

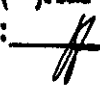


Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Office of the People's Speaker
vicente (ben) c. pangelinan

JUL 08 2004

TIME: 4:28 () AM (✓) PM
RECEIVED BY: 

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

07 JUL 2004

The Honorable Vicente C. Pangelinan
Speaker
I Mina' Bente Siete Na Liheslaturan Guåhan
155 Hessler Place
Hagåtña, Guam 96910

Dear Speaker Pangelinan:

Transmitted herewith is Bill No. 280 (COR), "AN ACT TO REMOVE POTENTIAL CONFLICTS OF INTEREST ON BOARDS AND COMMISSIONS OF THE GOVERNMENT OF GUAM, BY *AMENDING* 4 GCA §8138(b)(4), 9 GCA §85.10, 12 GCA §11107, AND 22 GCA §35104; AND BY *ADDING* A NEW 4 GCA §2104.1," which I have signed into law as **Public Law No. 27-104**.

Serving the people of Guam as members of a government of Guam board or commission is a noble endeavor. We should be mindful of the hardworking citizens who contribute their time and talent to assist our people through their membership on a government board or commission. These unrecognized individuals work diligently and are dedicated to improving government services for our people. That is why the people who serve on these boards should be qualified and trusted individuals. Therefore, whenever a conflict of interest arises these individuals would remove themselves from directly acting on any issues related to their conflict.

The Administration has appointed qualified individuals to sit on the boards and commissions. For example, Doris Flores Brooks, the Public Auditor, is a member of the Board of Accountancy (GBA). Doris Flores Brooks has contributed significantly to GBA since she became a board member last year. Her contributions to the board are valued and respected by her peers. As a matter of fact, other jurisdictions include their Public Auditor as an ex officio member of their Board of Accountancy. Therefore, pursuant to my Organic Act power to appoint and remove members of a board or commission, I intend to execute the law prospectively and permit the existing members to complete their term. Thereafter, all appointments will comply with Public Law 27-104.

Another amendment to the GBA that I would like to point out is the ability to appoint an unlicensed Certified Public Accountant (CPA) to be a member of the board. An unlicensed CPA does not meet the professional requirement to practice accounting. Due to the complexities of issues governing licensed CPAs and the evolving rules and regulations concerning CPAs, all

board members should be licensed CPAs. The standard required of licensees and not presently required of nonlicensees on the GBA impacts the protection of the public.

I am also concerned with Section 3 of the Bill that would permit the Chief Justice of the Supreme Court of Guam to appoint two members to the Board of Trustees of the Public Defender Service Corporation. Without setting qualifications for these members, and limiting these appointments to members of the public who are not affiliated with the Court, the Board could be influenced by the agenda of a Chief Justice and the Supreme Court of Guam. This is a real concern for the Public Defender Service Corporation, as they must remain autonomous when representing their clients in a court of law.

I support the intent of Bill No. 280 to maintain the separation of powers between and amongst the branches of government and to minimize conflicts with the duties and responsibilities of the primary office a public official holds. I applaud Senator Cunliffe for recognizing the importance for Bill No. 280. However, I urge *I Mina' Bente Siete Na Liheslaturan Guåhan* to consider my concerns and pass legislation with these amendments.

Sinseru yan Magåhet,



FELIX P. CAMACHO
I Maga'lahaen Guåhan
Governor of Guam

Attachment

cc: The Honorable Tina Rose Muña-Barnes
Senator and Legislative Secretary

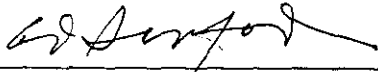
I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

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

This is to certify that Bill No. 280 (COR), "AN ACT TO REMOVE POTENTIAL CONFLICTS OF INTEREST ON BOARDS AND COMMISSIONS OF THE GOVERNMENT OF GUAM, BY AMENDING 4 GCA §8138(b)(4), 9 GCA §85.10, 12 GCA §11107, AND 22 GCA §35104; AND BY ADDING A NEW 4 GCA §2104.1," was on the 18th day of June, 2004, duly and regularly passed.

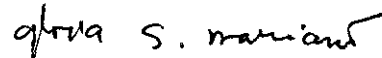
vicente (ben) c. pangelinan
Speaker

Attested:



Antoinette (Toni) D. Sanford
Senator and Acting Legislative Secretary

.....
This Act was received by *I Maga'lahaen Guåhan* this 21st day of June, 2004,
at 4:30 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 6/30/04

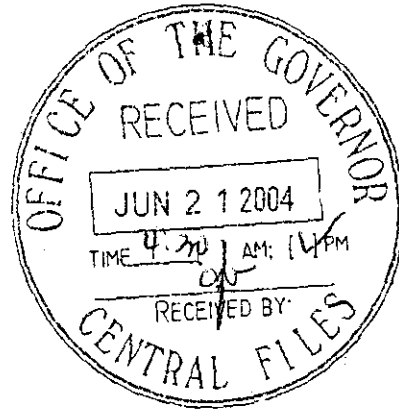
Public Law No. 27-104



MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN
TWENTY-SEVENTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

June 21, 2004

The Honorable Felix P. Camacho
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 233(COR), 280(COR), 288(LS) and 292(COR), and Substitute Bill Nos. 287(LS), 295(COR) and 299(LS) which were passed by *I Mina' Bente Siete Na Liheslaturan Guåhan* on June 18, 2004.

Sincerely,

ANTOINETTE (TONI) D. SANFORD
Senator and Acting Legislative Secretary

Enclosures (7)

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

Bill No. 280 (COR)

As amended.

Introduced by:

F. R. Cunliffe
F. B. Aguon, Jr.
J. M. Quinata
J. M.S. Brown
C. Fernandez
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
L. A. Leon Guerrero
J. A. Lujan
v. c. pangelinan
T. R. Muña Barnes
R. J. Respicio
Toni Sanford
Ray Tenorio

AN ACT TO REMOVE POTENTIAL CONFLICTS OF INTEREST ON BOARDS AND COMMISSIONS OF THE GOVERNMENT OF GUAM, BY AMENDING 4 GCA §8138(b)(4), 9 GCA §85.10, 12 GCA §11107, AND 22 GCA §35104; AND BY ADDING A NEW 4 GCA §2104.1.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent.

3 *I Liheslaturan Guåhan* finds that maintaining the separation of powers
4 between and amongst the various branches of government is in the best
5 interests of the people. Elected officials should not serve in other capacities
6 within the government which may be or may appear to be, in conflict with the

1 duties and responsibilities of the primary office a public official holds. *I*
2 *Mina'Bente Siete Na Liheslaturan Guåhan* has set a standard with the passage of
3 Public Law 27-31, which reorganized the Guam Judiciary and removed the
4 Chairperson of the Judiciary Committee of *I Liheslaturan Guåhan* from the
5 Judicial Council of Guam.

6 *I Liheslaturan Guåhan* finds that the standard applied by Public Law 27-
7 31 should also be applied to the Board of Trustees of the Public Defender
8 Service Corporation, the Guam Board of Accountancy, and the Territorial
9 Parole Board, on which elected officials currently serve, in addition to all
10 other boards and commissions of the government of Guam. It has also been
11 determined that elected officials are eligible to serve on the Board of Trustees
12 of the Government of Guam Retirement Fund, which *I Liheslaturan Guåhan*
13 finds to be in conflict with the best interests of the people.

14 It is the intent of *I Liheslaturan Guåhan* to restrict any public official
15 holding an elected office from concurrently serving in an appointed or second
16 elected office, in addition to the primary office to which such elected public
17 official was first elected.

18 **Section 2.** A new §2104.1 is hereby *added* to Title 4 of the Guam Code
19 Annotated, to read as follows:

20 “§2104.1. **Service Limited.** Notwithstanding any other provision
21 of law, elected officials of any branch, agency, department, office, public
22 corporation, or commission of the government of Guam, are prohibited
23 from serving in any other capacity on a board or commission of the
24 government of Guam unless specifically holding said position on the

1 board or commission by virtue of the elected office or pursuant to the
2 duties of that elected office as provided by law.”

3 **Section 3. Reconstitution of the Board of Trustees of the Public**
4 **Defender Service Corporation.** §11107(a) of Chapter 11, of Title 12 of the
5 Guam Code Annotated, is hereby *amended* to read as follows:

6 “§11107. **Board of Trustees.** (a) All powers vested in the
7 Corporation, except as otherwise provided in this Chapter, shall be
8 exercised by the Board. The Board shall consist of five (5) Trustees: the
9 Chief Justice of the Supreme Court of Guam, who shall be Chairman;
10 the Presiding Judge of the Superior Court of Guam who shall be Vice-
11 Chairman; the President of the Guam Bar Association; and two (2)
12 members appointed by the Chief Justice of the Supreme Court of Guam,
13 whose terms shall be for three (3) years. Neither person appointed by
14 the Chief Justice shall be the Attorney General, or a member of his staff.
15 The Trustees shall *not* be employees of the Corporation.”

16 **Section 4. Reconstitution of the Board of Trustees of the Government**
17 **of Guam Retirement Fund.** §8138(b)(4) of Article 1, Chapter 8, Title 4 of the
18 Guam Code Annotated, is *amended* to read as follows:

19 “(4). **Elected Officials and Retirement Fund Employees**
20 **Disqualified.** Any person holding an elected office and any employee
21 of the Retirement Fund shall be disqualified from serving on the Board
22 of Trustees.”

1 **Section 5. Reconstitution of the Territorial Parole Board.** §85.10 of
2 Chapter 85 of Title 9 of the Guam Code Annotated, is *amended* to read as
3 follows:

4 “§85.10. **Territorial Parole Board Created.** There is in the
5 Executive Branch of the government of Guam, a Territorial Parole
6 Board, hereinafter referred to as the Board, consisting of five (5)
7 members appointed by *I Maga’lahi*, by and with the advice and consent
8 of *I Liheslatura*. Only persons, who by their knowledge and experience
9 are prepared to perform efficiently the duties of the Board as hereinafter
10 provided, shall be eligible to such appointment. Any person holding an
11 elected office shall not be eligible to serve on the Territorial Parole
12 Board.”

13 **Section 6. Reconstitution of the Guam Board of Accountancy.**
14 §35104(a) of Division 3, Chapter 35 of Title 22 of the Guam Code Annotated, is
15 hereby *amended* to read as follows:

16 “(a) There is hereby created the Guam Board of Accountancy,
17 which shall have responsibility for the administration and enforcement
18 of this Chapter. The Board shall consist of five (5) members appointed
19 by *I Maga’lahi*, all of whom shall be residents of Guam and holders of
20 certificates currently valid under §35105 of this Chapter. Any person
21 holding an elected office shall be disqualified from serving on the Board.
22 At least a majority plus one (1) of such members shall be holders of
23 currently valid permits issued under §35106 of this Chapter, or
24 corresponding provisions of prior law. The term of each member of the

1 Board shall be four (4) years. Vacancies occurring during a term shall be
2 filled by appointment by *I Maga'lahi*, for the unexpired term. Upon the
3 expiration of a member's term of office, such member shall continue to
4 serve until a successor shall have been appointed and taken office. Any
5 member of the Board whose certificate under §35105 of this Chapter is
6 revoked, or suspended, shall automatically cease to be a member of the
7 Board, and *I Maga'lahi*, may, after a hearing pursuant to the
8 Administration Adjudication Law, remove any member of the Board for
9 neglect of duty, or other cause."

10 **Section 7. Severability.** *If any provision of this Law or its application*
11 *to any person or circumstances is found to be invalid or contrary to law, such*
12 *invalidity shall not affect other provisions or applications of this Law which*
13 *can be given effect without the invalid provisions or applications, and to this*
14 *end the provisions of this Law are severable.*



FRANK B. AGUON, JR.

Vice Speaker

June 9, 2004

The Honorable ben c. pangelinan
Speaker, *I Mina' Bente Siete Na Liheslaturan Guåhan*
155 Hesler Street
Hagåtña, Guam 96910

Via: Honorable Senator Lou Leon Guerrero, Committee on Rules & Health

Dear Speaker pangelinan:

The Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform, to which was referred, Bill No. 280(COR) "An Act to Remove Potential Conflicts of interest on boards and commissions of the government of Guam, by amending 4 GCA §2104.1, §8138(B)(4), 9 GCA §85.10, 12 GCA §11107, and 22 GCA §35104", has had the same under consideration, and now wishes to report back the same with the recommendation TO DO PASS.

The voting record is as follows:

TO PASS

7

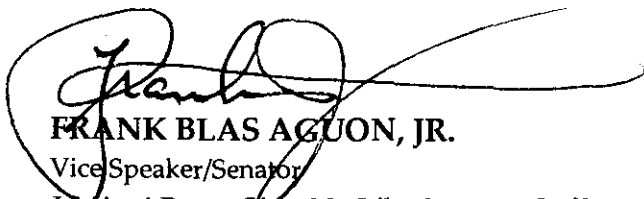
NOT TO PASS

TO ABSTAIN DUE TO POTENTIAL CONFLICT

TO PLACE IN INACTIVE FILE

Copies of the Committee Report and other pertinent documents are attached. Thank you for your attention to this matter. **Dangkolo' Na Si Yu'os Ma'ase.**

Respectfully,


FRANK BLAS AGUON, JR.
Vice Speaker/Senator
I Mina' Bente Siete Na Liheslaturan Guåhan

Respetu Para Todu (Respect for All)

I Mina Bente-Siete Na Liheslaturan Guåhan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
Phone (671) 479-4GUM (4486/4828) * Fax (671) 479-4827





FRANK B. AGUON, JR.

Vice Speaker

Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform

VOTING SHEET

Bill No. 280(COR) - "An Act To Remove Potential Conflicts Of Interest On Boards And Commissions Of The Government Of Guam, By Amending 4 GCA §2104.1, §8138(B)(4), 9 GCA §85.10, 12 GCA §11107, And 22 GCA §35104."

Committee Members	To Pass	Not to Pass	To Abstain due to potential Conflict	To place in Inactive File
 FRANK B. AGUON, JR. 6/9/04 Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ANTOINETTE D. SANFORD Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 LOU LEON GUERRERO Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TINA R. MUÑA-BARNES Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JOHN M. QUINATA Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 RORY J. RESPICIO Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 CARMEN FERNANDEZ Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARK FORBES Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 LAWRENCE F. KASPERBAUER Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Respetu Para Todu (Respect for All)





FRANK B. AGUON, JR.

Vice Speaker

June 9, 2004

MEMORANDUM

TO: Members, Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform

FROM: Vice Speaker Frank B. Aguon, Jr. Chairman, Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform

SUBJECT: Committee Report – Bill No. 280(COR)

Transmitted herewith for your information and action is the report on Bill No. 280(COR) "An Act To Remove Potential Conflicts Of Interest On Boards And Commissions Of The Government Of Guam, By Amending 4 GCA §2104.1, §8138(B)(4), 9 GCA §85.10, 12 GCA §11107, And 22 GCA §35104", from the Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform.

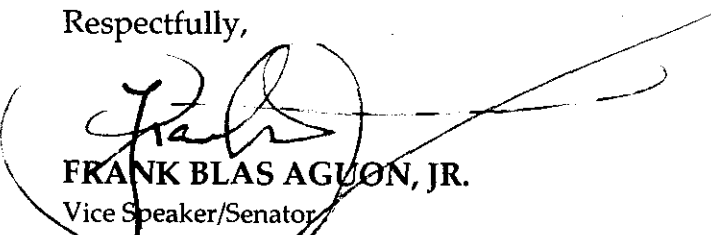
This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 280(COR)
4. Public Hearing Sign-in Sheet
5. 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. **Dangkolo' Na Si Yu'os Ma'ase.**

Respectfully,


FRANK BLAS AGUON, JR.

Vice Speaker/Senator

I Mina' Bente Siete Na Liheslaturan Guåhan

Respetu Para Todu (Respect for All)

I Mina Bente-Siete Na Liheslaturan Guåhan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
Phone (671) 479-4GUM (4486/4828) * Fax (671) 479-4827





FRANK B. AGUON, JR.

Vice Speaker

I MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN

Committee on Appropriations and Budgeting,
General Governmental Operations,
Reorganization and Reform

**VICE SPEAKER FRANK B. AGUON, JR.
CHAIRMAN**

Committee Report
On
Bill No. 280 (COR)

**"AN ACT TO REMOVE POTENTIAL CONFLICTS OF INTEREST ON
BOARDS AND COMMISSIONS OF THE GOVERNMENT OF GUAM, BY
AMENDING 4 GCA §2104.1, §8138(B)(4), 9 GCA §85.10, 12 GCA §11107, AND
22 GCA §35104."**

Respetu Para Todu (Respect for All)

I Mina Bente-Siete Na Liheslaturan Guåhan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
Phone (671) 479-4GUM (4486/4828) * Fax (671) 479-4827



I. OVERVIEW

The Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform to which was referred Bill No. 280(COR) held a public hearing at 4:00 p.m. on Wednesday, May 12, 2003 in the Public Hearing Room, *I Liheslaturan Guåhan*. A paid ad was publicized in the Pacific Daily News on Wednesday, May 5, 2004.

Senators present at the public hearing were:

Vice-Speaker Frank Blas Aguon, Jr., Chairman
Senator Antoinette Sanford
Senator Carmen Fernandez
Senator Tina Muna-Barnes
Senator Rory Respicio
Senator Lawrence Kasperbauer
Speaker vicente pangelinan
Senator Robert Klitzkie

II. SUMMARY OF TESTIMONY

Jacob Cruz, private citizen, delivered oral testimony in support of Bill No. 280(COR).

III. FINDINGS AND RECOMMENDATION

The Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform finds that Bill No. 280(COR) seeks to prevent any potential conflicts of interests by elected public officials by barring those elected public officials from serving in an appointed or second elected office simultaneously. Furthermore, Bill No. 280(COR) will remove any questions of partiality of public officials' duties and responsibilities of the primary office in which the public official holds.

Accordingly, the Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform, to which Bill 280(COR) was referred does hereby submit its findings and recommendations to *I Mina Bente Siete Na Liheslaturan Guåhan* TO DO PASS Bill No. 280(COR): "An Act To Remove Potential Conflicts Of Interest On Boards And Commissions Of The Government Of Guam, By Amending 4 GCA §2104.1, §8138(B)(4), 9 GCA §85.10, 12 GCA §11107, And 22 GCA §35104."



Committee on Appropriations and Budgeting, General Governmental Operations,
Reorganization and Reform
Vice Speaker Frank B. Aguon, Jr., Chairman

Public Hearing: Wednesday, May 12, 2004 • 4:00 p.m.

I Liheslaturan Guahan, Hagatña

Witness sign in sheet

Bill 280 (COR) - An Act To Remove Potential Conflicts Of Interest On Boards And Commissions Of The Government Of Guam,
By Amending 4 GCA §2104.1, §8138(B)(4), 9 GCA §85.10, 12 GCA §11107, AND 22 GCA §35104.

NAME (Please print)	AGENCY/ ORGANIZATION	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR	CONTACT NUMBER
Self JACOB CRUZ	Self	✓		✓		456-0406