

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam.

January 29, 2016

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

32-10-1308-5
Office of the Speaker
Judith T. Won Pat, Ed.D

Date: 02-01-16
Time: 1:57 PM
Received By: [Signature]

2016 FEB - 1 PM 2:15

Dear Madame Speaker:

Attached is Bill No. 222-33 (COR), entitled, *"An Act to Amend Sections 6207 AND 6207.1 and to New Sections 6218.2 and 6218.3 to Chapter 6, Title 4 of the Guam Code Annotated, Relative to Prohibiting Bonus Pay and Mandating Proper Pay and Pay Adjustment Processing for Unclassified Employees,"* which I have **VETOED**.

The reason for my veto is that as passed and submitted, Bill No. 222 specifically identifies and treats the unclassified employees of the Governor and Lt. Governor's offices who receive increases in base pay differently than unclassified employees in the rest of the government who receive similar increases, including employees in the legislative and judicial branches. Bill 222 additionally ignores the massive spike in payments caused by the practice of unclassified employees at the Legislature who regularly cash out lump sum annual leave at the end of every term.

Prudent, responsible fiscal management is the obligation of every government entity, including the legislative and judicial branches. Whether classified or unclassified, the hard working Government of Guam employees deserve to be treated equally and fairly regardless of which branch or agency they serve in.

1308

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governorofguam

For this reason, and pursuant to my Organic Act authority, I am submitting together with this letter an amended version of Bill No. 222 for introduction and consideration. This amended bill accomplishes the goals and intent of the original bill, but it does so equally for all three branches of government and every agency, including autonomous and semiautonomous agencies, public corporations, and other public instrumentalities of the Government of Guam.

I know that the legislative and judicial branches share with the executive branch the same goal of government-wide financial stability and parity. And I trust that they will not hesitate to step up and take action as necessary to ensure that the Government of Guam is operated responsibly and equitably. As public servants, we owe the People no less.

Senseramente,



EDDIE BAZA CALVO
Governor of Guam

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

Bill No. _____-33

Introduced by:

By request of *I Maga'Låhen*
Guåhan, the Governor of
Guam, in accordance with the
Organic Act of Guam

AN ACT TO AMEND SECTIONS 6207 AND 6207.1 ~~OF~~ AND TO ADD NEW SECTIONS 6218.2 AND 6218.3 TO CHAPTER 6, TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING BONUS PAY AND MANDATING PROPER PAY AND PAY ADJUSTMENT PROCESSING FOR UNCLASSIFIED EMPLOYEES; AND TO ADD NEW SUBSECTIONS 1119(A)(I) AND 1119(D) TO CHAPTER 1, TITLE 2 OF THE GUAM CODE ANNOTATED; AND TO ADD NEW SUBSECTIONS 4102(D) AND 4109(I) TO CHAPTER 4, TITLE 4 OF THE GUAM CODE ANNOTATED; AND TO ADD NEW SUBSECTION 2102(A) TO CHAPTER 2, TITLE 7 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING THE LUMP SUM PAYMENT OF ANNUAL LEAVE FOR UNCLASSIFIED EMPLOYEE POSITIONS.

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

2 **Section 1. Prologue and Intent.** In 2010, the Hay Group conducted a
3 comprehensive study on the Government of Guam pay plan. Because of the fiscal
4 environment in 2011, full implementation of the plan was delayed until the
5 government's financial condition improved. A partial pay adjustment for
6 employees on the General Pay Plan, and full pay adjustments for nurses, teachers,

1 and government attorneys, was implemented on January 26, 2014. Immediately
2 thereafter, the Legislature repealed a portion of the pay adjustment for elected
3 officials (namely the Governor, the Lt. Governor, Senators, and the Attorney
4 General and the Public Auditor), and cabinet heads. (P.L. 32-136). In September
5 2014, full pay adjustment for the General Pay Plan employees was implemented.

6 In June 2014, Public Law 32-166 was passed, and pay adjustments were
7 implemented for the Judiciary, *retroactive* to January 2014. In November 2014,
8 the Legislature repealed P.L. 32-136, which had disallowed pay raises for elected
9 officials and cabinet heads, reinstating their pay raises *retroactive* to January 2014.
10 (P.L. 32-208). Thus, by November 2014, the Legislature, the Judiciary and every
11 line agency of the Executive branch had received pay adjustments effective on or
12 *retroactive* to January 2014. The only exception, other than the Public Auditor,
13 was the 107 rank and file employees of the Governor's Office and the Lt.
14 Governor's Office.

15 Recognizing the inequality in excluding these hard working employees,
16 many of whom took a voluntary 10% pay cut and were instrumental in the
17 turnaround of the government's finances, *I Maga'Låhen Guåhan* implemented
18 salary adjustments for the staff of the Governor's Office and the Lt. Governor's
19 Office to bring their salaries in line with the January 2014 retroactive adjustment
20 that was made for all the other Government of Guam employees. These employees

1 were not included in P.L. 32-208 because their salaries are not set by statute, thus
2 they need not be amended by statute.

3 Had politics not played a part in the implementation of the Hay Study,
4 Adelup employees, whose salaries are pegged to the Governor and the Lt.
5 Governor's salaries, would have received their raises in January 2014, along with
6 all the other employees of the government. However, because the executive
7 salaries were not adjusted until December, retroactive to January, I Maga'Låhen
8 Guåhan elected to adjust the Governor and Lt. Governor's staff salaries pursuant to
9 the authority of 4 G.C.A. Section 6207.

10 The Attorney General determined that the processing mistakes made by
11 DOA gave the pay adjustments the appearance of retroactivity, which is disallowed
12 except where permitted by legislation, such as was previously done for employees
13 of the OPA, the Judiciary, the Governor, the Lt. Governor, the Senators, the
14 directors and deputy directors, law enforcement personnel, National Guard and
15 reserve employees, mayors and vice mayors. Following the AG's counsel, I
16 Maga'Låhen Guåhan moved to correct the retroactive appearance in the Adelup
17 pay adjustments.

18 In January, 2016, the Legislature passed Bill 222-33, which sought to
19 prohibit bonus pay and regulate the processing of pay adjustments for the
20 unclassified staff of the Governor and Lt. Governor's offices only. Bill 222-33

1 ignored, however, spikes caused by unclassified employees at the Legislature who
2 regularly cash out lump sum annual leave at the end of every term.

3 It is unfair to single out the employees of a single agency in a single
4 Executive branch when there are other unclassified employees in the legislative
5 and judiciary branches who are similarly situated. It therefore the express intent of
6 this bill to provide for parity across all three branches of government and in every
7 agency, including autonomous and semiautonomous agencies, public corporations,
8 and other public instrumentalities of the Government of Guam; and further to
9 insure that fiscal management is applied equally and equitably.

10 **Section 2.** § 6207, Chapter 6, Title 4 of the Guam Code Annotated is
11 hereby *amended* to read:

12 **“§ 6207. Positions in Governor's Office.**

13 The Governor is authorized to establish such positions as may be
14 necessary for the operation of the Office of the Governor including off
15 island offices and Government House; provided, however, that no person
16 shall be appointed to fill such a position in the absence of an appropriation to
17 pay the salary set for such position. The Governor shall set the salaries for
18 positions for which salaries are not set by law which shall be paid in twenty-
19 six (26) equal installments from the date when such salary was set.”

1 **Section 3.** § 6207.1, Chapter 6, Title 4 of the Guam Code Annotated is
2 hereby *amended* to read:

3 “**§ 6207.1. Positions in Lieutenant Governor's Office.**

4 The Lieutenant Governor is authorized to establish such positions as
5 may be necessary for the operation of the Office of the Lieutenant Governor,
6 the Guam State Clearinghouse, and other offices that are established and
7 placed under the purview or direction of the Lieutenant Governor of Guam;
8 provided, however, that no person shall be appointed to fill such a position
9 in the absence of an appropriation to pay the salary set for such position. The
10 Lieutenant Governor shall set the salaries for positions for which salaries are
11 not set by law which shall be paid in twenty-six (26) equal installments from
12 the date when such salary was set.”

13 **Section 4.** A new section 6218.2 is hereby *added* to Chapter 6, Title 4 of
14 the Guam Code Annotated to read:

15 “**§ 6218.2. Prohibition on Bonus Pay for Unclassified Employees.**

16 No bonuses shall be authorized and/or paid in lump sum or otherwise,
17 to unclassified employees in all branches of the government of Guam unless
18 so specified by law. Any person who authorizes a bonus payment in
19 violation of this Section shall be guilty of a misdemeanor. For the purposes
20 of this Section, bonuses or bonus payments shall mean sums authorized

1 and/or paid to an unclassified employee that is separate and apart from
2 and/or added to the base pay of such unclassified employee for any
3 purpose.”

4 **Section 5.** A new section 6218.3 is hereby *added* to Chapter 6, Title 4 of
5 the Guam Code Annotated to read:

6 **“§ 6218.3. Processing of Pay Adjustments for Unclassified Employees.**

7 Pay adjustments that increase base pay ~~that are authorized pursuant to~~
8 ~~§§ 6207 and 6207.1~~ for all unclassified positions, officers and employees in
9 the Executive, Legislative and Judicial Branches, inclusive of autonomous
10 and semiautonomous agencies, public corporations, and other public
11 instrumentalities of the government of Guam shall be paid in twenty-six (26)
12 equal installments from the date when such pay adjustment was authorized.
13 If, after such pay adjustments that increase base pay for such unclassified
14 employees ~~that are authorized pursuant to §§ 6207 and 6207.1 of this~~
15 ~~Chapter,~~ a pay adjustment is authorized to decrease base pay within two (2)
16 pay periods, the amount of such pay adjustment that previously increased
17 base pay *shall* be repaid by the unclassified employee *no later than* the
18 following pay period subsequent to the date from when the pay adjustment
19 decrease was authorized.”

1 **Section 6.** A new subsection 1119(a)(i) is hereby *added* to subsection
2 1119(a), Chapter 1, Title 2 of the Guam Code Annotated to read:

3 **“§ 1119(a)(i). Positions in the Legislature.**

4 The Legislature shall set the salaries for all its employees to be paid in
5 twenty-six (26) equal installments from the date when such salary was set.”

6 **Section 7.** A new subsection 1119(d) is hereby *added* to section 1119,
7 Chapter 1, Title 2 of the Guam Code Annotated to read:

8 **“§ 1119(d). Lump Sum Payment of Annual Leave Prohibited.**

9 No legislative employee who leaves the government’s service for any
10 reason shall receive a cash payment for annual leave accrued at the time that
11 the employee leaves such service.”

12 **Section 8.** A new subsection 4102(e) is hereby *added* to section 4102,
13 Chapter 4, Title 4 of the Guam Code Annotated to read:

14 **“Section 4102(e). Lump Sum Payment of Annual Leave Prohibited.**

15 As defined by Section 4102(a), no person in an unclassified position
16 who leaves the government’s service for any reason shall receive a cash
17 payment for annual leave accrued at the time that person leaves such
18 service.”

19 **Section 9.** A new subsection 4109(i) is hereby *added* to section 4109,
20 Chapter 4, Title 4 of the Guam Code Annotated to read:

1 **“Subsection 4109(i). Lump Sum Payment of Annual Leave Prohibited**
2 **for Unclassified Positions.**

3 As defined by Section 4102(a) of this Chapter, no person in an
4 unclassified position who leaves the government’s service for any reason
5 shall receive a cash payment for annual leave accrued at the time that person
6 leaves such service.”

7 **Section 10.** A new subsection 2102(a) is hereby *added* to section 2102,
8 Chapter 2, Title 7 of the Guam Code Annotated to read:

9 **“§ 2102(a). Lump Sum Payment of Annual Leave Prohibited.**

10 No judiciary employee who leaves the government’s service for any
11 reason shall receive a cash payment for annual leave accrued at the time that
12 the employee leaves such service.”

13 **Section 11. Effective Date.** This Act *shall* become effective upon
14 enactment.

15 **Section 12. Severability.** *If* any provision of this Act or its application to
16 any person or circumstance is found to be invalid or contrary to law, such
17 invalidity *shall not* affect other provisions or applications of this Act that can be
18 given effect without the invalid provision or application, and to this end the
19 provisions of this Act are severable.

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

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

This is to certify that Substitute Bill No. 222-33 (COR), "AN ACT TO AMEND §§ 6207 AND 6207.1, AND TO ADD NEW §§ 6218.2 AND 6218.3 OF ARTICLE 2, CHAPTER 6 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING BONUS PAY AND MANDATING PROPER PAY AND PAY ADJUSTMENT PROCESSING FOR UNCLASSIFIED EMPLOYEES OF THE GOVERNMENT OF GUAM," was on the 20th day of January 2016, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

2016 FEB - 1 PM 2:16 

Attested:



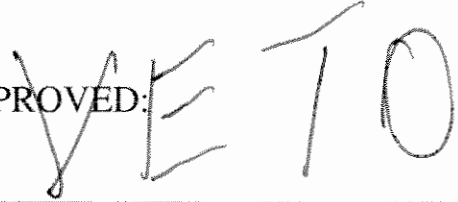
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 22nd day of January,
2016, at 5:17 o'clock P.M.



Assistant Staff Officer
Maga'låhi's Office

APPROVED:

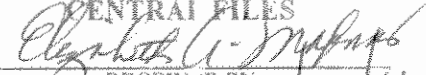


EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: _____

Public Law No. _____

OFFICE OF THE GOVERNOR
CENTRAL FILES


RECEIVED BY
TIME 5:47 PM DATE 1/22/16

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

Bill No. 222-33 (COR)

As substituted by the Committee on
Appropriations and Adjudication; and
further substituted and amended on the Floor.

Introduced by:

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

**AN ACT TO AMEND §§ 6207 AND 6207.1, AND TO ADD
NEW §§ 6218.2 AND 6218.3 OF ARTICLE 2, CHAPTER 6
OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE
TO PROHIBITING BONUS PAY AND MANDATING
PROPER PAY AND PAY ADJUSTMENT PROCESSING
FOR UNCLASSIFIED EMPLOYEES OF THE
GOVERNMENT OF GUAM.**

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

2 **Section 1.** § 6207 of Article 2, Chapter 6 of Title 4, Guam Code
3 Annotated, is hereby *amended* to read:

4 **“§ 6207. Positions in *I Maga'låhi's* (the Governor's) Office.**

1 *I Maga'låhi* (the Governor) is authorized to establish such positions as
2 may be necessary for the operation of the Office of *I Maga'låhi* (the
3 Governor), including off-island offices and Government House; provided,
4 however, that no person shall be appointed to fill such a position in the
5 absence of an appropriation to pay the salary set for such position. *I*
6 *Maga'låhi* (the Governor) *shall* set the salaries for positions for which
7 salaries are not set by law, which *shall* be paid in twenty-six (26) biweekly
8 equal installments from the date when such salary was set.”

9 **Section 2.** § 6207.1 of Article 2, Chapter 6 of Title 4, Guam Code
10 Annotated, is hereby *amended* to read:

11 “§ 6207.1. **Positions in *I Segundu Na Maga'låhi's* (the Lieutenant**
12 **Governor's) Office.**

13 *I Segundu Na Maga'låhi* (the Lieutenant Governor) is authorized to
14 establish such positions as may be necessary for the operation of the Office
15 of *I Segundu Na Maga'låhi* (the Lieutenant Governor), the Guam State
16 Clearinghouse, and other offices that are established and placed under the
17 purview or direction of *I Segundu Na Maga'låhen Guåhan* (the Lieutenant
18 Governor of Guam); provided, however, that no person shall be appointed to
19 fill such a position in the absence of an appropriation to pay the salary set for
20 such position. *I Segundu Na Maga'låhi* (the Lieutenant Governor) *shall* set
21 the salaries for positions for which salaries are not set by law, which *shall* be
22 paid in twenty-six (26) biweekly equal installments from the date when such
23 salary was set.”

24 **Section 3.** A new § 6218.2 is hereby *added* to Article 2, Chapter 6 of Title
25 4, Guam Code Annotated, to read:

26 “§ 6218.2. **Prohibition on Bonus Pay for Unclassified Employees.**

1 No bonuses shall be authorized and/or paid in lump-sum, or
2 otherwise, to unclassified employees of the government of Guam unless so
3 specified by law. Any person who authorizes a bonus payment in violation
4 of this Section *shall* be guilty of a misdemeanor. For the purposes of this
5 Section, bonuses or bonus payments *shall* mean sums authorized and/or paid
6 to an unclassified employee that is separate and apart from and/or added to
7 the base pay of such unclassified employee for any purpose.”

8 **Section 4.** A new § 6218.3 is hereby *added* to Article 2, Chapter 6 of Title
9 4, Guam Code Annotated, to read:

10 **“§ 6218.3. Processing of Pay Adjustments for Unclassified**
11 **Employees.**

12 Pay adjustments that increase base pay that are authorized pursuant to
13 §§ 6207 and 6207.1 of this Chapter *shall* be paid in twenty-six (26) biweekly
14 equal installments from the date when such pay adjustment was authorized.
15 If, after such pay adjustments that increase base pay for such unclassified
16 employees that are authorized pursuant to §§ 6207 and 6207.1 of this
17 Chapter, a pay adjustment is authorized to decrease base pay within two (2)
18 pay periods, the amount of such pay adjustment that previously increased
19 base pay *shall* be repaid by the unclassified employee *no later than* the
20 following pay period subsequent to the date from when the pay adjustment
21 decrease was authorized.”

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

24 **Section 6. Severability.** If any provision of this Act or its application to
25 any person or circumstance is held invalid, the invalidity *shall not* affect other
26 provisions or applications of this Act which can be given effect without the invalid
27 provision or application and to this end the provisions of this Act are severable.