*I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*
**2012 (SECOND) Regular Session**

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

This is to certify that **Substitute Bill No. 338-31 (COR), "AN ACT TO *AMEND* §4207 OF ARTICLE 2, CHAPTER 4 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE PRIORITY PLACEMENT PROGRAM FOR AFFECTED EMPLOYEES OF THE GOVERNMENT OF GUAM RESULTING FROM ANY REORGANIZATION OR REDUCTION IN FORCE INITIATIVE OF THE EXECUTIVE BRANCH",** was on the 20th day of January, 2012, duly and regularly passed.

**Judith T. Won Pat, Ed.D.**
**Speaker**

Attested:

**Tina Rose Muña Barnes**
**Legislative Secretary**

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This Act was received by *I Maga'lahen Guåhan* this 23rd day of Jan., 2012, at 12:45 o'clock P.M.

Assistant Staff Officer
*Maga'lahi's* Office

APPROVED:

EDWARD J.B. CALVO
*I Maga'lahen Guåhan*

Date: _____

Public Law No. _____

*I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*
**2011 (FIRST) Regular Session**

**Bill No. 338-31(COR)**
As substituted on the Floor.

Introduced by: Judith P. Guthertz, DPA
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Dueñas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
v. c. pangelinan
Dennis G. Rodriguez, Jr.
R. J. Respicio
M. Silva Taijeron
Aline A.Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

**AN ACT TO *AMEND* §4207 OF ARTICLE 2, CHAPTER 4 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE PRIORITY PLACEMENT PROGRAM FOR AFFECTED EMPLOYEES OF THE GOVERNMENT OF GUAM RESULTING FROM ANY REORGANIZATION OR REDUCTION IN FORCE INITIATIVE OF THE EXECUTIVE BRANCH.**

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

**Section 1.** §4207 of Article 2, Chapter 4 of Title 4, Guam Code Annotated, is hereby *amended* to read:

"§ 4207. **Reduction in Force.** There *shall* be *no* reduction in force by any government of Guam department, bureau or agency, which includes autonomous agencies or other instrumentalities of the Executive Branch of the government of Guam, until such time as the particular department, bureau or agency implements a layoff, demotion or salary reduction procedure, which among other considerations adopted by the Director of Administration *shall* be based upon employee efficiency and seniority.

(a) The Priority Placement Procedure as listed in Appendix C of Chapter 1, Division 1, Title 2, Guam Administrative Rules and Regulations, relative to the Personnel Rules and Regulations of the Department of Administration, government of Guam are hereby adopted and *shall* be the standard policy and uniform guideline to address employees affected by adverse affects such as, but *not* limited to, consolidation, transfer of functions, lack of work or funds, position classification or reduction in force; or Executive Branch reorganization, restructuring, reform, modernization, streamlining, innovation or transformation initiatives.

(b) The Department of Administration *shall* develop a uniform methodology to ensure all vacant classified positions opened for recruitment and intended to be filled by all departments, bureaus, agencies, commissions, or other instrumentalities, whether autonomous, semi-autonomous, or non-autonomous in the Executive Branch of the government of Guam, including all line agencies and the A.B. Won Pat International Airport Authority, the Port Authority of Guam, the Guam Power Authority, the Guam Waterworks Authority, the Guam Visitors Bureau, and the Guam Housing and

Urban Renewal Authority, among other entities, are recorded and offered to registrants that qualify for the Priority Placement Program.

(c) Employees who have met the minimum qualifications and were hired as a result of the provisions of the Priority Placement Procedure *shall* receive the same level of compensation closest to but *not more than* the pay they were receiving prior to their separation from the government of Guam. Funding for the placement of employees *shall* come from the allotted budget of the respective entity in which the vacancy exists.

(d) The Department of Administration *shall* submit a quarterly report of all vacancies of agencies as contained in Subsection (b) of this Section; contained in these reports *shall* be the management of those vacancies, i.e. whether such positions remain vacant, were filled pursuant to this Section or otherwise.

(e) The Civil Service Commission may hear and investigate claims of persons registered under the Priority Placement Program who feel that they may have been bypassed during the hiring process for positions wherein they meet the minimum qualifications for consideration and shall be the final adjudication body for such complaints."

**Section 2. Effective Date.** This Act *shall* take effect *no later than* sixty (60) days after its enactment into law. Employees affected as a result of actions taken by the Executive Branch relative to reorganization, reduction in force, or similar initiatives beginning with Reorganization Advisory Number 1, signed on August 10, 2011, and any future action by the Executive Branch, *shall* be qualified for inclusion under the Priority Placement Program.

**Section 3. Severability.** *If* any provision or this Act 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 Act are severable.

## PRIORITY PLACEMENT PROCEDURE

### PURPOSE

To establish uniformed guidelines for the government of Guam in case of a need to transfer functions, abolishment of positions, demotions, lack of work or funds, or reduction in force.

### STATEMENT OF POLICY

It is the policy of the government of Guam to promote stability of employment of permanent classified employees affected by changing manpower requirements and to provide maximum opportunity for placement in the Executive Branch of the government. Consistent with this policy, a strong Priority Placement Procedure shall be maintained to minimize the adverse affects on employees caused by actions required for the effective management of government such as, but not limited to, consolidation, transfer of functions, lack of work or funds, position classification decisions or reduction in force.

### I. COVERAGE

#### *A. DEPARTMENTS AND AGENCIES*

This procedure is applicable to all departments, bureaus, agencies, commissions, or other instrumentalities, whether autonomous, semi-autonomous, or non-autonomous in the Executive Branch of the government.

#### *B. EMPLOYEES*

This procedure covers all probationary and permanent classified employees who are to be or have been issued notice of impending demotion or separation due, but not limited to, consolidation, transfer of functions, lack of work or funds, position classification decisions or reduction in force.

## II. RESPONSIBILITIES

A. All department and agency heads shall assure efficient operations of these procedures within their respective department/agency and shall insure that all managers, supervisors and department officials comply with these procedures.

B. Annually, all department and agency heads shall issue a written statement of support to their employees for these procedures and shall insure that allmanagers and supervisors comply with these procedures, and that employees are notified with respect to these procedures.

C. All personnel offices are responsible for the effective administration of these placement procedures, for counseling employees on the provisions of these regulations, and for informing department heads, managers, supervisors, and employees on the placement requirements.

D. Affected employees shall be responsible for notifying the respective personnel office of any changes to their employment status i.e., availability, latest address and telephone number, lowest acceptable salary, etc.

E. The Civil Service Commission shall monitor and enforce compliance of these procedures.

## III. ADVANCED PLANNING

Whenever a consolidation, transfer of functions, lack of work or funds, position classification decisions or reduction in force occurs within a department or agency, the following actions shall be carried out:

A. The department/agency head shall immediately inform, in writing, the servicing personnel office of the positions impacted and the number of employees affected. A copy of the notice shall be provided to all other personnel offices within the Executive Branch and to the Civil Service Commission.

B. Immediately upon receipt of notice, all other personnel offices shall forward the servicing personnel office and the Civil Service Commission, a listing of all position vacancies. Position vacancy listings shall continue to be provided on a monthly basis as long as there are employees on the Priority Placement List who have not been matched to appropriate positions.

## IV. DURING THE NOTICE PERIOD

A. The servicing personnel office shall be responsible for the following actions:

1. Obtain from each affected employee a list of positions, but not more than ten, to which they wish to be considered, to include the lowest pay grade acceptable, and a completed application form. Affected employees, in determining this listing, shall be provided a copy of the position vacancy listing.

2. Review applications of employees to determine qualifications to positions identified for consideration.

3. Based on positions identified by affected employees, establish and forward a Priority Placement Listing to all personnel offices for placement assistance.

4. Immediately upon receipt of the Priority Placement Listing, all personnel offices shall freeze all recruitment action and review all vacancies within the respective department(s) for placement assistance, including all classified positions encumbered by unclassified employees appointed on a 120 day basis.

5. An offer of a position vacancy matching the Priority Placement Listing shall be immediately made to the employee and the releasing department will be immediately notified of the placement. A copy of the appointment action shall be submitted to the Civil Service Commission.

6. If there are more priority placements to be made than there are vacancies, placement shall be based on retention points whereby those employees with the highest retention points shall be given first offer of employment.

7. In those instances where inadequate position vacancies exist to those position classifications where employees have indicated an interest in, but where there are existing positions in the classifications of interest which are filled by temporary unclassified appointments (120 days), the personnel office shall contact the department head where the position(s) exists to inform him that the 120 day appointment(s) shall be terminated in order to place a priority placement eligible.

B. Qualification Dispute - The gaining personnel office is not authorized to disqualify a priority placement employee without the mutual agreement of the

releasing personnel office. Disagreements of qualification of a priority placement employee shall be submitted to the Civil Service Commission.

C. Priority placement shall not be applicable in those instances, where an affected employee is being considered for promotional opportunities to position levels higher than the position held prior to the demotion or reduction-in-force action.

## V. AFTER THE NOTICE PERIOD

Notwithstanding any other provision of law or regulation, all personnel offices shall continue to monitor their vacancies and offer priority placement assistance, as provided in Section IV of these procedures, to affected employees for a period of two years, or until such time that the affected employees are matched to a position of not less than that prior to demotion or reduction in force.

## VI. RECORDS AND REPORTS

A. Each personnel office shall maintain for a two year period, an individual folder of each affected employee. The individual folder shall contain the following information.

1. Employee's name
2. Date(s) of counseling
3. Position title, pay grade and salary prior to layoff or demotion
4. Most recent application form
5. Offers received, accepted or declined
6. Date removed from the priority placement listing and reason (i.e. acceptance of position, request by employee, etc.)
7. Current address and phone number
8. Any additional relevant information.