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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

28 JUL 2008

2008 JUL 29 PM 5:02

Honorable Judith T. Won Pat, Ed.D
Speaker
I Mina' Bente Nuebe Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 267 (EC), "AN ACT TO REPEAL AND REENACT ARTICLE 6 OF CHAPTER 4 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE ENHANCED PLACEMENT PROGRAM; TO CLARIFYING GOVERNMENT AGENCIES THAT ARE AFFECTED UPON THE DISPLACEMENT OF PUBLIC EMPLOYEES CAUSED BY OUTSOURCING AND PRIVATIZATION; AND TO PRESCRIBING DEFINITIONS AND ELIGIBILITY OF SEPARATED CLASSIFIED EMPLOYEES AFFECTED BY REORGANIZATION," which I have signed into law on July 22, 2008 as Public Law No. 29-97.

Sinseru yan Magåhet,

[Handwritten signature of Michael W. Cruz]

MICHAEL W. CRUZ, M.D.
I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

29-08-0548
Office of the Speaker
Judith T. Won Pat, Ed. D.

Date 7/28/08
Time 3:18
Received by [Signature]

Attachment

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session


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

This is to certify that **Bill No. 267(EC)**, "AN ACT TO *REPEAL AND REENACT* ARTICLE 6 OF CHAPTER 4 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE ENHANCED PLACEMENT PROGRAM; TO CLARIFYING GOVERNMENT AGENCIES THAT ARE AFFECTED UPON THE DISPLACEMENT OF PUBLIC EMPLOYEES CAUSED BY OUTSOURCING AND PRIVATIZATION; AND TO PRESCRIBING DEFINITIONS AND ELIGIBILITY OF SEPARATED CLASSIFIED EMPLOYEES AFFECTED BY REORGANIZATION", was on the 9th day of July, 2008, duly and regularly passed.



Judith T. Won Pat, Ed. D.
Speaker

Attested



Tina Rose Muña Barnes
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahen Guåhan* this 10 day of July, 2008, at
3:16 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



MIKE W. CRUZ, MD
GOVERNOR OF GUAM ACTING

Date: 22 July '08

Public Law No. 29-97

I MINA'BENTE NUEBI NA LIHESLATURAN GUÁHAN
2008 (SECOND) Regular Session

Bill No. 267 (EC)

As amended on the Floor.

Introduced by:

Edward J.B. Calvo
Frank F. Blas, Jr.
Frank T. Ishizaki
Dr. David L.G. Shimizu
B. J.F. Cruz
James V. Espaldon
Mark Forbes
Judith P. Guthertz, DPA
J. A. Lujan
Tina Rose Muña Barnes
A. B. Palacios, Sr.
v. c. pangelinan
R. J. Respicio
Ray Tenorio
J. T. Won Pat, Ed.D.

**AN ACT TO *REPEAL* AND *REENACT* ARTICLE 6 OF
CHAPTER 4 OF TITLE 4 OF THE GUAM CODE
ANNOTATED, RELATIVE TO THE ENHANCED
~~PLACEMENT PROGRAM; TO CLARIFYING GOVERNMENT~~
AGENCIES THAT ARE AFFECTED UPON THE
DISPLACEMENT OF PUBLIC EMPLOYEES CAUSED BY
OUTSOURCING AND PRIVATIZATION; AND TO
PRESCRIBING DEFINITIONS AND ELIGIBILITY OF
SEPARATED CLASSIFIED EMPLOYEES AFFECTED BY
REORGANIZATION.**

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

2 **Section 1. Enhanced Placement for Public Employees Displaced Due**
3 **to Outsourcing.** Article 6 of Chapter 4, Title 4 of the Guam Code Annotated, is
4 hereby *repealed* and *reenacted* to read:

1 "Article 6

2 **Enhanced Placement for Public Employees Displaced Due to Outsourcing.**

3 **§4601. Definitions.** In this Article:

4 (a) *Agency or department* means each and every line department
5 *or* agency of the Executive Branch; every instrumentality; any Board,
6 Commission *or* comparable unit of government, any of whose members are
7 elected, appointed by *I Maga'lahaen Guåhan*, *I Liheslatura* *or* the Judiciary;
8 public corporations; every educational institution excepting academic
9 personnel of the University of Guam and the Guam Community College; the
10 Judicial Branch; the Legislative Branch; Public Defender Corporation; and
11 every public entity hereafter to be created by law.

12 (b) *Classified Employee* means an employee in the classified
13 service of the government of Guam as provided within Title 4, Guam Code
14 Annotated, §4102.

15 (c) *Classified Position* means a vacant *or* occupied position of the
16 classified service of the government of Guam.

17 (d) *Privatization* means a function of a government agency that
18 ~~converted from governmental to private control *or* ownership pursuant to~~
19 Title 1 Guam Code Annotated, §1800.

20 (e) *Separated* means termination *or* discharged as a result of
21 privatization.

22 **§4602. Eligibility.** Any classified employee of a government of Guam
23 agency *or* department which is undergoing a process of complete privatization, and
24 who will be separated from government service as a result of such, *shall* be eligible
25 for enhanced placement. Classified employees still under probation *shall not* be
26 eligible for enhanced placement.

1 **§4603. Enhanced Placement.** Classified employees eligible for enhanced
2 placement *shall* be granted by a government of Guam agency *or* department the
3 right of first refusal for an opened and vacant government of Guam classified
4 position provided that such classified employee *shall* meet all qualifications for
5 such position and further provided that such position is vacant and has been opened
6 for recruitment for *bona fide* reasons with an actual intent to fill such position
7 under the merit system. Enhanced placement is *not* available when a classified
8 position has been opened government-wide *or* for the purpose of promotion. When
9 more than one (1) person eligible for enhanced placement applies for a vacant and
10 opened classified position subject to the provisions of this Article, the process of
11 selection between such persons eligible for enhanced placement *shall* be
12 competitive as would normally be the case under the provisions of the merit
13 system. This right of first refusal *shall* supersede any previously passed Law which
14 gives preferential hire treatment (*e.g.* Title 4, Guam Code Annotated, §4104.1
15 Preferences for Scholarship Recipients.).

16 **§4604. Retention of Seniority.** Any employee hired pursuant to the
17 provisions of enhanced placement as defined in this Article, *shall* receive the same
18 ~~pay grade and step received at the time of separation *or* pay that is closest to, but~~
19 *not more than* as is normally associated with the employee's new position.

20 **§4605. Period of Eligibility.** A classified employee eligible to participate
21 in enhanced placement, as detailed in this Article, *shall* acquire such eligibility
22 upon the final approval of the relevant privatization directly affecting such
23 employee by *I Liheslaturan Guåhan* *or* in the absence of a legislative approval
24 process upon the date with such instruments as *shall* mandate the relevant
25 privatization are enacted. Such eligibility *shall* remain in effect for a period of *no*
26 *more than* two (2) years.

1 Registrants that decline a job offer (either voluntary *or* involuntary) *shall* be
2 permanently removed as an enhanced placement registrant.

3 Funding for the placement of former employees under the Enhanced
4 Placement Program *shall* come from the sale of the affected government of Guam
5 function *or* entity *or* any previous sale.

6 **§4606. Establishment of List.** All persons eligible for enhanced placement
7 *shall* register with the Department of Administration. Persons eligible for
8 enhanced placement *shall* register *no later than* one hundred twenty (120) days
9 after the date upon which they have acquired eligibility for enhanced placement as
10 detailed in §4605 of this Article. The Department of Administration *shall*
11 maintain, update and deliver at the beginning of each month, and on a monthly
12 basis, such registry of eligible persons to all personnel divisions of all personnel
13 divisions of all agencies that are independent of the Department of
14 Administration's personnel services. The independent Agency Personnel offices,
15 *shall* submit a list of Enhanced Placement Program Registrants employed as a
16 result of the program at their agency by the last business day of each month. The
17 Department of Administration in turn, *shall* reconcile all lists received and issue an
18 ~~updated registry to all independent agencies at the beginning of the following~~
19 month. A person is *not* eligible for referral to an open and vacant classified
20 position subject to the provisions of enhanced placement as described in this
21 Article until such time as they have registered in accordance with the provisions of
22 this Section. The Department of Administration *shall* develop policies and
23 procedures consistent with this Article and disseminate them to the independent
24 agency personnel offices.

25 **§4607. Agency Required to Notify Individuals Registered for Enhanced**
26 **Placement Program.** The Department of Administration personnel services (*or*
27 applicable independent personnel agency office) must notify Enhanced Placement

1 registrants of any open funded vacancy that they qualify for *no later than* five (5)
2 working days via telephone. Should the Department of Administration personnel
3 services (*or* applicable independent personnel agency office) fail to make
4 telephone contact, notification *shall* be made by mail with verified returned receipt
5 to a registered Enhanced Placement Program individual of the position.

6 **§4608. Positions Reserved for Enhanced Placement Registrants.** Any
7 position to which a registered enhanced placement individual is qualified *shall not*
8 be filled within the government of Guam, until a waiver is received in writing from
9 the qualified enhanced placement registrants declining such position *no later than*
10 five (5) working days upon verbal notification by telephone of the job offer *or if*
11 notified by registered mail, five (5) working days from the postmarked date when
12 such position is government-wide and/or for promotion *or* upon an emergency
13 declaration by *I Maga'lahañ Guåhan*.

14 The qualified enhanced placement registrant's right *shall* be automatically
15 waived and the offer *shall* be extended to the next individual on the Enhanced
16 Placement Program list *or if* none, then the position *shall* be open for regular
17 recruitment. A signed waiver must be submitted to the Department of
18 ~~Administration personnel services division (or applicable independent personnel~~
19 agency office). In the event the qualified registrant fails to submit a signed waiver
20 within five (5) working days from the date of the offer, the offer *shall* be
21 considered an involuntary declination.

22 **§4609. Enhanced Placement Program Reappointment.** (a) During the
23 active period of eligibility for enhanced placement, all registered individuals *shall*
24 be afforded to fill a vacant classified position announced as "Open" through
25 enhanced placement. A registered individual that applies for an "Open" vacant
26 classified position *shall* have their application evaluated and *if* qualified *shall* be
27 given preferential hire status at whatever hiring agency has a vacancy at that point

1 in time. The Department of Administration personnel services (*or* applicable
2 independent personnel agency office) must have a recruitment GG-1. *If* there is no
3 GG-1 at the time of evaluation *or* the establishment of an eligibility list,
4 Recruitment *shall* review the eligibility list before certification once a GG-1 is
5 submitted.

6 (b) Former employees reappointed under this program may apply to those
7 agencies outside the umbrella of the Department of Administration personnel
8 services to include, the A.B. Won Pat International Airport Authority, the Guam
9 Power Authority, the Guam Waterworks Authority, the Guam Visitors Bureau and
10 the J.D. Leon Guerrero Commercial Port Authority, provided a funding source is
11 identified.

12 **§4610. Reactivation of Registered Guam Telephone Authority**
13 **Employees.** Notwithstanding any other provision of this Article, former Guam
14 Telephone Authority employees who had previously registered with the
15 Department of Administration and have *not* been placed under the Enhanced
16 Placement Program, *shall* be reactivated as Enhanced Placement registrants for a
17 period of one (1) year effective the date of this Act and *shall* be eligible for
18 ~~placement at *only* autonomous departments and agencies and public corporations~~
19 such as: Guam Community College, Guam Power Authority, Guam Waterworks
20 Authority, J.D. Leon Guerrero Commercial Port Authority, the University of Guam
21 and the A.B. Won Pat International Airport Authority. This opportunity *shall not*
22 apply to those registrants who have declined enhanced placement either voluntary
23 or involuntarily All former GTA employees who were placed in positions within
24 the government of Guam as a result of the GTA Priority Placement Program but
25 were *not* given credit for years of service when placed in the priority placement
26 positions *shall* have their current pay adjusted upwards, when necessary, to one

1 that is closest *but not more than* the pay they were receiving in their former
2 position with GTA."

3 **Section 2. Effective Date of Act.** This Act *shall* take effect upon
4 enactment and *shall not* affect, in the interim, any other improvements necessary to
5 be done in carrying out the purpose of this Act.

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