

I Mina'Trentai Tres Na Liheslaturan Received
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
81-33 (COR)	M. C. Torres B. J.F. Cruz R. J. Respicio	AN ACT TO MANDATE THE USE OF AN ADMINISTRATIVE LAW JUDGE UNDER THE CIVIL SERVICE COMMISSION, TO CLARIFY CERTAIN FUNCTIONS AND TO ESTABLISH TIME STANDARDS AND CASE MANAGEMENT PRACTICES BY AMENDING SUBSECTION (C) OF TITLE 4 GCA § 4405 AND ADDING A NEW § 4406.2.	04/21/15 4:49 p.m.	04/22/15	Committee on Appropriations and Adjudication			



COMMITTEE ON RULES

I Mina'trentai Tres na Liheslaturan Guåhan • The 33rd Guam Legislature

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April 22, 2015

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio** 
Chairperson, Committee on Rules

Subject: Referral of Bill No. 81-33(COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 81-33(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Tres Na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!


Attachment

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN

2015 (FIRST) Regular Session

Bill No. 81-33 (COR)

Introduced by:

M.C. Torres 

B.J.F. Cruz 

R.J. Respicio 

AN ACT TO MANDATE THE USE OF AN ADMINISTRATIVE LAW JUDGE UNDER THE CIVIL SERVICE COMMISSION, TO CLARIFY CERTAIN FUNCTIONS AND TO ESTABLISH TIME STANDARDS AND CASE MANAGEMENT PRACTICES BY AMENDING SUBSECTION (C) OF TITLE 4 GCA § 4405 AND ADDING A NEW § 4406.2.

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

4 before the Civil Service Commission. According to the CSC calendar, cases are

5 backed up for many years and the caseload of the CSC continues to be voluminous.

6 This legislation would mandate that the Civil Service Commission hire an attorney

7 to serve as an Administrative Law Judge, to hear arguments and make decisions on

8 matters of law or procedure which usually occur prior to hearing a case on the merits,

9 or facts. Currently, Commission members who must preside over the course of an

10 administrative trial, with lawyers engaging in sometimes intense trial maneuvers, are

11 placed under an arduous, and sometimes unfair, burden. In addition, because most

2015 APR 21 PM 4:49



1 Commission members have full-time jobs elsewhere, hearings are required to be
2 held during limited evening hours. This limitation on when hearings can take place
3 is one factor in the growing caseload of the Commission. Therefore, *I Liheslaturan*
4 *Guåhan* finds that it is in the best interest of the employees of the government of
5 Guam, the CSC, the government agencies and the appeals process to alleviate the
6 pressure placed on the CSC by mandating the use of an Administrative Law Judge
7 (ALJ) to conduct the hearings and administrative trials. An ALJ would expedite the
8 disposition of all adverse action caseloads. Hearings and trials would be set during
9 the course of working hours, with the full support of the Commission's staff being
10 present. Parties to the action and their counsel would also be more readily available
11 during normal working hours. Parties would be allowed sufficient and ample time
12 within the course of regular working hours to present full and complete cases.
13 Continuances could be greatly reduced, and cases would be set more frequently for
14 final disposition. Trial advocacy would be under the control of the ALJ, subject to
15 all appropriate rulings and sanctions as deemed necessary for the proper conduct of
16 the hearing. Any decision of the ALJ would be subject to review and approval of the
17 CSC, after which such decision would become final, subject only to appeal before
18 the Superior Court of Guam.

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

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

23 **“§4405. Commission Staff.**

24 (a) The Executive Director of the Commission shall be appointed by the Civil
25 Service Commission with the approval of the Governor and with the advice and
26 consent of the Legislature.

1 (b) The Executive Director may, with Commission approval, hire such
2 professional, clerical, and other staff as may be deemed necessary to assist the
3 Commission in performing its duties and functions.

4 (c) The Commission ~~may~~ shall employ ~~an~~ full-time or part-time
5 Administrative Law Judge (ALJ), ~~full or part-time~~, to assist the Commission with
6 the adjudicatory responsibilities, or the Commission may retain a private attorney or
7 attorneys to serve as an ALJ on a case-by-case basis. The ALJ shall have the
8 authority to handle the following matters: hearings related to technical and
9 procedural motions, preliminary evidentiary motions, and any other matters deemed
10 appropriate by the Commission, including full merit hearings. All decisions by the
11 ALJ shall be forwarded for review and ratification to the Commission, which shall
12 accept or reject in its entirety, the ALJ's decision will have the authority to accept,
13 modify, or reject it in whole or in part, and to determine whether the decision affects
14 similarly situated matters being reviewed by the ALJ. The ALJ shall follow
15 applicable rules and procedures approved by the Commission, and where any rule
16 or procedure identifies the Commission, the ALJ may at the direction of the
17 Commission act in its place and will assume all authority and responsibilities
18 prescribed by such rules and regulations, except as limited by this Act. An ALJ must
19 be a Guam-licensed attorney.

20 **Section 3.** A new section of §4406.2., Article 4, Chapter 4 of Title 4 of the
21 Guam Code Annotated is hereby *added* to read:

22 **“§4406.2. Time Standards and Case Management.**

23 In order to assist in case management and promote timeliness in the resolution
24 of matters before the Commission, there is hereby established the following Time
25 Standards.

1 (a) For appeals from actions resulting in the termination of an employee, a
2 Hearing on the Merits shall commence no later than four months from the initial
3 filing of the appeal.

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

6 (c) For grievances filed before the Commission, a Grievance Hearing shall be
7 held no later than four months from the initial filing of the grievance.

8 (d) All written decisions following any and all hearings shall be signed and
9 ordered within 60 days of the date of the hearing. Failure by the Commission to
10 issue the written decisions in compliance with (d) shall result in withholding of
11 all meeting stipends allowed for under (g) of §4405, Article 4, Chapter 4 of Title
12 4 of the Guam Code Annotated.

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