



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam.

JUN 15 2015

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Tres Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Madame Speaker:

Transmitted herewith is Bill No. 81-33 (COR) "AN ACT TO AMEND SUBSECTION (C) OF § 4405 AND TO ADD A NEW § 4406.2, BOTH OF ARTICLE 4, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO MANDATING THE USE OF AN ADMINISTRATIVE LAW JUDGE UNDER THE CIVIL SERVICE COMMISSION, TO CLARIFYING CERTAIN FUNCTIONS, AND TO ESTABLISHING TIME STANDARDS AND CASE MANAGEMENT PRACTICES" which lapsed into law on June 13, 2015, as Public Law 33-55.

Senseramente,


EDDIE BAZA CALVO

2015 JUN 15 PM 09:42

33-15-0545
Office of the Speaker
Judith T. Won Pat, Ed.D

Date: 06-15-15
Time: 4:15 pm
Received By: [Signature]

0545

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I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

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

This is to certify that Bill No. 81-33 (COR), "AN ACT TO AMEND SUBSECTION (C) OF § 4405 AND TO ADD A NEW § 4406.2, BOTH OF ARTICLE 4, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO MANDATING THE USE OF AN ADMINISTRATIVE LAW JUDGE UNDER THE CIVIL SERVICE COMMISSION, TO CLARIFYING CERTAIN FUNCTIONS, AND TO ESTABLISHING TIME STANDARDS AND CASE MANAGEMENT PRACTICES," was on the 29th day of May 2015, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 1st day of June,
2015, at 5:20 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date: JUN 13 2015

Public Law No. 33-55

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 81-33 (COR)

As amended by the Committee on
Appropriations and Adjudication.

Introduced by:

Mary Camacho Torres
B. J.F. Cruz
R. J. Respicio
T. C. Ada
V. Anthony Ada
Frank F. Blas, Jr.
FRANK B. AGUON, JR.
James V. Espaldon
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
Dennis G. Rodriguez, Jr.
Michael F.Q. San Nicolas
N. B. Underwood, Ph.D.
Judith T. Won Pat, Ed.D.

**AN ACT TO *AMEND* SUBSECTION (C) OF § 4405 AND
TO *ADD* A NEW § 4406.2, BOTH OF ARTICLE 4,
CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED,
RELATIVE TO MANDATING THE USE OF AN
ADMINISTRATIVE LAW JUDGE UNDER THE CIVIL
SERVICE COMMISSION, TO CLARIFYING CERTAIN
FUNCTIONS, AND TO ESTABLISHING TIME
STANDARDS AND CASE MANAGEMENT PRACTICES.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that there is a serious need to provide a solution to the extensive backlog of cases

1 before the Civil Service Commission (CSC, Commission). According to the CSC
2 calendar, cases are backed up for many years and the caseload of the CSC
3 continues to be voluminous. This legislation mandates that the Civil Service
4 Commission hire an attorney to serve as an Administrative Law Judge (ALJ) to
5 hear arguments and make decisions on matters of law or procedure that usually
6 occur prior to hearing a case on the merits or facts. Currently, Commissioners who
7 must preside over the course of an administrative trial with lawyers engaging in
8 sometimes intense trial maneuvers are placed under an arduous, and sometimes
9 unfair, burden. In addition, because most Commissioners have full-time jobs
10 elsewhere, hearings are required to be held during limited evening hours. This
11 limitation on when hearings can take place is one factor in the growing caseload of
12 the Commission.

13 Therefore, *I Liheslaturan Guåhan* finds that it is in the best interest of the
14 employees of the government of Guam, the CSC, the government agencies and the
15 appeals process to alleviate the pressure placed on the CSC by mandating the use
16 of an Administrative Law Judge (ALJ) to conduct the hearings and administrative
17 trials. An ALJ would expedite the disposition of all adverse action caseloads.
18 Hearings and trials would be set during the course of working hours, with the full
19 support of the CSC's staff being present. Parties to the action and their counsel
20 would also be more readily available during normal working hours. Parties would
21 be allowed sufficient and ample time within the course of regular working hours to
22 present full and complete cases. Continuances could be greatly reduced, and cases
23 would be set more frequently for final disposition. Trial advocacy would be under
24 the control of the ALJ, subject to all appropriate rulings and sanctions as deemed
25 necessary for the proper conduct of the hearing. Any decision of the ALJ would be
26 subject to review and approval of the CSC, after which such decision would
27 become final, subject *only* to appeal before the Superior Court of Guam.

1 It is, therefore, the intent of *I Liheslaturan Guåhan* to mandate the use of an
2 Administrative Law Judge at the Civil Service Commission.

3 **Section 2.** Subsection (c) of § 4405, Article 4, Chapter 4, Title 4, Guam
4 Code Annotated, is hereby *amended* to read:

5 “(c) The Commission *shall* employ a full-time or part-time
6 Administrative Law Judge (ALJ), to assist the Commission with the
7 adjudicatory responsibilities, or the Commission may retain a private
8 attorney or attorneys to serve as an ALJ on a case-by-case basis. The
9 ALJ *shall* have the authority to handle the following matters: hearings
10 related to technical and procedural motions, preliminary evidentiary
11 motions, and any other matters deemed appropriate by the
12 Commission, including full merit hearings. All decisions by the ALJ
13 *shall* be forwarded to the Commission, which will have the authority
14 to accept, modify, or reject the ALJ’s decision in whole or in part. The
15 Commission will review only those parts of the record before the ALJ
16 which the Commission deems necessary to decide whether to accept,
17 modify, or reject the ALJ’s decision. The ALJ *shall* follow applicable
18 rules and procedures approved by the Commission, and the
19 Commission may direct the ALJ to act in the Commission’s place *and*
20 assume all authority and responsibilities prescribed by such rules and
21 regulations, *except* as limited by this Act. An ALJ must be an active
22 member of the Guam Bar Association in good standing and a licensed
23 attorney for *at least* five (5) years.”

24 **Section 3.** A new § 4406.2 is hereby *added* to Article 4, Chapter 4, Title 4,
25 Guam Code Annotated, to read:

26 “§ 4406.2. **Time Standards and Case Management.**

1 In order to assist in case management and promote timeliness in
2 the resolution of matters before the Commission, the Legislature
3 establishes the following Time Standards which the Legislature deems
4 to be reasonably achievable standards that the Commission *shall*
5 aspire to attain in all cases filed with the Commission after December
6 31, 2015.

7 (a) For appeals from actions resulting in the
8 termination of an employee, a Hearing on the Merits *shall*
9 commence *no later than* four (4) months from the initial filing
10 of the appeal.

11 (b) For all other appeals from adverse actions, a
12 Hearing on the Merits *shall* commence *no later than* six (6)
13 months from the initial filing of the appeal.

14 (c) For grievances filed before the Commission, a
15 Grievance Hearing *shall* be held *no later than* four (4) months
16 from the initial filing of the grievance.

17 (d) All matters *shall* be adjudicated within (12) twelve
18 months from the filing of a notice of appeal *unless* the time
19 standards are waived by the employee. The CSC
20 Commissioners may also waive the time standards for
21 substantial and compelling reasons by either party.

22 (e) Failure on the part of the Commission to adhere to
23 the time standards described in Subsections (a), (b) and (c) shall
24 in no way result in the dismissal of the employee's right to
25 appeal their adverse action.

26 (f) The time standards described in Subsections (a),
27 (b) and (c) may be waived by the employee.

1 (g) The time standards described in Subsections (a),
2 (b) and (c) may be waived by the Commissioners upon finding
3 substantial and compelling reasons to determine that a waiver
4 of the time standards is the only option available, and only upon
5 mutual consent of the parties.

6 (h) Following all oral decisions by Commissioners,
7 the prevailing party *shall* present their proposed written
8 decision for Commissioners to sign *no later than* ten (10)
9 working days from the date of the hearing in which the oral
10 decision was rendered.

11 (i) All written decisions following any and all
12 hearings *shall* be signed and ordered within sixty (60) days of
13 the date of the hearing.”

14 **Section 4. Severability.** If any provision of this Act or its application to
15 any person or circumstance is found to be invalid or contrary to law, such
16 invalidity *shall not* affect other provisions or applications of this Act that can be
17 given effect without the invalid provisions or application, and to this end the
18 provisions of this Act are severable.