

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
2018 (SECOND) Regular Session
LEGISLATIVE SESSION VOTING RECORD

Bill No. 303-34 (COR)

Speaker Antonio R. Unpingco Legislative Session Hall
August 28, 2018

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Thomas C. ADA	✓					
Senator FRANK B. AGUON, JR.	✓					
Senator William M. CASTRO	✓					
Speaker Benjamin J.F. CRUZ	✓					
Senator James V. ESPALDON	✓					
Senator Fernando Barcinas ESTEVES		✓				
Senator Régine Biscoe LEE	✓					
Senator Tommy MORRISON	✓					
Senator Louise B. MUÑA	✓					
Senator Telena Cruz NELSON	✓					
Senator Dennis G. RODRIGUEZ, JR.					✓	✓
Senator Joe S. SAN AGUSTIN	✓					
Senator Michael F.Q. SAN NICOLAS	✓					
Vice Speaker Therese M. TERLAJE	✓					
Senator Mary Camacho TORRES	✓					

TOTAL:	13	1	0	0	1	1
	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused

CERTIFIED TRUE AND CORRECT:



Clerk of the Legislature

I = Pass

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

Bill No. 303-34 (COR)

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Introduced by:

Michael F.Q. San Nicolas

AN ACT TO *REPEAL* § 10103 OF CHAPTER 10, TITLE 4, GUAM CODE ANNOTATED; AND *REPEAL* § 5103 OF PART A, CHAPTER 5, TITLE 2, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO ALLOWING INVESTIGATIVE, INTELLIGENCE, OR SECURITY EMPLOYEES OF THE GOVERNMENT OF GUAM TO BE REPRESENTED BY EMPLOYEE ORGANIZATIONS UNDER THE PUBLIC EMPLOYEE-MANAGEMENT RELATIONS ACT.

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

2 **Section 1. Short Title.** This Act *shall* be cited as the “Public Safety
3 Employee Freedom of Association Protection Act.”

4 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
5 that in 1968, the Ninth (9th) Guam Legislature passed Bill No. 476 establishing the
6 “Public Employee-Management Relations Act of Guam;” and, it was signed into law
7 as Public Law 9-240 by Governor Manuel F.L. Guerrero on August 13, 1968.

8 *I Liheslaturan Guåhan* further finds that when the Legislature enacted the
9 Public Employee-Management Relations Act, it made the intent of the law clear
10 when it stated, “the Legislature of the territory of Guam declares that it is the policy
11 and purpose of this Act, in the public interest, to promote orderly and constructive
12 relationships between government and its public employees by providing an

1 opportunity for effective participation by employees in the formulation and
2 implementation of policies and procedures affecting conditions of their employment,
3 subject to paramount requirements of law for conducting efficient and uninterrupted
4 operations of government.”

5 *I Liheslaturan Guåhan* finds that § 10103 of Chapter 10, Title 4, Guam Code
6 Annotated, excludes “any government department, or to any office or entity of the
7 Executive Branch, which is primarily performing investigative, intelligence or
8 security functions, if the Governor of Guam determines the provisions of this
9 Chapter [Public Employee-Management Relations Act] cannot be applied, in whole
10 or in part, in a manner consistent with security requirements or considerations.”

11 *I Liheslaturan Guåhan* further finds that § 5103 of Part A, Chapter 5, Title 2,
12 Guam Administrative Rules and Regulations, restates the aforementioned language
13 of 4 GCA § 10103 and, in addition, specifically excludes: (1) Personnel of the
14 Department of Public Safety whose principal job is law enforcement; (2) Port
15 Security Inspectors; (3) Alcoholic Beverage Control Inspectors; (4) Personnel under
16 the Attorney General’s office performing investigative work; (5) Personnel of the
17 Department of Corrections whose principal job is prison security; and (6) Fish and
18 Game wardens.

19 *I Liheslaturan Guåhan* further finds that these provisions are intended to limit
20 representation by employee organizations only to the extent such representation may
21 endanger a valid state interest, which is deemed to be the security requirements or
22 considerations of the government agencies described in 4 GCA § 10103.

23 *I Liheslaturan Guåhan* further finds that the Public Employee-Management
24 Relations Act requires that employee organizations do not include those which assert
25 “the right to strike against the Government, or to assist, participate or conduct any
26 such strike,” or “advocate[] the overthrow of the constitutional form of government
27 in the United States or the government of Guam;” and, such organizations are

1 prohibited from “disciplining or otherwise discriminating against any public
2 employee member of the organization as reprisal for, or for the purpose of
3 obstructing the discharge of the employee’s official duties in the government
4 service” or “engaging in or inducing public employees to engage in any strike, work
5 stoppage, slowdown or picketing against the Government.”

6 *I Liheslaturan Guåhan* further finds that under the Public Employee-
7 Management Relations Act, government management officials retain the right and
8 responsibility to:

9 “(a) maintain efficient government operations and direct public
10 employees;

11 (b) hire, promote, transfer and assign employees to government
12 positions;

13 (c) suspend, demote, discharge or take other disciplinary action
14 against employees for just cause;

15 (d) to determine the methods, organization and assignment of
16 personnel for the conduct of operations, including necessary actions in
17 emergency situations.”

18 *I Liheslaturan Guåhan* finds that, considering the aforementioned provisions
19 that govern employee organizations and the ability of management to direct
20 employees, it is unclear how representation by an employee organization, consistent
21 with the Public Employee-Management Relations Act, interferes or could
22 reasonably interfere with security requirements or considerations.

23 *I Liheslaturan Guåhan* further finds that both 4 GCA § 10103 and 2 GAR §
24 5103 are ill-conceived, as there is no valid state interest in denying the identified
25 class of government employees representation by an employee organization under
26 the Public Employee-Management Relations Act.

1 It is, therefore, the intent of *I Liheslaturan Guåhan* to recognize the right of
2 investigative, intelligence, or security employees of the government of Guam to join
3 and be represented by an employee organization to the same extent as other
4 employees of the government of Guam, by repealing both 4 GCA § 10103 and 2
5 GAR § 5103.

6 **Section 3. Repeal of Exclusions from the Public Employee-**
7 **Management Relations Act.** § 10103 of Chapter 10, Title 4, Guam Code
8 Annotated, is hereby *repealed*.

9 **Section 4. Repeal of Exclusions from the Public Employee-**
10 **Management Relations Act.** § 5103 of Part A, Chapter 5, Title 2, Guam
11 Administrative Rules and Regulations, is hereby *repealed*.