry
14 out the intent and purpose of this Chapter. Such
15 rules shall take effect upon their approval by
16 the Governor by Executive Order."

17 Section 9. Section 4010, Government Code, is hereby
18 amended to read as follows:

19 Section 4010. Removal Disciplinary Action.

20 (a) Each of the following shall constitute cause
21 for discipline of an employee, which may be
22 dismissal, suspension, demotion or other appropriate
23 action: (1) Fraud in securing appointment;
24 (2) incompetence; (3) inefficiency; (4) incurable
25 neglect of duty; (5) insubordination; (6) dishonesty;
26 (7) drunkenness on duty; (8) intemperance;
27 (9) addiction to the use of narcotics or
28 habit-forming drugs; (10) incurable absence
29 without leave; (11) conviction of a felony or

1 (12) discourteous treatment of the public or
2 other employees; (13) improper political activity;
3 (14) willful disobedience; (15) misuse of govern-
4 ment property; (16) refusal to take and subscribe
5 any oath or affirmation which is required by law
6 in connection with his employment; (17) other
7 failure of good behavior either during or outside
8 of duty hours which is of such a nature that it
9 causes discredit to his agency or his employment.

10 (b) No person in the classified service of
11 the government of Guam shall be removed dismissed
12 therefrom except for such cause as will promote
13 the efficiency of said service and for the
14 reasons given in writing, and the person whose
15 removal dismissal is sought shall have notice of
16 the same and of any charges preferred against
17 him, and be furnished with a copy thereof, and
18 also be allowed a reasonable time for personally
19 answering the same in writing and affidavits in
20 support thereof; provided, however, that this
21 section shall not apply to persons whose employ-
22 ment is purely temporary, seasonal, intermittent,
23 part-time, or only for a specific project.

24 (c) The Civil Service Commission shall have
25 jurisdiction of appeals from dismissal or
26 suspension without pay for not less than 15 days.
27 Jurisdiction of other disciplinary matters rests
28 with the rule-making authority specified in
29 Section 4004."

1 Section 10. Section 4012, Government Code, is hereby
2 repealed, and a new Section 4012 is hereby enacted to read as
3 follows:

4 "Section 4012. Appeals. An employee who
5 is dismissed or suspended without pay for not
6 less than 15 days shall be given immediate notice
7 of the action, together with a specific statement
8 of the charges upon which such action is based.
9 Copies thereof shall be filed with the Civil
10 Service Commission not later than the working day
11 next following the effective date of the action.
12 The employee may, within 20 days of service of
13 notice, appeal to the Commission by filing his
14 written answer to the charges against him. The
15 Commission shall then set the matter for hearing
16 as expeditiously as practicable. The employee
17 or his representative shall be given the oppor-
18 tunity to inspect any documents relevant to the
19 action which would be admissible in evidence at
20 the hearing, and to interview other employees
21 having knowledge of the acts or omissions upon
22 which the dismissal or suspension is based. The
23 Commission may sustain, modify or revoke the
24 action taken. Its decision shall be final."

25 Section 11. Section 4107, Government Code, is amended
26 to read as follows:

27 "Section 4107. New positions and classes:
28 creation. New positions or classes of positions

1 functions of the government. Such positions
2 and classes of positions shall be submitted to
3 the Personnel-Board Civil Service Commission
4 within thirty (30) days and shall be terminated
5 unless approved by the Personnel-Board Civil
6 Service Commission within sixty (60) days
7 thereafter. This section, however, shall not
8 apply to any and all positions specifically
9 required by law to be confirmed by the Guam
10 Legislature."

11 Section 12. Section 4108, Government Code, is hereby
12 amended to read as follows:

13 "Section 4108. Reassignments. Positions
14 or classes of positions may be reassignable to
15 other pay ranges by action of the Governor when
16 necessary to the efficient performance of the
17 duties and functions of the Government. Such
18 reassignments shall be submitted to the Personnel
19 Board Civil Service Commission within thirty (30)
20 days and shall be terminated unless approved by
21 the Personnel-Board Civil Service Commission
22 within sixty (60) days thereafter. This section,
23 however, shall not apply to any and all positions
24 specifically required by law to be confirmed by
25 the Guam Legislature."

26 Section 13. This Act is an urgency measure.

HWBurnett/mcb 7/6/67

cc: Attorney General



MINA ' ENTE SAIS NA LIHEST ATURAN GUAHAN

Kumitchan Areklamento, Hinanao Gubetnamenton Hinirat, Rifotma yan Rinueba,
yan Asunton Fidirat, Taotao Hiyong yan Hinirat

*Senadot Mark Forbes, Gebilu
Kabisiyon Mayurat*

WAIVER OF FISCAL NOTE

In accordance with §9105 Title 2 GCA, I hereby certify that prompt committee action on Bill 217 is necessary to the proper conduct of legislative business. Therefore, I am waiving requirement of a fiscal note on Bill 217.



MARK FORBES

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

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 217(15)

Introduced by:

Mark Forbes 

AN ACT TO CLARIFY THE GRANT OF JURISDICTION
TO THE CIVIL SERVICE COMMISSION UNDER TITLE
4 GUAM CODE ANNOTATED CHAPTER 4, SECTIONS
4403 AND 4406, RELATIVE TO HEARING THE
APPEALS OF ANY PERSON EMPLOYED BY THE
GOVERNMENT OF GUAM.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan finds that the*
3 *Civil Service Commission has erroneously determined that it was granted jurisdiction to*
4 *act to hear appeals of persons not within the classifieds service of the government of*
5 *Guam, that being persons who obtained employment by means other than having been*
6 *hired through the competitive hiring procedures established under the personnel rules of*
7 *the government of Guam.*

8 *The Civil Service Commission has heard appeals of persons who claim that they*
9 *were demoted or dismissed from employment of the government of Guam who were at the*
10 *time of the termination not persons who had been hired into the classified service through*
11 *the competitive hiring practices of the personnel rules of the government of Guam despite*
12 *the prohibition of such actions as set forth in Title 4 of Guam Code Annotated Chapter 4,*
13 *Section 4403 (b), as this Section applies to Title 4 Guam Code Annotated, Chapter 4,*
14 *Sections 4403(d) and 4406.*

1 *In particular, the Civil Service Commission has heard appeals of persons whose*
2 *employment was not in the classified service of the government of Guam and whose*
3 *employment ended as a result of the position not being funded by the fiscal year October*
4 *1, 2001 to September 30, 2002, budget. The Civil Service Commission has ignored the*
5 *laws of Guam in so hearing such appeals and I Liheslaturan Guåhan finds it beneficial to*
6 *the people of Guam for I Liheslaturan Guåhan to clarify the law so that the Civil Service*
7 *Commission will not perpetuate its mistake and continue to hear appeals from persons*
8 *who were not hired through competitive hiring practices as set forth in the personnel*
9 *rules of government of Guam.*

10 **Section 2.** *Title 4 Guam Code Annotated, Chapter 4, Section 4403 is hereby*
11 *repealed and reenacted to read as follows:*

12 *§4403. Duties of the Commission.*

13 *The Commission has the following duties, powers and responsibilities:*

14 (a) *It shall provide by rules standards relating to position classification, creation of*
15 *new positions or classes of positions, as provided in §6210 of this Title, and as required*
16 *for positions in the other branches of the Government as such positions are placed within*
17 *the jurisdiction of the Commission;*

18 (b) *It shall hear appeals from the adverse actions taken to suspend, demote or dismiss*
19 *an employee from the classified service if such right of appeal to the Commission is*
20 *established in the personnel rules governing the employee, however it may not hear any*
21 *appeal of an action taken to suspend, demote or dismiss an employee of the government*
22 *of Guam who has not been hired through the competitive hiring procedures of the*

1 *personnel rules of the government of Guam as such personnel rules required at the time*
2 *of the hiring of the employee;*

3 *(c) It shall investigate conditions of government employment as it deems necessary*
4 *and report findings and recommendations to the Governor and Legislature annually;*

5 *(d) It may set aside and declare null and void any personnel action taken by any*
6 *entity of the Government under its jurisdiction when it has found that such action was*
7 *taken without compliance with personnel laws or rules, provided, however, that this*
8 *Section shall not be deemed to permit appeals by employees from adverse actions not*
9 *covered by Subsection (b), above, which employee was not hired into the classified*
10 *service of the Government of Guam through competitive hiring as set forth in the*
11 *personnel rules of the government of Guam as those personnel rules existed at the time of*
12 *the hiring of the employee by the government.;*

13 *(e) It shall review the salaries of positions in the unclassified service, including*
14 *judges and elected official and recommend adjustments to the Legislature on an annual*
15 *basis;*

16 *(f) Administer, as provided in law and in Executive Orders, the Equal Employment*
17 *Opportunity Programs of the Government.*

18 *(g) The provisions of this Section shall not apply to the Judiciary or Legislature in*
19 *compliance with the doctrine of separation of powers unless such separate branch opts to*
20 *make them applicable by submitting to the jurisdiction of the Civil Service Commission.*

21 *All reference to classified employees will be deemed to mean classified employees of the*
22 *Executive Branch including agencies and authorities.*

- 1 (h) *The jurisdiction of the Civil Service Commission shall not extend to academic*
- 2 *personnel of the Guam Community College and the University of Guam, except upon*
- 3 *mutual consent by the governing board of the respective institutions and the commission*