



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932

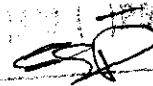
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

*Office of the People's Speaker
Vicente C. Pangelinan*

DEC 31 2004

TIME: 4:37
RECEIVED: 

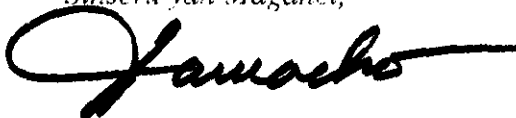
31 DEC 2004

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

Dear Mr. Speaker:

Transmitted herewith is Bill No. 400 (COR), "AN ACT TO AMEND ARTICLE 2 OF CHAPTER 67, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO CHANGING INSPECTION AND INSTALLATION REQUIREMENTS FOR ELEVATORS, ESCALATORS, PLATFORM AND STAIRWAY CHAIRLIFTS, DUMBWAITERS, MOVING WALKS, AUTOMATED PEOPLE MOVERS AND OTHER CONVEYANCES TO BRING THEM INTO CONFORMANCE WITH AMERICAN NATIONAL STANDARDS," now designated as **Public Law 27-147**.

Sinsere yan Magåhet,



FELIX P. CAMACHO
I Måga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Tina Rose Muna-Baraes
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

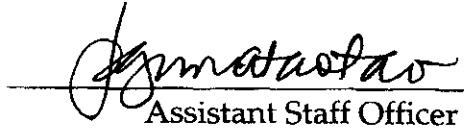
This is to certify that Bill No. 400 (COR), "AN ACT TO AMEND ARTICLE 2 OF CHAPTER 67, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO CHANGING INSPECTION AND INSTALLATION REQUIREMENTS FOR ELEVATORS, ESCALATORS, PLATFORM AND STAIRWAY CHAIRLIFTS, DUMBWAITERS, MOVING WALKS, AUTOMATED PEOPLE MOVERS AND OTHER CONVEYANCES TO BRING THEM INTO CONFORMANCE WITH AMERICAN NATIONAL STANDARDS," was on the 20th day of December, 2004, duly and regularly passed.

Attested:


Tina Rose Muña Barnes
Senator and Legislative Secretary


vicente (ben) pangelinan
Speaker

This Act was received by *I Maga'lahaen Guåhan* this 20 day of December, 2004,
at 5:50 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: December 30, 2004

Public Law No. 27-147

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

Bill No. 400 (COR)

As amended by the Committee on Economic Development,
Retirement, Investments, Public Works
and Regulatory Functions and further amended.

Introduced by:

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

AN ACT TO AMEND ARTICLE 2 OF CHAPTER 67, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO CHANGING INSPECTION AND INSTALLATION REQUIREMENTS FOR ELEVATORS, ESCALATORS, PLATFORM AND STAIRWAY CHAIRLIFTS, DUMBWAITERS, MOVING WALKS, AUTOMATED PEOPLE MOVERS AND OTHER CONVEYANCES TO BRING THEM INTO CONFORMANCE WITH AMERICAN NATIONAL STANDARDS.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 finds that there is a need to upgrade policies governing elevators, escalators,
4 platform and stairway chairlifts, dumbwaiters, moving walks, automated
5 people movers and other conveyances in Guam as mandated by the national
6 standards in the American standard Safety Code for Elevators, Dumbwaiters,
7 Escalators, Moving Walks and Manlifts.

8 *I Liheslaturan Guåhan* also finds that there is a critical need to ensure and
9 to provide for the safety of life and limb; and to promote public safety
10 awareness about elevators and similar conveyances.

11 *I Liheslaturan Guåhan* further finds that the use of unsafe and defective
12 lifting devices imposes a substantial probability of serious and preventable
13 injury to employees and the public who are exposed to unsafe conditions.
14 The prevention of these injuries and protection of employees and the public
15 from unsafe conditions is in the best interest of the people of Guam.

16 It is, therefore, the intent of *I Liheslaturan Guåhan* to *amend* Article 2 of
17 Chapter 67 of Title 21, Guam Code Annotated, relative to upgrading elevator
18 inspection and installation requirements to the existing American National
19 Standard. Elevator personnel performing work covered by this Code shall, by
20 documented training or experience, or both, be familiar with the operation
21 and safety functions of the components and equipment.

22 **Section 2. Subsection (d) is amended and new Subsections (e), (f)**
23 **and (g) are added, all to §67201 of Article 2 of Chapter 67 of Title 21, Guam**
24 **Code Annotated, to read:**

1 “(d) *Inspector* means any person, as defined in the American Society of
2 Mechanical Engineers (ASME) as a Qualified Elevator Inspector (QEI),
3 who is commissioned by the Director as prescribed in §67207;

4 (e) *ASME A17.1* is the Safety Code for Elevators and Escalators, an
5 American National Standard;

6 (f) *ASME A17.3* is the Safety Code for Existing Elevators and
7 Escalators, an American National Standard;

8 (g) *ASME A18.1* is the Safety Code for Platform Lifts and Stairway
9 Chairlifts, an American National Standard.”

10 **Section 3. Subsection (a) of §67202 of Article 2 of Chapter 67 of Title**
11 **21, Guam Code Annotated, is hereby *amended* to read:**

12 “§67202. Reasonable Safety Required. (a) All new and existing
13 installations of elevators, dumbwaiters, escalators, moving walks and
14 manlifts shall be reasonably safe to persons and property and in
15 conformity with the American National Standards set forth in ASME
16 A17.1, ASME A17.3 and ASME A18.1.”

17 **Section 4. The first paragraph of Subsection (d) of §67205 of Article**
18 **2 of Chapter 67 of Title 21, Guam Code Annotated, is hereby *amended* to**
19 **read:**

20 “(d) The Department shall, before issuance of permit for
21 installing, constructing, reconstructing or relocating as required under
22 Subsection (a) of this Section, charge and collect a fee for each permit as
23 follows, or as determined by the Director through the Administrative
24 Adjudication process:”

1 Section 5. §67208 of Article 2 of Chapter 67 of Title 21, Guam Code
2 Annotated is hereby *amended* to read:

3 “§67208. Elevator Inspections. (a) Any person making
4 inspections of elevators as required by this Article shall first secure from
5 the Department, a commission to make such inspections.

6 (b) Applicants for commissions as elevator inspectors shall be
7 mentally and physically sound; citizens of the United States; able to
8 read, write and understand the English language; of good moral
9 character; and meet the standards set forth in the ASME QEI.

10 (c) All commissions to inspect, unless suspended, revoked or
11 cancelled, shall expire on December 31, of the year of issuance. The
12 commission may be renewed within thirty (30) days after expiration,
13 without examination, upon application to the Department and upon
14 payment of a renewal fee of Two Dollars (\$2.00), or as determined by
15 the Director through the Administrative Adjudication process.

16 (d) Commissions to inspect shall be carried at all times by
17 inspectors while engaged in the performance of inspectional duties.
18 Commissions are non-transferrable.”

19 Section 6. Subsections (c) and (e) of §67211 of Article 2 of Chapter 67
20 of Title 21, Guam Code Annotated, are hereby *amended* to read:

21 “(c) A permit to operate shall be valid for six (6) months unless
22 sooner revoked and may be renewed only upon completion of an
23 inspection by a commissioned inspector.”

24 “(e) There shall be *no* charge for the processing and issuance of
25 subsequent elevator operating permits issued as a result of a periodic

1 inspection. However, the Department shall reserve the right to make a
2 nominal charge *not to exceed* Two Dollars (\$2.00), or as determined by
3 the Director through the Administrative Adjudication process, for the
4 processing and issuance of duplicate permits.”

5 **Section 7. Subsection (c) of §67214 of Article 2 of Chapter 67 of Title**
6 **21, Guam Code Annotated, is hereby *amended* to read:**

7 “(c) Upon payment of Twenty-Five Dollars (\$25.00), or as
8 determined by the Director through the Administrative Adjudication
9 process, for inspection fee; and”

10 **Section 8. §67217 of Article 2 of Chapter 67 of Title 21, Guam Code**
11 **Annotated, is hereby *amended* to read:**

12 “§67217. **Penalties.** Any owner or lessee who violates or fails to
13 comply with any notice or order made under or by virtue of this Article,
14 or who defaces, destroys or removes, without the authority of the
15 Department, any notice or order issued under this Article, shall be fined
16 in an amount *not to exceed* One Thousand Five Hundred Dollars
17 (\$1,500.00), or be imprisoned for a period *not exceeding* thirty (30) days,
18 or both.”

19 **Section 9. Effective Date.** Sections 2 through 7 of this Act shall take
20 effect on January 1, 2006. Section 8 shall take effect upon enactment into law.



Office of Senator Antoinette (Toni) Sanford
Assistant Majority Leader

TWENTY-SEVENTH GUAM LEGISLATURE

Chairwoman, Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions
Suite 15B, 777 Route 4, Sinajana, Guam 96910 / Telephone (671) 479-8664/6 Fax (671) 479-8667 Email: senatorsanford@ite.net

December 15, 2004

Senator Lou Leon Guerrero
Chairperson, Committee on Rules & Health
TWENTY-SEVENTH GUAM LEGISLATURE
155 Hesler Street
Hagatna, Guam 96910

Dear Senator Leon Guerrero,

The Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions, to which **Bill 400 (COR) AN ACT TO AMEND ARTICLE 2 OF CHAPTER 67, TITLE 21 GUAM CODE ANNOTATED, RELATIVE TO CHANGING INSPECTION AND INSTALLATION REQUIREMENTS FOR ELEVATORS, ESCALATORS, PLATFORM AND STAIRWAY CHAIR LIFTS, DUMBWAITERS, MOVING WALKS, AUTOMATED PEOPLE MOVERS AND OTHER CONVEYANCES TO BRING THEM INTO CONFORMANCE WITH AMERICAN NATIONAL STANDARDS** was referred, wishes to report its findings and recommendation **TO PASS, as amended.**

The voting record is as follows:

TO PASS	<u>7</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>
TO REPORT OUT	<u>0</u>

Copies of the Committee report and other pertinent documents are attached.

Antoinette (Toni) Sanford

Attachment.

**COMMITTEE ON ECONOMIC DEVELOPMENT, RETIREMENT,
INVESTMENTS, PUBLIC WORKS, AND REGULATORY
FUNCTIONS**

Twenty-Seventh Guam Legislature
155 Hesler Street, Hagatna Guam 96910



**COMMITTEE REPORT
ON**

Bill 400 (COR) AN ACT TO AMEND ARTICLE 2 OF CHAPTER 67, TITLE 21 GUAM CODE ANNOTATED, RELATIVE TO CHANGING INSPECTION AND INSTALLATION REQUIREMENTS FOR ELEVATORS, ESCALATORS, PLATFORM AND STAIRWAY CHAIR LIFTS, DUMBWAITERS, MOVING WALKS, AUTOMATED PEOPLE MOVERS AND OTHER CONVEYANCES TO BRING THEM INTO CONFORMANCE WITH AMERICAN NATIONAL STANDARDS.

COMMITTEE MEMBERS

Chairperson Senator Toni Sanford
Vice-Chairperson Senator Frank B. Aguon, Jr.

Majority Members

Senator Lou Leon Guerrero
Senator Tina Muna Barnes
Senator John M. Quinata
Senator Rory Respicio
Speaker ben c. pangelinan (ex-officio)

Minority Members

Senator Jesse A. Lujan
Senator Larry Kasperbauer

I. OVERVIEW

A. Purpose and Essential Elements

The purpose of Bill 400 (COR) "AN ACT TO AMEND ARTICLE 2 OF CHAPTER 67, TITLE 21 GUAM CODE ANNOTATED, RELATIVE TO CHANGING INSPECTION AND INSTALLATION REQUIREMENTS FOR ELEVATORS, ESCALATORS, PLATFORM AND STAIRWAY CHAIR LIFTS, DUMBWAITERS, MOVING WALKS, AUTOMATED PEOPLE MOVERS AND OTHER CONVEYANCES TO BRING THEM INTO CONFORMANCE WITH AMERICAN NATIONAL STANDARDS" is to amend Article 2 of Chapter 67 of Title 21, Guam Code Annotated, relative to upgrading elevator inspector and installation requirements to the existing American National Standard. Elevator personnel performing work covered by this Code shall, by documented training or experience or both, be familiar with the operation and safety functions of the components and equipment.

B. Public Hearing Conducted

The Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions conducted a public hearing at 9:00 a.m. Wednesday, December 9, 2004 in the Legislative Public Hearing Room, I Liheslaturan Guahan, in Hagatna. Public notice was provided on December 1, 2004 and December 6, 2004.

Committee Chairwoman Toni Sanford called the public hearing to order at 9:10 a.m. in the Legislative Public Hearing Room. Committee member present was: Senator Lou Leon Guerrero. Non-Committee member present was Senator Robert Klitzkie.

Individuals who appeared before the Committee and provided testimony were:

In FAVOR:

Francisco Bernardo – self, elevator nationally certified elevator inspector
Eddie Borja – DPW
Terry Mortera (written only) – Guam Contractor's Board

AGAINST:

Enrique Torres – Castle Towers Incorporated
Mark Hansen & Paul Hetz – Otis Elevator
Roger Maharis – elevator inspector, DPW locally certified 25 years ago
Liberty Cerillo – Fujitec Pacific
Ernie Aquino - self

II. SUMMARY OF TESTIMONY

Chairwoman Sanford welcomed her colleagues present and noted that normally, more of her colleague would have been present; however, this public hearing was preceded by

a holiday. Chairwoman Sanford then acknowledged those present who signed in to testify, calling them to the table as a one-panel session.

Frank Bernardo identified himself, stating that he was present to testify in favor of the proposed changes.

Noting that since the (Building) Code was established in 1921, the technology has changed tremendously; elaborating that the elevator code had changed 16 times to date. Mr. Bernardo believes that the laws must be changed to be in line with requirements set forth by American National standards.

He supports the proposed changes in Bill 400 for the following reasons:

(1) the amended law clearly defines the requirements of a qualified elevator inspector (QEI) based on the national standards set forth in the American Society of Mechanical Engineers (ASME). Qualified elevator inspectors are certified through an organization accredited by ASME and meet the national standard for elevator inspectors throughout the United States.

(2) the proposed amendment will do away with the double standard that exists between the certified inspector and the uncertified inspector with respect to the inspection and certification of elevator equipment.

(3) by bringing all elevator inspectors to the national level, GovGuam will help safeguard public safety on elevators throughout the island of Guam.

Enrique Torres identified himself as a manager of Castle Towers, Incorporated, a member of the Guam Hotel and Restaurant Association, testifying against some of the provisions being recommended in Bill 400.

He acknowledged that he is not an equipment operator, adding that his interest was that he had a friend in the elevator industry who shared his experiences about the elevator industry.

He referred to a section on the bill that makes reference to subsection 67207, in error, which Senator Sanford confirmed to be a correct finding. She noted the error was a typo mistake and will be corrected at committee level. The bill should have made reference to subsection 67208, instead.

Mr. Torres noted that the bill proposes to require a change in the term of the permits issued to operate the elevators from 12 months to 6 months. He inquired if the bill proposes to charge the elevator owner, once every 6 months, which will cost them double what is costing them, today, with a permit good for 12 months.

Chairwoman Sanford explained that the bill is silent on the charge as her intent was merely to remove the conflict that currently exists, when the permit allows you to operate the elevator for 12 months but mandates an inspection every 6 months. She noted that elevator owners sometimes refuse to comply with the inspection requirement since their permit is good for 12 months.

Mr. Torres stated that his concern is that it appears the elevator owners will be paying twice the amount they are currently paying for the permits.

Chairwoman Sanford answered that the intent is not to double up in fees, rather, the intent is to remove any current conflicts existing due to the difference where the inspection is required every 6 months yet the operating permit is good for 12 months. She requested Mr. Bernardo to explain the situation further.

Mr. Bernardo stated that on the issue of dollar value, it is dependant on DPW. His main concern is to ensure that the elevators are inspected twice. If DPW comes up with the idea that they have to pay, then that would be DPW's call.

Chairwoman Sanford clarified that the intent of the bill is not to pay more – and asked what the current fee is for the permit?

Mr. Bernardo answered that the permits cost \$ 25. He also noted that the inspection charge is dependent on the inspector's rates, which may depend on the elevator model. He noted that he charges \$ 150 for inspection per elevator.

Mr. Ernie Aquino (who joined the panel during Mr. Bernardo's presentation) interjected questions to Mr. Bernardo with regard to how much additional monies will be expended for inspections, claiming that Mr. Bernardo is attempting to raise the rates.

Mr. Bernardo clarified that he mainly wants to address the issue that many operators refuse to do the 6 month inspection as required by law because their certificate is good for 12 months.

Mr. Torres stated that it was his understanding that under the current practice, the permits are good for 12 months, and that the 2nd inspection should be made, as required by law, and the original permit would still be valid for the remaining 6 months.

Chairwoman Sanford acknowledged Mr. Torres' issue about doubling the cost of the permit if it was to be changed from 12 months down to 6 months term.

Eddie Borja (DPW Chief Building Inspector)

Mr. Borja stated that since the permits will be processed twice, then it would be to cover the fee of the permits, which is just \$25.00.

DPW does not want to incur additional costs to building owners, but the issue – as he sees it – with regard to charging twice, that is something that DPW would want to do as far as processing fees are concerned. As far as the government is concerned, that will just be another \$25 fee that the elevator owners will have to incur.

Mr. Torres addressed additional concerns – on page 4 and 5 – that means to take away some of DPW’s power to administer an exam of some sort. As he sees it, the law means to follow ASME, which he identifies as just a professional organization that helps to set standards – they are not the law – just a group of professional engineers. He feels that forcing ASME’s QEI on our local inspectors is not fair – he feels that DPW should be left with some teeth to test these people, similar to those in the medical industry.

Chairwoman Sanford pointedly asked Mr. Torres if he was against trying to have DPW administer the same standards of ASME mandates?

Mr. Torres said that Bill 400 states that the current standards are going to be removed.

Chairwoman Sanford deferred to Eddie Borja from DPW on this matter and asked if current testing levels are at the ASME standards at present.

Mr. Borja answered that the last local test administered was 25 years ago. DPW does not want to be in the testing business, adding that it should be left more to the Guam Contractor’s License Board or the Professional Engineers and Architects Board, for instance, who are better suited for this.

He sees Bill 400 as a good move, leading us to the national level, suggesting that the only problem to be addressed would be to identify a way to bring the national test here instead of forcing inspectors to go off-island for testing.

Chairwoman Sanford agreed that it is possible to work with local testing centers on this matter, sharing that in her conversations with the Director, DPW is in total support of moving to national standards.

Mr. Torres stated that he is in favor of bringing the elevator laws to the national level. He is just concerned that there is no local entity to ensure the qualifications and capability of these inspectors.

Mr. Borja added that there are over 600 elevators currently on island, and that there is a shortage of inspectors on island at present, so if we don’t have anything in place to get qualified inspectors on board right away – this is a big issue we need to address immediately. He asks the committee to identify a way to help building owners get by this critical stage.

Chairwoman Sanford assured that there will be sufficient time set in place to allow the infrastructure for testing to established locally, addressing the issue of avoiding to have inspectors go off island for such testing.

Mark Hansen, a supervisor with Otis Elevator, spoke in behalf of Otis Elevator that Bill 400 should not be considered at this time. He stated that QEI inspectors are not required in many states on the mainland, noting that he worked both in California, Washington and Alaska. The inspectors were men of experience and performed the inspections by

themselves. At present, Otis sends an employee with the inspector to make the necessary repairs as identified by the inspector. It would be unfair to our existing qualified Guam elevator inspectors to require this certification that may serve to effectively eliminate all competition in this field, mostly because of the prohibitive costs of going off-island for the QEI exam. Mr. Hansen, too, talked about the ASME exam holding some weight, but it is not recognized in all states. In closing, Mr. Hansen stated that for these reasons, Otis is against this bill.

Chairwoman Sanford then asked Mr. Hansen how Otis certifies people to go install, specifically, does Otis stop at installation or do they include maintenance and repair?

Mr. Hansen stated that Otis does installation, service, maintenance, repair, modernization, etc.; however, not inspection services, rather, installing to a particular code and the inspector comes in and identifies discrepancies, which is addressed by Otis servicemen. The inspector issues the certificate attesting to the completeness of the job performed/done by Otis, which is given to the building owner or contractor.

Roger Maharis is another elevator inspector testifying against Bill 400, in particular, in reference to the ASME QEI. Mr. Maharis spoke of his 40 years experience in the elevator industry. He worked for Mitsubishi Elevators in the Philippines for 8 years and then for 32 years here on Guam. He stated that if Bill 400 is passed into law, he cannot go off-island to take the test. Chairwoman Sanford assured him that this would not be an issue, if that his concern. Mr. Maharis also said that as far as ASME is concerned, it is a national standard. We can use their code – we can adopt their code – as with NESAA, National Elevator Safety Authority – they adopt the code from ASME because they establish the code. He reiterated that his primary and only concern is that he may be ousted from being able to inspect elevators if he will be mandated to go off-island for the testing.

Chairwoman Sanford assured him that his 32 years of experience in elevator inspection was not being “questioned or challenged.”

Mr. Bernardo interjected his comment, referencing that the objectors seem to want to do away with the QEI inspector, that because GovGuam do not have their own guidelines to follow, they are using the national standard. Therefore, it requires – in A17 – that inspectors have to be certified. His point being that we should follow the code all the way, as a standard, so that it will be a uniform standard. He didn't think it was fair that he was bound to follow these requirements while the other public inspector doesn't.

Liberty Cerillo identified herself as an employee of Fujitec Pacific, which is engaged in installation and maintenance of elevators. Currently, Fujitec Pacific is against a revision of the law at the moment for the following reasons: (1) the definition of inspector as a qualified ASME QEI commission. At present, DPW is commissioning inspectors based on documentation of previous examination as well as practical experience. Statistics show there are only two commissioned elevator inspectors on island. Revising the law

based on this statistic will reduce the qualified elevator inspector to one, which will impede business.

Chairwoman Sanford assured Ms. Cerillo that this is not the intent of the bill. This bill's intent is to ensure that a standard is put in place, allowing ample time to get certification; however, certification and change to improve to national standards is a good thing for Guam.

Ms. Cerillo agreed that over time, change is good, but not immediately.

Chairwoman Sanford acknowledged the presence of the manager of Fujita Properties, who did not want to testify, but sat in attendance. She also acknowledged the written testimony of Terry Mortera from the Guam Contractor's Licensing Board. The GCLB position is that they will not be impacted with this and therefore does not see it as a problem. Mr. Mortera also advised the senator by note that the board is currently reviewing licensing rates and intends to make changes because they have not been changed in many years; however, that will come at a later date. Specifically, this bill is not dealing in rates.

Paul Hetz, a field operations manager for Otis Elevator, spoke against Bill 400 being passed at this point, clarifying that they are all for public safety and bringing the codes up to where they need to be for national standards. He currently overlooks 16 states in the mainland United States. In particular, he wanted to point out is that there are QEI certified inspectors and inspectors who are not QEI certified. His opinion is that the people of Guam should identify and state which codes they want to follow. At present, he acknowledges that Guam follows the ANSI codes, but what year? From his experience, many states follow codes from different years, depending on what their government chooses to implement. He believes Guam follows 1982 standards.

Chairwoman Sanford asked Eddie Borja from DPW to collaborate that information, to which he responded that there was a provision in the law that automatically adopted new standards adopted by the national uniform building code. This law no longer is there. DPW is now required to go before the legislature to adopt any changes. There is much work to be done by DPW to get the codes updated.

Mr. Hetz addressed that as a major concern because there could be elevators that do not meet the 2004 codes – the question would then be – would they be grandfathered to the code that their building was actually installed in, or updated to, alternated to –

Mr. Borja stated that the building codes on Guam allow for these old elevators to be there provided they are inspected based on their installation year, following national standards, so in essence, he verified that this process is all in place.

Mr. Hetz addressed that QEI qualifications are suggestions by ASME as one organization, and suggests that Guam adopt some type of standards for local inspectors to take and pass. He also addressed concern that permit costs are born by the building

owner, which is fine with Otis; however, who will bear the additional cost of the inspector for the 2nd inspection. He notes that there is a division at DPW of local building inspectors, which is the same in many states of the mainland U.S.; therefore, why is the elevator inspection moving to private?

The Chairwoman reiterated that the law already states that inspections will be conducted twice yearly, that the issue of this bill is to align the permit requirement to coincide with the inspection, and asked Mr. Hetz if his question was whether there will be a second charge for the permit, to which he confirmed as his point.

Mr. Eddie Borja testified that for the longest time, this law – currently in the books – was overlooked. There are a lot of laws that DPW is mandated to enforce, and when DPW did issue the elevator test, there were several individuals who took the test, including Mr. Maharis. Through attrition, these individuals dwindled down to a point where DPW had no one qualified to inspect elevators, which compelled DPW management to authorize installers to certify them. There was no other way and those were the guidelines they followed, despite it being questionable – like having contractors sign their own occupancy permits – with no means for check and balance.

At the Attorney General's recommendation at that time, DPW was advised to privatize elevator inspections. He believes that Guam should move towards certification to national standards - all for the betterment of safety issues for Guam.

Mr. Borja acknowledged that DPW saw the problem when they privatized – and Roger Maharis, having had taken the test given 25 years ago was grandfathered in. Now, there is this qualified individual with national certification, and these issues have now come to light and we must address them. We don't need to wait until somebody gets killed, therefore, he is glad that the committee is addressing this bill.

Mr. Ernie Aquino addressed the committee, identifying himself as in the employ of Everlasting Presence. He lived in Virginia for 13 years and worked with the elevator inspectors in Pennsylvania. They are not QEI ASME certified. He is against the bill because of the use of one organization, that may differ from state to state, to adopt as national standards into the law.

Mr. Aquino said, "...you guys' only use what is appropriate for the elevator inspectors now – there's nothing saying that you can do the same thing if you want to deal with ASME – with what 'you guys' are trying to qualify people." He said that he knows for a fact that "...you're trying to bring people here to try to qualify these people to become a member – you're forcing people to become a member of an association that may not be recognized elsewhere."

Mr. Aquino's queried whether the inspector's locally do 'load testing.' In essence, he alluded that anyone 'off the street' can take the test and pass the inspection, without the necessary experience. He asked how many elevators have caused damage – how many accidents – have happened to promote this particular bill. How many penalties have been

placed on elevator operators in the last 20 years? He asked many questions because he felt that this bill is asking to create additional costs for the inspector not currently certified under 'their' programs. He implied that if this law is passed, only one private will own all rights to 600 elevators on island. He asked if any other group associated with elevators, escalators or platforms has been considered.

Mr. Aquino feels that until his questions are even asked and answered, Bill 400 should not be considered because it will lock the market up, make more costs to the elevator owners and the consumer.

Chairwoman Sanford thanked the attending panel and opened the floor up to her colleagues.

Senator Lou Leon Guerrero commented that she did not think that this bill is asking to 'lock up with just one individual,' rather, the intent is toward safety for our people. Further, she feels that whomever is inspecting to guarantee our safety, it should be someone that's qualified to do that inspection, whether it is exam to see if the individual is knowledgeable to do load testing and not just physical, visual inspection. How is the community guaranteed that that individual is that qualified person – that is what this committee is trying to find in Bill 400.

With regard to the fees, it is already mandated by law. On the question of whether it should be done in-house or privatized, the senator feels that those are policy issues that DPW needs to work out; however, she feels that Bill 400 sets those guidelines and those mandates to assure the public safety.

Addressing Mr. Aquino directly, Senator Leon Guerrero stated that she, for one, would not like to wait for an accident to happen; rather, that we be proactive to prevent accidents. More importantly, it is incumbent of the Legislature to look at our laws – to revise as necessary – to ensure that any risk is tightened up within their means to avoid any potential accidents. She acknowledged the efforts of the Committee Chairwoman working with DPW and their intent to address these concerns – not to put anybody out of business or to lock up the market with just one individual.

Directing her question to the Otis representatives, Senator Leon Guerrero asked if the state governments hire inspectors themselves to inspect elevators?

Mr. Hetz responded by saying that it varied, depending on whether a state or city had an existing inspection division. Colorado has their own inspection division, whereas California has mostly private inspectors, but in the city of L.A., they have city inspectors and they have state inspectors as well. In his opinion, it should be the people of an area to vote for how they want to operate. He feels that building owners and property owners should be included in the dialog to get their input and concerns before a decision is made.

Speaker Ben Pangelinan asked Eddie Borja when the last time DPW issued a test, to which he replied it was in 1976 – it was the first and last test – there was only one test

that DPW ever gave. He identified the two people who passed it and worked for DPW – Jesus Ninete (his boss) who doesn't do elevator inspections now, and Mr. Bayona, who retired 10 years ago.

The Speaker then asked Frank Bernardo where he got his license, to which he responded that he got his license in Utah in 2000, through his employment with Raytheon, and was required by the U.S. government to be certified. Mr. Borja also noted that Mr. Bernardo's brother, John, is also certified likewise, but he opted not to get on board with DPW. In the ASME website access, it shows that currently there are only two people QEI certified on Guam – Mr. Frank Bernardo and his brother, John.

Mr. Aquino took exception to Mr. Bernardo asking the senators to make law what he follows as a member of ASME, to which Speaker Pangelinan asked Mr. Aquino if there was any other organization worth consideration. Mr. Aquino did not have an answer; however, Mr. Hetz answered that the standard is to follow the ANSI 17.1 through 17.4 code. All that NESAs is a classroom structure to test on the codes.

Chairwoman Sanford clarified that the question was whether they were the only recognized ones to administer the test and certify, to which Mr. Hetz replied that he didn't know, but that NESAs is the largest one in the mainland that he is aware of. With that, the Chairwoman turned the floor back to the Speaker to continue.

Speaker Pangelinan once again asked if there were any other organizations issuing ASME tests. Mr. Torres replied that according to their website, there is only two testing facilities, but there are other organizations (like BOKA) that can administer those tests. The Speaker then concluded that the standard should be anybody who passes the test comprising of those codes – 17.1, 17.2, 17.3, 17.4 – that test to the code will be certified or recognize as certified, to which Mr. Hetz agreed, adding that most inspectors are retired elevator men, who are very experienced in their own right.

Mr. Bernardo wanted for the record to state that he personally has 36 years of experience himself working for the federal government, and Mr. Borja also stated that there are national standards for testing, which will weed out those just trying to take a test to pass it. Mr. Hetz said that it isn't difficult at all to take the test, you can take it online – books and the test is issued to you and you can take the test at your convenience; however, you must go off-island to attend a seminar – that's mandatory.

Dialog continued about the possibility to either go online to take the classes or have an instructor come to Guam to instruct interested individuals toward certification. Further, discussion revolved around whether the code addresses technology as time passes, i.e., a cable being upgraded, but the general agreement was that no change is needed – cable material is the same now as it was years ago – an inspector follows the code based on the installation year of the elevator.

Senator Klitzkie added an observation – that there was a time that he rode on every elevator on Guam, and that was at the Guam Memorial hospital, which had all of two

elevators on island; however, he is now concerned that there are over 600 elevators. This is reason enough to review our statutes to make the necessary revisions.

He queried Mr. Bernardo on the testing procedure in Utah, including the costs involved, which seemed expensive at approximately \$10,000 start up, plus \$3,000 annual renewal and general liability insurance coverage of \$1 million dollars. The costs noted by Mr. Bernardo included several other components including documentation for Bernardo's personal library. He noted that the cost for just the "test" was between \$300 - \$400.

It was noted that Mr. Bernardo has about 25% of the elevator business on Guam and Mr. Maharis has the rest.

Chairwoman Sanford noted that the intent of Bill 400 is not to force people to have to go off-island to get certified and ample time will be given to allow inspectors enough time to get certification. The Chair noted that organizations within the engineering and contractors' communities could opt to bring the training and testing process to Guam. She noted that certification for inspectors is critical to ensure qualified personnel in the interest of public safety.

III. COMMITTEE FINDINGS

The Committee on Economic Development, Retirement, Insurance, Public Works, and Regulatory Functions finds that it is in the best interest and safety of the people of Guam to make these proposed changes to the current statutes in the Guam Code Annotated, with amendments to

(1) correct the reference in the definition of inspector to subsection 67208 instead of 67207;

(2) allow one year opportunity for local inspectors to obtain national standard certification, thus the effective date of January 1, 2006.

(3) immediate effective date for penalties as noted in section 8.

IV. COMMITTEE RECOMMENDATIONS

The Committee on Economic Development, Retirement, Investments, Public Works, and Regulatory Functions recommends Bill 400 to be reported out, as amended by the committee, with a recommendation TO DO PASS.



OFFICE OF SENATOR
ANTOINETTE (TONI) SANFORD

680

DEC 01 2004

Senator Lou Leon Guerrero RN, MPH

TIME: _____ AM() PM()

REC'D BY: _____

DEC 01 2004

MEMORANDUM

- Democrat Majority Leader
- Committee on Rules & Health
Chairwoman
- Committee on Utilities & Land
Member
- Committee on Appropriation
& Budgeting, General
Government Operations
Reorganization & Reform
Member
- Committee on Community,
Culture, Recreation &
Public Broadcasting
Member
- Committee on Economic
Development, Retirement,
Investments, Public Works,
& Regulatory Functions
Member
- Committee on Education
& Housing
Member
- Committee on Judiciary
& Transportation
Member
- Committee on Youth &
Senior Citizens,
Federal & Foreign Affairs
Member

To: Senator Toni Sanford, Chairwoman
Committee on Economic Development, Retirement,
Investments, Public Works & Regulatory Functions

From: Speaker vicente c. pangelinan
Acting Chairman, Committee on Rules and Health

Subject: Principal Referral -- Bill No. 400 (COR)

In accordance with Section 6.04.04.01 of the Standing Rules of the Mina' Bente Siete na Liheslaturan Guahan,

Bill No. 400 (COR) AN ACT TO AMEND ARTICLE 2 OF CHAPTER 67, TITLE 21 GUAM CODE ANNOTATED, RELATIVE TO CHANGING INSPECTION AND INSTALLATION REQUIREMENTS FOR ELEVATORS, ESCALATORS, PLATFORM AND STAIRWAY CHAIR LIFTS, DUMBWAITERS, MOVING WALKS, AUTOMATED PEOPLE MOVERS AND OTHER CONVEYANCES TO BRING THEM INTO CONFORMANCE WITH AMERICAN NATIONAL STANDARDS.

is referred to your Committee on Economic Development, Retirement Investments, Public Works & Regulatory Functions as the principal committee.

A copy of this bill may be obtained at the office of the Clerk of the Legislature.

Also in accordance with Section 7.01 of the Standing Rules, the Principal Committee shall notify the Speaker, the Chairwoman of the Committee on Rules and the Executive Director, the date, time, subject matter, number and title of the bill for which a public hearing will be held.

Thank you

OFFICE OF SENATOR
ANTOINETTE (TONI) SANFORD

DEC 01 2004

Cc: Clerk of the Legislature

TIME: 4:10 AM() PM()

REC'D BY: _____