



Office of the Governor of Guahan

P.O. Box 2950 Hagåtña, GU 96932
Tel: (671) 472-8931 • Fax: (671) 477-4826 • Email: governor@guam.gov

Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

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

Office of the Speaker
Judith T. Won Pat, Ed. D.
Date: 12/13/2010
Time: 4:56 PM
Received by: [Signature]

DEC 13 2010
30-10-1061

Dear Speaker Won Pat:

Submitted herewith is Bill No. 466-30 (COR), "AN ACT TO AMEND §§77109 AND 7712, AND TO REPEAL §77110 OF CHAPTER 77, ARTICLE 1, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE CHIEF OF POLICE, THE DEPUTY CHIEF OF POLICE, AND THE POLICE COMMANDEER OF THE GUAM POLICE DEPARTMENT," which I have vetoed.

Bill No. 466-30's legislative intent finds that it is unclear who is responsible to pay for tests, examinations and background investigation required in the appointment and confirmation of the chief of the police of the Guahan Police Department. However the amendments in the Bill do not provide more clarity with respect to the responsibility for the costs associated with the tests, examinations and background investigation of the chief of police nominee. Rather, it prevents the nominee from serving in an acting capacity as chief of police pending legislative confirmation. While this may not be an issue for an outgoing administration, it will hamper the chief executive's ability to command his police department. This delayed supervision of his line agency may be contrary to the Organic Act. The Organic Act affords I Maga'lahen Guahan with general supervision and control of all executive branch departments of I Gubetnamenton Guahan.

The commander in chief's ability to effectively protect the citizenry of our Island is further impeded by the Bill's elimination of the deputy chief of police position. The Guahan Police Department provides a vital government service and as most other vital agencies the Governor is permitted to appoint a deputy. The deputy chief is appointed by the chief and assists the chief in managing the agency responsible for public safety. Rather than eliminate resources, the government should prioritize its resources toward essential public services such as safety, health and education.

The Bill is also flawed as it requires "all tests and services shall be conducted by a licensed professional". However, most polygraph examiners are not licensed professionals but rather certified to conduct or perform polygraphs. While one may argue there is no distinction, strict compliance with the Bill would make it difficult to implement because it requires all tests and

services be conducted by a licensed professional which would lead one to reasonably believe it would not accept polygraph examinations conducted by examiners with only a certification. As noted in the Bill's legislative findings, two previous nominees had to submit to polygraph examinations in Hawaii. Like most jurisdictions, Hawaii and California do not license polygraph examiners so there may be a limited number of licensed polygraph examiners readily available or affordable to the taxpayers of *Guahan*.

While I agree there needs to be clarity to the chief of police confirmation process and which branch is responsible for arranging and paying for the tests, examinations and services, Bill No. 466 is inconsistent with its intent and instead interferes with *I Maga'lāhen Guahan*'s ability to carry out his constitutional role and protect the people of *Guahan*.

Sinseru yan Magāhet,

A handwritten signature in black ink, appearing to read 'Camacho', with a long horizontal flourish extending to the right.

FELIX P. CAMACHO

I Maga' Lāhen Guahan

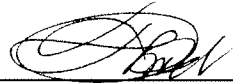
Governor of Guahan

Attachment

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

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

This is to certify that **Bill No. 466-30 (COR), "AN ACT TO AMEND §§77109 AND 77112, AND TO REPEAL §77110 OF CHAPTER 77, ARTICLE 1, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE CHIEF OF POLICE, THE DEPUTY CHIEF OF POLICE, AND THE POLICE COMMANDER OF THE GUAM POLICE DEPARTMENT"**, was on the 30th day of November 2010, duly and regularly passed.



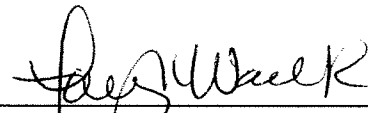
Judith T. Won Pat, Ed. D.
Speaker

Attested:



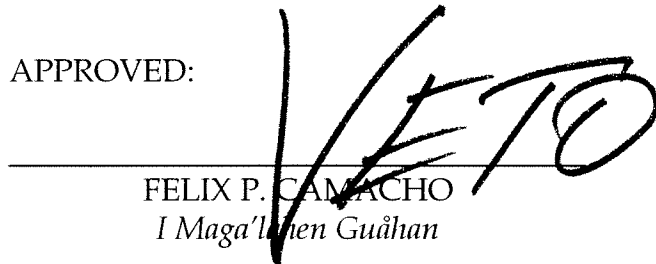
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 1st day of Dec, 2010, at 1100 o'clock A.M.



Assistant Staff Officer
Maga'laha'i's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

Bill No. 466-30 (COR)

As amended on the Floor.

Introduced by:

Adolpho B. Palacios, Sr.

T. C. Ada

V. Anthony Ada

F. B. Aguon, Jr.

F. F. Blas, Jr.

E. J.B. Calvo

B. J.F. Cruz

J. V. Espaldon

Judith P. Guthertz, DPA

T. R. Muña Barnes

v. c. pangelinan

R. J. Respicio

Telo Taitague

Ray Tenorio

Judith T. Won Pat, Ed.D.

**AN ACT TO *AMEND* §§77109 AND 77112, AND TO
REPEAL §77110 OF CHAPTER 77, ARTICLE 1, TITLE
10, GUAM CODE ANNOTATED, RELATIVE TO THE
CHIEF OF POLICE, THE DEPUTY CHIEF OF POLICE,
AND THE POLICE COMMANDER OF THE GUAM
POLICE DEPARTMENT.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that recent events in reference to the process for the confirmation of the Chief of
4 Police posed a question as to who should pay for the tests and examinations, and
5 background investigation services required under §77109, Chapter 77, Title 10

1 Guam Code Annotated, which also established the qualifications for the Chief of
2 Police. Some of the enumerated qualifications require tests and services for which
3 payment of fees may be required.

4 In the confirmation of Frank Ishizaki in 2004, and in the confirmation of
5 Paul Suba in 2008, the question as to who would pay for the airfare to Hawaii for
6 the police chief nominee, to submit to a polygraph examination, were *not* dealt
7 with, as both nominees, respectively, were already in Hawaii on official business
8 of their own. However, in both nominations, *I Liheslaturan Guåhan* chose to pay
9 for the polygraph service because it chose to select the polygrapher. The fees for
10 the drug screening tests were paid by the Department of Administration. The
11 psychological examination and the background investigation were provided by
12 government of Guam officials at no cost.

13 So that *I Liheslaturan Guåhan* can conduct efficient and expeditious
14 processes for the confirmation of the Chief of Police, *I Liheslaturan Guåhan* sees it
15 fit, and timely, to provide clarity as to which authority, i.e. the appointing authority
16 *or* the confirming authority, is responsible for the arrangements and costs
17 associated for compliance with the requirements of §77109, Chapter 77, Title 10,
18 Guam Code Annotated.

19 It is, therefore, the intent of *I Liheslaturan Guåhan* to establish more clarity
20 with respect to the responsibility for compliance with all the requirements of
21 §77109, Chapter 77, Title 10, Guam Code Annotated, by amending §77109.

22 **Section 2.** §77109 of Chapter 77, Title 10, Guam Code Annotated, is
23 hereby *amended* to read as follows:

24 **“§77109. Appointment of the Chief of Police.**

25 The Chief of Police *shall* be appointed by *I Maga’lahi* with the advice
26 and consent of *I Liheslaturan Guåhan* and *shall* meet the following
27 qualifications:

- 1 (a) be *at least* thirty-five (35) years of age;
- 2 (b) have *no less than* fifteen (15) years of progressive
3 experience in a governmental law enforcement position, including *at*
4 *least* five (5) years at the supervisory command level, and five (5)
5 years in a senior position with law enforcement management
6 responsibilities;
- 7 (c) graduation with a bachelor's degree or higher in Police
8 Science, Criminal Justice Administration, Public Administration,
9 Law, *or* closely related field *or* discipline, at an accredited institution
10 recognized by the Council of Higher Education Accreditation (CHEA)
11 *or* its successors;
- 12 (d) have *no* felony, domestic *or* family violence convictions;
- 13 (e) have *no* misdemeanor convictions involving moral
14 turpitude;
- 15 (f) submit to and pass a drug screening test, including, *but*
16 *not limited to*, urinalysis testing;
- 17 (g) be of good health and good moral character;
- 18 (h) submit to psychological testing; and
- 19 (i) submit to a polygraph examination.
- 20 (j) *No person shall* be appointed as Chief of Police before a
21 thorough investigation of the appointee's background and moral
22 character is completed.

23 The scheduling for the tests and services required under this
24 Section *shall* be the responsibility of the appointing authority. All
25 tests and services *shall* be conducted by a licensed professional. The
26 administration, reporting, and records maintenance of the reports,
27 results, and/or findings of any polygraph examination administered to

1 the nominees of *I Maga'lahi* (the Governor) for the unclassified
2 position of the Chief of Police of the Guam Police Department *shall*
3 be treated as personnel information, and at all times *shall* be handled
4 in accordance with the applicable personnel and civil service laws,
5 rules, and regulations of the government of Guam.

6 The nomination letter *shall* conform to the above requirements,
7 and the requirements of §2103.5 of Title 4, Guam Code Annotated, or
8 may be returned to *I Maga'lahi* (the Governor) by the Speaker of *I*
9 *Liheslaturan Guåhan*, at the request of the Committee Chairperson,
10 for insufficiency upon failure to include the information or documents
11 required by statute. *No* nomination package for Chief of Police may
12 be considered by *I Liheslaturan Guåhan* *unless* the requirements of
13 §77109, Chapter 77, Title 10, Guam Code Annotated, and §2103.5,
14 Chapter 2, Title 4, Guam Code Annotated, are first met. Failure to
15 meet the requirements *shall* toll the deadline for Legislative action
16 upon said executive appointment.

17 The nominee for Chief of Police *shall not* serve in the Guam
18 Police Department, or in any position of authority over the
19 Department, in any capacity without being first confirmed by *I*
20 *Liheslaturan Guåhan*, *except*, that *if* the nominee is a classified
21 employee of the Guam Police Department, the nominee's employment
22 status remains unchanged.”

23 **Section 3.** §77110 of Chapter 77, Title 10, Guam Code Annotated, is
24 hereby *repealed* in its entirety.

25 **Section 4.** §77112 of Chapter 77, Title 10, Guam Code Annotated, is
26 hereby *amended* to read as follows:

27 **“§77112. Powers and Duties of the Police Commander.**

1 In the absence or incapacity of the Chief of Police, the Police
2 Commander *shall* possess all the powers of the Chief of Police, act as the
3 head of the Department, and *shall* further perform such additional duties as
4 the Chief of Police may prescribe.

5 **Section 5. Effective Date.** This Act *shall* become effective upon
6 enactment.