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 **Substitute Bill No. 424-30 (COR), "AN ACT TO *REPEAL* AND *RE-ENACT* §§3102 AND 3103; TO *REPEAL* §§3108, 3111, 3111.1, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3120 AND 3124; *AND* TO *ADD* NEW §§3102.1, 3102.2, 3102.3 3102.4, 3102.5, 3102.6, 3102.7, AND 3103.1, ALL OF CHAPTER 3 OF TITLE 17 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE REORGANIZATION OF THE GUAM EDUCATION POLICY BOARD",** was on the 13th day of August, 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'lahen Guåhan* this 13 day of Aug, 2010, at 5:30 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

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

Bill No. 424-30 (COR)
As substituted and amended on the Floor.

Introduced by: B. J.F. Cruz
T. C. Ada
V. Anthony Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
v. c. pangelinan
R. J. Respicio
Telo Taitague
Ray Tenorio
Judith T. Won Pat, Ed.D.

AN ACT TO *REPEAL* AND *RE-ENACT* §§3102 AND 3103; TO *REPEAL* §§3108, 3111, 3111.1, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3120 AND 3124; *AND* TO *ADD* NEW §§3102.1, 3102.2, 3102.3 3102.4, 3102.5, 3102.6, 3102.7, AND 3103.1, ALL OF CHAPTER 3 OF TITLE 17 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE REORGANIZATION OF THE GUAM EDUCATION POLICY BOARD.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. §3102 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed* and *re-enacted* to read:

"**§3102. Guam Education Board.**

The governance of the Department of Education is vested in an education board to be known as "the Guam Education Board" (hereinafter referred to as 'the Board'). The Board *shall* be composed of nine (9) members."

Section 2. New §§3102.1, 3102.2, 3102.3, 3102.4, 3102.5, 3102.6 and 3102.7 are hereby *added* to Chapter 3 of Title 17 of the Guam Code Annotated to read:

"**§3102.1. Duties of the Guam Education Board.**

The Guam Education Board *shall* have general supervision over the Department of Education (hereinafter 'Department') and the control and direction of all funds of, and appropriated to, the Department subject to such restrictions as may be prescribed by law. The Board *shall* submit an annual budget to *I Liheslatura* in the manner prescribed by law. The Board *shall* have the authority to delegate such of its powers as it may deem appropriate, but *shall* retain the ultimate responsibility for the exercise of its powers.

§3102.2. Meetings of the Board.

Meetings of the Board *shall* be held once a month at a regular time and place as determined by the Board, *except* that special meetings may be called by the Chairman, or by a majority of the members to address emergency matters. Meetings of the Board s*hall* be subject to the Open Government Law of Guam. Six (6) members *shall* constitute a quorum, and an affirmative vote of five (5) members is required for any action to be valid.

§3102.3. Composition and Terms of Office for Board Members.

The Board *shall* be composed and serve terms as follows:

(a) Three (3) Appointed Voting Members. *I Maga'lahi shall* appoint, subject to the advice and consent of *I Liheslaturan Guåhan,* one (1)

voting member from among each of the following to serve for a term of three (3) years:

(1) one (1) member who is employed in an upper level managerial position in a private business;

(2) one (1) member who is a parent of a student enrolled within the Guam Department of Education; and

(3) one (1) member who is a retired teacher or administrator of the Guam Department of Education.

(b) Six (6) Elected Voting Members. Six (6) voting members *shall* be elected at-large at each General Election. Each elected voting member *shall* serve for a term of two (2) years, commencing at 12:00 noon on the first Monday in January following their election. A candidate for the Board must be *at least* twenty-five (25) years old, and a resident of Guam for *at least* five (5) years immediately proceeding the date on which the member takes office and continuing throughout the term.

(1) Nomination of candidates for election to the Board *shall* be made by petition on forms prescribed by the Guam Election Commission (Commission) and initiated by the candidate. In order for a candidate's name to be placed on the ballot for election to the Board, such petition must be signed by *not less than* one hundred fifty (150) persons registered to vote in Guam and must be filed with the Commission *no later than* the first Monday after a Primary Election, unless such date is a holiday, in which it *shall* be filed the day following the holiday, *or* sixty (60) days prior to a Special Election. No defect in any nominating petition presented to the Commission shall prevent the filing of another petition which is presented within the allowed filing period.

(2) The election provided for within this Subsection (b) *shall* be non-partisan, and no political party shall directly or indirectly sponsor, nominate or endorse any of the candidates for such office.

(c) Student Voting Member. One (1) student member of the Board *shall* be elected by an Island wide School Board of Governing Students.

(d) Non-voting members. There *shall* be non-voting ex officio members, serving for a term of one (1) year, as follows:

(1) One (1) member appointed by the exclusive bargaining unit which represents teachers and other employees within the Department.

Notwithstanding any other provision of law, employees of the Guam Department of Education are *not* eligible to serve on the Board. All members of the Board must be citizens of the United States of America.

§3102.4. Officers of the Board.

Officers of the Board *shall* include the Chairperson and Vice Chairperson, and such other positions which the Board deems necessary to effectively carry out its responsibilities. Such Board officers upon election *shall* serve for a term of one (1) year. Board officers *shall* be elected by a majority vote of the members of the Board during one (1) of the Board's meetings held in January of each year. Members may serve as Chairperson for multiple terms, except that no person may serve as Chairperson for more than two (2) consecutive terms at a time.

§3102.5. Removal of Board Members.

A member of the Board may be removed by a vote of six (6) members for malfeasance in office or for persistent neglect of, or inability to discharge duties or for offenses involving moral turpitude. However, no member of the Board shall be removed from office before a written bill of particulars

shall have been given to the accused and before an investigation and an open and public hearing shall have been had. Any member who removes his residence from Guam *shall* be deemed to have vacated his office, thereby creating a vacancy on the Board.

A member of the Board *shall* be automatically removed from the Guam Education Board:

(a) upon conviction of a felony;

(b) upon conviction of a misdemeanor involving the possession of a controlled substance or operation of a vehicle while under the influence of alcohol or a controlled substance; *or*

(c) upon conviction of a crime involving moral turpitude.

§3102.6. Stipend for Board Members.

Members of the Board *shall* be paid the amount of Two Hundred Fifty Dollars ($250.00) for each day on which they attend a regular, special or executive meeting, *not to exceed* Five Hundred Dollars ($500.00) in any month.

§3102.7. Board Member Vacancies.

(a) Elected Members. Any vacancies, including initial vacancies, of elected member positions occurring on the Board *shall* be filled forthwith by appointment of the unsuccessful candidate who received the next highest number of votes in the Board election, *provided* that the individual received greater than fifty percent (50%) of the number of votes received by the declared winner of that seat. In the event that the individual declines or there is no candidate meeting the criteria provided within this Subsection, *I Maga'lahen Guåhan shall* appoint a member for the term or remaining term of office, subject to confirmation by *I Liheslaturan Guåhan.*

(b) Appointed Members. On the expiration of the term of an appointed member, or in the event of a vacancy on the Board due to resignation, death, or any other cause, *I Maga'lahi shall* appoint another member, with the advice and consent of *I Liheslatura*, for a full term in the first instance, or for the remainder of the unexpired term. When there is a change of administration of the government of Guam after a gubernatorial election, no courtesy resignation shall be requested by the new administration nor offered by any member of the Board."

Section 3. §3103 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed and re-enacted* to read:

"§3103. Superintendent of Education.

The Superintendent of Education (the Superintendent) *shall* be the Chief Executive Officer of the internal operating organization of the Department of Education and *shall* be responsible for the administration of the academic and services activities thereof. The Superintendent *shall* be responsible for implementing the policies adopted by the Board. The Board *shall* appoint the Superintendent of Education by an affirmative vote of *at least* six (6) members. Notwithstanding any other provision of law, the employment of the Superintendent *shall* be by contract term of four (4) years, which contract *shall* contain a provision that the Superintendent's employment may only be terminated for cause, as defined in this Chapter. In the case of temporary absence of the Superintendent, the Superintendent may, after consultation with the Chairperson of the Board, appoint among any of the Associate Superintendents, or their equivalents, an acting Superintendent.

The Superintendent *shall*:

(1) administer the day-to-day activities of the Department of Education;

(2) enforce and implement the education policies of the Board and rules and regulations of the Department;

(3) administer federal funds/programs on behalf of the Department;

(4) serve as the Department's approving authority for the expenditure of funds;

(5) serve as the appointing authority for all personnel employed by the Department;

(6) be the Executive Secretary of the Board in an *ex-officio*, non-voting capacity;

(7) *shall* submit to the Board, *I Maga'lahen Guåhan,* and *I Liheslaturan Guåhan,* no later than thirty (30) days following the end of the fiscal year, a detailed "Annual State of Public Education Report," which shall discuss the public educational issues on Guam, and other subjects the Superintendent may deem appropriate, and *shall* also submit such fiscal, instructional, academic progress, and other information as may be required by the Board to reflect the quality of public education;

(8) develop and present to the people of Guam, the Board, *I Maga'lahen Guåhan,* and *I Liheslaturan Guåhan* a "School Performance Report Card" of each school, which *shall* be given in conjunction with the Annual Report;

(9) to perform other duties as may be required by public law to provide an adequate public educational system;

(10) to advise the Board on the current operations and status of the public schools and on other educational matters;

(11) to supply the Board with such information as it may require and prepare the Board to make recommendations to *I Maga'lahen Guåhan* and *I Liheslaturan Guåhan* for changes, additions, or deletions to public law;

(12) prepare a feasibility/impact/cost savings analysis for the Guam Education Board recommending the potential privatization of existing services for the Department.

(14) Notwithstanding any other provision of law or personnel rules and regulations, the Superintendent *shall* have the authority to assign, detail, or transfer employees to various physical locations within the Department. The Superintendent *shall* exercise such authority only in accordance with a policy adopted by the Board and *shall not* (1) cause a change in position title or job duties, or (2) contradict the provisions of any collective bargaining agreement in effect at the time of the transfer nor violate any employee's rights thereunder;

(15) Adequate Public Education Reporting Requirements. The Superintendent of Education *shall* submit a monthly report of all funds available to the Department, whether or not their resources require appropriations by *I Liheslaturan Guåhan*. The report *shall* also contain a detailed accounting of all expenditures of funds, relating such expenditures to the criteria established in Title 1 GCA §715 and the status of compliance with the Adequate Education Act. The report is to be completed *no later than* fifteen (15) calendar days after the end of each month and *shall* be certified by the

Superintendent, acknowledging compliance with Title 1 GCA §715 and in meeting the objectives of §3125 of this Chapter. The report *shall* be submitted to the Board, the Speaker of *I Liheslaturan Guåhan,* and *I Maga'lahen Guåhan.*

(16) Conduct periodic assessments and management and curriculum audits of the Department for the following purposes:

(A) to ascertain whether the Department is providing an adequate public education as defined by Title 1 GCA §715;

(B) to evaluate the effectiveness of Department administrators in implementing board policy and directives and in fulfilling assigned objectives;

(C) to evaluate the effectiveness of Department instructional personnel and their ability to meet curriculum goals; and

(D) to recommend alternatives to correct systemic deficiencies and to improve the ability of the Department personnel to fulfill assigned objectives.

Said audits *shall* also identify and assess deficiencies in the Department's organizational structure; compliance with federal and local laws and with board policies; physical and operational security; workflow designs and management; internal controls; staffing levels and competencies; management levels and competencies; management practices; training standards and practices; adequacy of facilities; physical plant management; technical and administrative infrastructure; redundancy of systems and procedures; productivity and quality standards; recruitment and certification training of teachers; and

recruitment, training, and staff development. Said audits *shall* be conducted at intervals determined by the Board of *not less than* three (3) years and *no more than* five (5) years.

The Guam Education Policy Board *shall* solicit audit proposals for said audits both locally and nationally. The Board *shall* create and maintain a list of qualified auditing firms that specialize in management and curriculum audits of schools and school districts. The Board *shall* transmit Requests for Proposals to all known qualified auditing firms and solicit through local and national publications.

(17) Promulgate rules and regulations for the implementation and operation of §§3127 through 3131 of this Title as necessary."

Section 4. A new §3103.1 is hereby *added* to Chapter 3 of Title 17 of the Guam Code Annotated to read:

"**§3103.1. Termination of Superintendent.**

(a) Only the following constitute cause for the discharge of the Superintendent or Deputy Superintendent:

(1) Failure to meet performance standards as defined by a performance evaluation outline established and adopted by the Board;

(2) Holding financial interests that conflict with the conscientious performance of his or her duties;

(3) Engaging in financial transactions using confidential or non-public Department information or allowing the improper use of such information to further any private interests;

(4) except as permitted by statute or regulation, the solicitation or acceptance of any item of value from any person or

entity seeking official action from, doing business with, or conducting activities regulated by the Department, or from persons whose interest may be substantially affected by the performance or nonperformance of the Superintendent's duties, or the duties of the Department;

(5) Knowingly making commitments or promises of any kind purporting to bind the Department except as permitted by law;

(6) Use of his or her official position for private gain or that of others;

(7) Failure to disclose waste, abuse, and corruption to the appropriate authorities;

(8) Failure to respect the rights and privacy of others and the use of his or her official position, authority, or other means to injure another person for personal reasons or malicious purposes;

(9) Fraud or misrepresentation in securing his or her appointment;

(10) Refusal or failure to perform duties and responsibilities as defined by law;

(11) Unlawful use, possession, or sale of illicit drugs and alcohol;

(12) Criminal acts involving moral turpitude;

(13) Political activity prohibited by law;

(14) Misuse, misappropriation, or theft of government property or funds;

(15) Prohibited acts of discrimination, including sexual harassment; or

(16) Abandonment of his or her position."

Section 5. Attorney for the Board. §3108 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 6. Guam Education Policy Board. §3111 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 7. Provisions for Staggered Terms. §3111.1 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 8. Duties and Responsibilities of the Guam Education Policy Board. §3112 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 9. Elected Members. §3113 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 10. Nomination for Election to the Board. §3114 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 11. First Election: Terms. §3115 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 12. Repeal of Temporary Governance by *I Maga'lahen Guåhan*. §3116 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 13. Vacancies. §3117 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 14. Severability as to Districting Formula. §3118 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 15. Officers of the Board. §3119 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 16. Stipend. §3120 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 17. Removal of Elected Board Members. §3124 of Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed.*

Section 18. Implementation Provisions. The provisions of this Act *shall* be effective immediately, *except* that members of the Board elected prior to this Act *shall* serve the remainder of their terms. The election for the first members elected pursuant to this Act *shall* be during the General Election in 2012. Members appointed to fill vacancies of elected members prior to this Act *shall* serve until the appointment and confirmation of new appointed members through this Act. The Superintendent *shall* serve until the expiration of her contract. Unless removed for cause within §3103.1 of this Chapter. The first members appointed through this Act *shall* commence their term at 12:00 noon on the first Monday in January of 2011.

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