



COMMITTEE ON RULES

I Mina'trentai Unu na Liheslaturan Guåhan • The 31st Guam Legislature

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August 22, 2012

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Majority Leader & Rules Chair

Subject: Referral of Bill No. 507-31 (LS)

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. 507-31 (LS).

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

(1) Attachment

I Mina'Trentai Unu Na Liheslaturan Guahan
Bill Log Sheet

BILL NOS.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	120 DAY DEADLINE	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	STATUS
507-31 (LS)	Committee on Rules, Natural Resources, and Federal, Foreign & Micronesian Affairs at the request of / <i>Maga'Lahen Guahan</i> , in accordance with the Organic Act of Guam	AN ACT TO AMEND §4107, §4107.1, §4109,§4109.2 AND §4119 OF CHAPTER 4 OF TITLE 4 GCA, TO REPEAL §4109.1, §4109.5, §4110.1, AND §4111 OF CHAPTER 4 OF TITLE 4 GCA, TO AMEND §6219 OF CHAPTER 6 OF TITLE 4 GCA, TO REPEAL §6223 AND §6232 OF CHAPTER 6 OF TITLE 4 GCA, TO AMEND §8137(b) of CHAPTER 8 OF TITLE 4 GCA AND TO ADD A NEW SECTION §8174 TO ARTICLE 1, CHAPTER 8 OF TITLE 4 GCA.	08/21/12 4:39 p.m.	8/22/2012		Committee on Youth, Cultural Affairs, Procurement, General Governmental Operations and Public Broadcasting			

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

Bill No. 507-31 (LS)

Committee on Rules; Federal, Foreign &
Micronesia Affairs; and Human &
Natural Resources.

Introduced by:

At the request of the Governor

**AN ACT TO AMEND §4107, §4107.1, §4109, §4109.2 AND §4119
OF CHAPTER 4 OF TITLE 4 GCA, TO REPEAL §4109.1,
§4109.5, §4110.1, AND §4111 OF CHAPTER 4 OF TITLE 4
GCA, TO AMEND §6219 OF CHAPTER 6 OF TITLE 4 GCA,
TO REPEAL §6223 AND §6232 OF CHAPTER 6 OF TITLE 4
GCA, TO AMEND §8137(b) OF CHAPTER 8 OF TITLE 4 GCA
AND TO ADD A NEW SECTION §8174 TO ARTICLE 1,
CHAPTER 8 OF TITLE 4 GCA.**

2012 AUG 21 PM 4:39

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Findings and Intent. The budget policies of Fiscal Years 2007 and 2008 ended a decade of deficit spending in the government of Guam. Calculations based on conservative methodology and forecasting of revenues were used based on the trending of *actual* revenue collections from Fiscal Years 2004, 2005, and 2006. Appropriations for operational expenditures, debt service payments, reserves for provision for tax refunds, as well as the 2% reserve on appropriations were collectively based on realistic revenue projections.

The austerity measures were initiated by this administration in order to address the General Fund deficit. By Fiscal Year 2007 the accumulated deficit (audited) amounted to \$510.1 Million. The mounting deficit was mainly the result of years of optimistic revenue projections, previously "unrecorded" obligations being recorded, and court orders adding to the amount the General Fund owed to

1 several debtors and for various improvements ordered by the federal government.
2 As had been the practice of the past, when actual revenues were not collected as
3 adopted, the government prioritized the payment of operations and court orders by
4 using funds that should have been set aside for the payment of the ensuing year's
5 tax refunds. Additionally, payments to vendors for goods and services already
6 received by this government as well as payments for other outstanding obligations
7 were not being paid in a timely manner and in many cases, over one year. As a
8 result, government over-expenditures were financed in part by the tax refunds due
9 to tax filers. In order to pay tax refunds from prior years, it became necessary to
10 seek alternate financing through issuance of municipal bonds.

11 The accumulated deficit was exacerbated by annual deficits created by the
12 government's failure to project realistic revenues for each budget year. This was
13 pointed out by Standard & Poor's in Fiscal Year 2007, when the ratings agency
14 placed GovGuam on "Credit Watch" following the use of bridge financing to float
15 operations at the Department of Education for payroll. This brought to light the
16 burden such a huge and unmanageable accumulated deficit has on the ability of the
17 Executive Branch to manage the cash flow of the government. It also brought to
18 light that the government's habit of deficit spending was systemic. There was, in
19 fact, a structural imbalance in the General Fund, where the deficit will continue
20 growing so long as the expenditure level continuously outpaces actual revenue
21 collections. This burden stopped growing at the end of Fiscal Year 2007, when
22 actual revenue collections exceeded revenue projections. The savings from the
23 difference along with the savings from the two-percent reserve helped to pay down
24 the deficit.

25 The deficit was once again decelerated by the end of Fiscal Year 2008, when
26 it became clear that actual revenue collections again met the projected levels.

1 A shift in power occurred in the legislature through Fiscal Year 2008. The
2 chairman of the legislative finance committee had submitted a budget for Fiscal
3 Year 2009; however, that budget was revised and replaced by the new legislative
4 majority. Despite repeated foreshadowing and warnings from the legislative
5 minority members of *I' Liheslaturan Guahån* about the miscalculation of revenues
6 in the revised Fiscal Year 2009 budget, the legislature passed the budget into law.

7 As a result, at the end of Fiscal Year 2009, deficit spending started again
8 after two fiscal years when deficit spending ended. A cumulative deficit of \$526.8
9 Million would have been recorded based on the deficiency between actual revenue
10 collections and adopted revenue projections had it not been for a deficit financing
11 bond within Fiscal Year 2009. We should note this bond did not figure into the
12 balancing of the revised Fiscal Year 2009 budget.

13 The adopted revenues for FY 2010 were once again overstated and added
14 \$71 Million to the deficit by the end of Fiscal Year 2010. We should note that the
15 deficit financing bond of 2009 brought the accumulated deficit from \$415.5
16 Million at the end of FY 2008, down to \$250.2 Million at the end of FY 2009.
17 Because of the deficit of Fiscal Year 2010, the accumulated deficit increased again
18 to \$321.3 Million.

19 Interestingly, in the FY 2011 Budget Bill, the legislature arbitrarily
20 increased the FY 2010 provisions for tax refunds by \$32.4 Million toward the end
21 of Fiscal Year 2010 without a corresponding decrease to appropriations which will
22 appear in the books that actual revenue collections did indeed shorten the gap
23 between the adopted levels versus actual collections. Such initiative of offsetting
24 the balance of the budget by crediting the provision for tax refunds against the
25 operational revenues gave the impression of a pledge of more funds for tax refunds
26 without any cash to back it up. The result was a huge liability of cash to debtors,
27 especially those owed tax refunds. The outgoing administration relieved part of

1 that burden by using almost all of the cash remitted to the government of Guam by
2 the U.S. Internal Revenue Service for the Make Work Pay Tax Credit, and all of
3 the cash remitted by the U.S. Treasury for Section 30 reimbursements in the first
4 quarter of Fiscal Year 2011 alone. Such funds, estimated at \$20 Million, must be
5 repaid to the IRS by January 2013.

6 These unprecedented financial maneuvers culminated when the issues were
7 brought to light in the first week of the new administration, when it was found that
8 millions of dollars in transactions of interfund borrowings were occurring to cover
9 cash shortfall, and that the government was operating without a cash flow model
10 and projection system.

11 The new administration further found that several departments had
12 underreported millions in past-due obligations, and that by January 2013, a portion
13 of what was spent from the Make Work Pay Tax Credit would have to be paid
14 back to the U.S. IRS. To make matters worse, the compounded cash shortfall by
15 that time was at \$2.7 Million and growing because of the deficient budgetary
16 policies that went unchecked.

17 By the end of Fiscal Year 2011, actual revenue collections were below the
18 adopted revenues by \$17.3 Million; and, because of unbudgeted expenditures to
19 include the payments for the Permanent Injunction and the accumulation of
20 unbudgeted income tax refund interest payables, the accumulated deficit grew to
21 \$368.2 Million. However, primarily due to the offset of ARRA funds, this deficit
22 level is reduced to \$303.1 Million.

23 To stop the hemorrhaging of the General Fund, the Governor immediately
24 suspended the Hay Study pay increases. He implemented a series of austerity
25 measures, froze increments, and won passage of part of his deficit-financing plan,
26 which placed the fiscal debt of tax refunds owed to taxpayers on the backs of the
27 **bank**, and *not* the people.

1 As a result of these fiscal policies and communication with the legislature
2 and the public, the administration was able to jump-start the weekly payment of tax
3 refunds that had ended in the month prior to the new administration taking office.
4 More obligations were being paid from the cash savings as well. The financing of
5 part of the accumulated deficit through two series of a bond for tax refunds,
6 overdue COLA judgment obligations, debt to the Retirement Fund, and health
7 insurance obligations, the accumulated deficit is expected to decrease by \$318.3
8 Million.

9 Fiscal solutions that were initiated beginning in January 2011, were meant to
10 address the accumulated deficit, stop runaway and unchecked spending in the
11 government, and begin to address the root of the problem, the structural imbalance
12 of the General Fund. However, these measures in and of themselves would not
13 suffice as resolution to the structurally imbalanced financial practices of the past
14 and the cumulative impact it has had on how the government manages its financial
15 challenges.

16 As a result of this structural imbalance and the constant inability of the
17 government to afford its several obligations, the government has not been in a
18 stable position to, at the very least:

- 19 a. Pay tax refunds on time
- 20 b. Pay vendors for services and resources provided as well as other
21 outstanding obligations
- 22 c. Supply students and teachers with learning and teaching materials
- 23 d. Purchase school buses
- 24 e. Provide adequate police vehicles to the Guam Police Department
- 25 f. Increase medical services at the Guam Memorial Hospital
- 26 g. Adequately fund disease prevention efforts around a strategic framework

- 1 h. Procure a new emergency radio communications system to replace the
- 2 existing and far-outdated system, which will break at any given time
- 3 i. Implement the Hay Study pay raises to adequately compensate the
- 4 GovGuam workforce
- 5 j. Provide the remaining 20 percent increase to base pay for public safety
- 6 officers to bring the officers closer to market

7 This is not the correct way to finance government operations. The people
8 contribute enough of their tax dollars for their leaders to implement an efficient
9 system of services. Such efficiency can occur when government leaders truly
10 prioritize the spending of tax dollars. The first step in this action to prioritize is to
11 remove the structural imbalance so that operational expenditures truly meet
12 realistic revenue thresholds each year, with sufficient funding to pay down the
13 deficit.

14 To balance the structure of the General Fund, this government must reduce
15 its structural (yearly) expenditures. Such reductions are found by reducing the size
16 of the GovGuam workforce and the amount spent yearly to fund certain benefits.
17 Moreover, this government must realize annual savings in the General Fund, which
18 can be reinvested into priority areas and for deficit elimination. This can be
19 accomplished by amortizing the yearly debt to the Unfunded Liability of the
20 Retirement Fund to fully pay down by the year 2041, a 10-year extension.

21 **Section 2. Short Title.** This act shall be known, hereinafter, as the
22 Omnibus Fiscal Reform Act of 2012.

23 **Section 3. Clarification of Maternity Leave.** §4107 of Chapter 4 of Title
24 4, Guam Code Annotated is hereby *amended* to read:

25 **§ 4107. Maternity Leave.**

26 Maternity Administrative leave, pursuant to the Department of
27 Administration Personnel Rules and Regulations, shall be granted to a all

1 female employees ~~occupying a permanent position~~ who is are absent from
2 work as a result of childbirth or adoption of a child(ren) five (5) years old or
3 younger. Such maternity leave shall not exceed twenty (20) days,
4 encompassing the date of childbirth or adoption. Any additional leave taken
5 for such childbirth or adoption purpose ~~may~~ shall be charged against
6 accumulated sick and/or annual leave to include compensatory time, or may
7 be unpaid leave / leave without pay, at the option of the employee. Total
8 leave, whether maternity, annual leave to include compensatory time, sick
9 or unpaid leave / leave without pay, shall not exceed six (6) months. ~~without~~
10 ~~approval of the employee's supervisor.~~

11 **Section 4. Reversion of Paternity Leave to Industry Standard.** §4107.1
12 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

13 **“§ 4107.1. Paternity Leave.**

14 Paternity Administrative leave, pursuant to the Department of
15 Administration Personnel Rules and Regulations, shall be granted to all male
16 employees ~~occupying a permanent position~~ upon the birth or adoption of his
17 child(ren). Such paternity leave shall not exceed ten (10) days,
18 encompassing the date of childbirth or adoption of a child(ren) five (5) years
19 old or younger. Any ~~additional~~ leave taken for such purpose ~~may~~ shall be
20 charged against accumulated annual and sick leave to include compensatory
21 time, or may be unpaid leave / leave without pay, at the option of the
22 employee. Total leave, whether paternity, annual leave to include
23 compensatory time, sick or unpaid leave / leave without pay shall not exceed
24 ~~six~~ three (6) (3) months. ~~without approval of the employee's supervisor.”~~

25 **Section 5. Elimination of Annual Leave Lump Sum Cash Out**
26 **Payment Policy; Implementation of ‘Use It or Lose It’ Policy.** §4109 of Chapter
27 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

1 **“§ 4109. Annual Leave.**

2 (a) Annual leave shall be granted to employees occupying permanent
3 positions, except personnel of the Department of Education, the Guam
4 Community College or the University of Guam, who are employed on a
5 school year basis, and judges and justices of the Judiciary of Guam who are
6 not members of the defined benefits retirement plan of the government of
7 Guam, in accordance with the following schedule:

8 (1) One-half day (4 hours) for each full bi-weekly pay period in the
9 case of employees with less than five (5) years of service;

10 (2) Three-fourths day (6 hours) for each bi-weekly pay period in the
11 case of employees with five (5) years of service but less than fifteen (15)
12 years of service.

13 (3) One (1) day (8 hours) for each full biweekly pay period in the case
14 of employees with fifteen (15) years or more service.

15 For purposes of this Subsection (a), all elected officials except
16 members of the Guam Education Policy Board, and the Consolidated
17 Commission on Utilities shall be deemed employees occupying permanent
18 positions.

19 (b) The term years of service shall be deemed to include service with
20 the Naval Government of Guam or with other Federal instrumentalities or
21 agencies within Guam prior to August 1, 1950, and to include honorable
22 service with the Armed Forces of the United States, provided no more than
23 three (3) years of service shall be credited to any individual for purposes of
24 this Section. Years of service shall include one (1) year for each year served
25 as a school employee.

26 The provisions of this Subsection shall not apply to those employees
27 of the government of Guam hired prior to the date of enactment of this Act,

1 except that any current employee of the government who has been in the
2 employ of the government for less than three (3) years on the date of
3 enactment and is a former member of the Armed Forces of the United States
4 and is receiving a retirement annuity or pension as result of such military
5 service shall be deemed to have three (3) years of service with the
6 government at the date of enactment of this Subsection for the purposes of
7 accruing annual leave.

8 (c) Employees entitled to annual leave hereunder may accumulate up
9 to three hundred twenty (320) hours. Any annual leave earned by eligible
10 employees in excess of three hundred twenty (320) hours shall be credited to
11 such employee's accumulated sick leave, provided, that no more than one
12 hundred (100) hours shall be credited to sick leave at the end of each fiscal
13 year. The determination of accumulation of annual leave, and crediting of
14 excess hours sick leave, shall be done at the end of each fiscal year.
15 Notwithstanding the provision of this Section, employees who have
16 accumulated annual leave in excess of three hundred twenty (320) hours as
17 of ~~February 28, 2003~~ October 1, 2012, may carry over their excess and shall
18 use the excess amount of leave by the first pay period following September
19 30, 2014, prior to retirement or termination from service. ~~At the time of~~
20 ~~retirement or termination of service, that.~~ That portion permitted to be
21 credited to sick leave shall be so credited and the remainder of the excess
22 leave, if any, shall be lost. Nothing herein shall allow lump sum
23 compensation or retirement credit for annual leave for any employee, except
24 one who retires. The allowance for lump sum compensation or retirement
25 credit for those employees retiring shall not exceed in excess of three
26 hundred twenty (320) hours.

27 (d) [Repealed.]

1 ~~(e) Any employee who transfers from one branch of the government of~~
2 ~~Guam to another, or from one department, agency, instrumentality or~~
3 ~~corporation of the government of Guam to another department, agency,~~
4 ~~instrumentality or corporation at his option may accept the cash value of his~~
5 ~~earned leave at the time of transfer or transfer his accumulated leave to his~~
6 ~~new government position, notwithstanding the fact that such transfer may~~
7 ~~appear on the employee's personnel records as a resignation and~~
8 ~~reemployment.~~

9 (f) Any employee of the government of Guam who shall transfer from
10 one government of Guam department or agency to the Guam Housing and
11 Urban Renewal (GHURA) shall be credited with all prior creditable service
12 to the government of Guam in computing annual leave. This subsection shall
13 be applicable to all former employees of GHURA who shall make specific
14 application for such credit within six (6) months after the date of enactment
15 hereof.

16 (g) Any employee of the government of Guam who is a participating
17 athlete or coach or administrator in an athletic contingent, recognized by the
18 Guam National Olympic Committee ('GNOC'), representing Guam by
19 invitation in any regional, national or international tournament, game or
20 other sporting event sanctioned by the GNOC, shall be granted leave by his
21 or her respective department director or appointing authority for the time it
22 takes to complete both competition and any necessary travel, not to exceed
23 fifteen (15) working days; provided, that his or her accumulated annual
24 leave or compensatory time off ('CTO') is charged with the number of hours
25 he or she is absent from duty, and further provided, that the employee
26 requests such leave in writing thirty (30) calendar days prior to the first day
27 of leave. If said employee has exhausted his or her annual leave, or chooses

1 not to use such, he or she shall be granted leave without pay. Under no
2 circumstances shall any employee of the government of Guam be granted
3 said leave for competition more than three (3) times in one (1) calendar year
4 under this Subsection.

5 (h) Any employee of the government of Guam who has been qualified
6 as a donor for medical purposes and has received notice that the employee
7 has been determined to be a match shall be granted leave with pay by his or
8 her respective department director or appointing authority for the time it
9 takes to complete the medical procedure involved, not to exceed ten (10)
10 working days.”

11 **Section 6. Repeal of Accrued Leave Pay Out.** §4109.1 of Chapter 4 of
12 Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

13 **Section 7. Reversion of Leave Sharing Program to Its Original**
14 **Intended Purpose.** §4109.2 of Chapter 4 of Title 4, Guam Code Annotated is
15 hereby *amended* to read:

16 **“§ 4109.2. Leave Sharing Program.**

17 (a) Legislative Statement. From time to time, classified employees in
18 the civil service of the government of Guam have occasion to need leave for
19 medical reasons, but may have already exhausted the leave that they have
20 earned and accrued. ~~At times like these, particularly when the employee~~
21 ~~needs time off to take care of sick family members or in the case of the~~
22 ~~military reserves and National Guard members, being called to active duty in~~
23 ~~excess of fifteen (15) working days, the employee might be forced to take~~
24 ~~leave without pay. Through the generosity of the other employees, the~~
25 ~~affected employees could be relieved of the stress of this situation.~~

26 (b) Voluntary Transfer of Sick Leave or Annual Leave. If a
27 government of Guam employee desires to transfer a number of hours of

1 earned sick leave and/or annual leave to another employee in any department
2 or agency of the government, the recipient must first exhaust all his/her
3 accrued annual and sick leave and compensatory time for the purposes of a
4 medical emergency or medically related ~~or for personal~~ reasons. Leave
5 transferred from donors whose hourly rates of pay or salaries are lower than
6 the recipient shall be paid at the hourly rate or salary of the donor. Leave
7 transferred from donors whose hourly rates of pay or salaries are higher than
8 the recipient, shall be paid at the hourly rate or salary of the recipient. A
9 formal written request shall be made by the donor employee to that person's
10 payroll supervisor, stating the name of the recipient, the number of hours of
11 leave to be transferred and the type of leave. No transfer may be made by
12 any employee to that person's supervisor, or to any person above that
13 employee in the supervisory chain, or to a member of the supervisor's or
14 such supervisory person's immediate family. If the donor has sufficient
15 hours of leave accrued to cover the donation, the payroll supervisor shall
16 notify the Payroll Division to transfer the approved number of hours to the
17 recipient. Upon receipt of the notice of transfer, the receiving employee
18 may then submit a leave request for the number of hours of leave, sick
19 and/or annual, that the employee needs and the department head ~~shall~~ may
20 ~~then~~ approve the leave request. Leave may not be transferred to another
21 employee if as a recipient that employee intends to use it for credit towards
22 retirement or accumulated leave. This transfer of leave shall be strictly on a
23 voluntary basis. Leave transferred shall be used as leave by the person to
24 whom it is transferred, and if it is not used in its entirety, it may be re-
25 transferred to the person who originally earned it. In no event shall
26 transferred leave be converted to cash or retirement credit by the person to
27 whom it is transferred. Participation in the leave sharing program shall not

1 exceed ~~ninety-sixty (90) (60)~~ working days per fiscal year. ~~shall require a~~
2 ~~certification from the attending medical doctor that the recipient of the leave~~
3 ~~needs additional time for medical treatment or recovery from a medical~~
4 ~~illness and is physically unable to return to work due to the medical illness.~~
5 ~~An additional ninety (90) working days may be granted upon similar~~
6 ~~certification from the attending medical doctor made within two (2) weeks~~
7 ~~of the first ninety (90) day period. A final period of thirty (30) working~~
8 ~~days may be granted upon an additional certification from the attending~~
9 ~~medical doctor that additional time is needed for recovery.~~

10 (1) Employees of the government of Guam shall not transfer their
11 unused annual leave and/or sick leave to another employee in exchange for
12 any money, favors, or items of value. Employees who transfer or receive
13 annual and/or sick leave in violation of this provision shall be guilty of
14 official misconduct pursuant to Title 9 GCA §49.90.

15 (2) This provision shall apply to all government employees in the
16 classified, appointed, elected, and unclassified positions, and all branches of
17 the government of Guam, including line departments and agencies,
18 autonomous agencies, public corporations, and all other government
19 instrumentalities.”

20 **Section 8. Same: Reversion of Leave Sharing Program to Its Original**
21 **Intended Purpose.** §4109.5 of Chapter 4 of Title 4, Guam Code Annotated is
22 hereby *repealed* in its entirety.

23 **Section 9. Repeal of Teacher Personal Leave.** §4110.1 of Chapter 4 of
24 Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

25 **Section 10. Repeal of Lump Sum Payment of Annual Leave Prior to**
26 **Taking Leave.** §4111 of Chapter 4 of Title 4, Guam Code Annotated is hereby
27 *repealed* in its entirety.

1 **Section 11. Allowance for Use of Compensatory Time Accrued for**
2 **Military Leave.** §4119 of Chapter 4 of Title 4, Guam Code Annotated is hereby
3 *amended* to read:

4 **§ 4119. Military Leaves of Absence: National Guard or Reserves.**

5 All employees of the government of Guam who are members of the reserve
6 components of the Department of Defense or Transportation, including, but
7 not limited to, the United States Army, the United States Navy, the United
8 States Marine Corps, the United States Air Force, the Army National Guard,
9 the Air National Guard and the United States Coast Guard, shall be entitled
10 to leaves of absence from their respective duties with the government of
11 Guam without losses of time or efficiency ratings on all days during which
12 they are engaged in active military duty ordered or authorized under the laws
13 of United States. Such employees shall be entitled to military leave with pay
14 while performing such duty not to exceed fifteen (15) working days per
15 government of Guam fiscal year, and, to the extent not used in a fiscal year,
16 accumulates in the succeeding year until it totals fifteen (15) days at the
17 beginning of a fiscal year. Thereafter, the officers and employees shall elect
18 annual leave, compensatory-time accrued, or leave without pay. The
19 provisions of this Section shall be retroactive to October 01, ~~1994~~2012.

20 **Section 12. Reversion of Overtime Compensation for Firefighters to**
21 **Fair Labor Standards Act Regulations Relative to the 207(k) Exemption.**

22 §6219 of Chapter 6 of Title 4, Guam Code Annotated is hereby *amended* to read:

23 **“§ 6219. Firemen: Compensation: Annual and Sick Leave.**

24 (a) Notwithstanding any other law, rule, or regulation, firefighters within the
25 Guam Fire Department, except the Fire Chief, shall be compensated at the
26 regular hourly rate of pay consistent with all Fair Labor Standards Act
27 (FLSA) regulations relative to the 207(k) exemption. ~~at one hundred six~~

1 ~~(106) hours, and shall be compensated at one and one-half (1½) times the~~
2 ~~regular hourly rate for hours worked in excess of one hundred six (106)~~
3 ~~hours per pay period. Firefighters who are working administrative duty shall~~
4 ~~work eighty (80) hours per pay period at their regular rate of pay in the same~~
5 ~~manner as other government of Guam employees. and at one and one-half~~
6 ~~(1½) times their regular hourly rate only in the event that they work in~~
7 ~~excess of one hundred six (106) hours in a pay period.~~

8 ~~(b) All hours of work performed by firefighters during a legal holiday shall~~
9 ~~be compensated at double the regular hourly rate, irrespective of work shifts,~~
10 ~~provided, however, that work performed on such a holiday in excess of nine~~
11 ~~(9) hours shall be compensated at the regular hourly rate.~~

12 ~~(c) Firefighters shall be charged no more than nine (9) hours annual leave or~~
13 ~~sick leave for any given day on which such leave is taken.~~

14 ~~(d) All other laws, rules, regulations applicable to firefighters not consistent~~
15 ~~with this Section shall remain in full force and effect.”~~

16 **Section 13. Repeal of Incentive Pay for Firefighters.** §6223 of Chapter 6
17 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

18 ~~§ 6223. Firefighters – EMT-A Duty.~~

19 ~~Notwithstanding any law to the contrary, a Firefighter in the Guam Fire~~
20 ~~Department who performs work as an Emergency Medical Technician-~~
21 ~~Ambulance (EMT-A) and is a certified EMT-A shall be entitled to~~
22 ~~differential pay calculated at the rate of his or her regular wage plus fifteen~~
23 ~~percent (15%) for all periods he or she is assigned as an EMT-A and is a~~
24 ~~certified EMT-A.~~

25 **Section 14. Repeal of Triennial Review of Positions Requiring**
26 **Certification.** §6232 of Chapter 6 of Title 4, Guam Code Annotated is hereby
27 *repealed* in its entirety.

1 **§ 6232. [Untitled].**

2 ~~The Director of Administration shall triennially review all positions~~
3 ~~requiring certification as either EMT-B, EMT-I, or an EMT-P and~~
4 ~~recommend salary adjustments based on such qualifications to be~~
5 ~~competitive with national salary schedules.~~

6 **Section 15. Early Retirement Incentive Plan.** A new section §8174 is
7 added to Article 1 of Chapter 8 of Title 4 of the Guam Code Annotated to read:

8 **“§8174. Early Retirement Incentive Plan.** Notwithstanding any other
9 provision of law or terms and conditions set by the Board of Trustees of the
10 Government of Guam Retirement Fund (GGRF) pursuant to §8130 of Title 4 of the
11 Guam Code Annotated, and for a period between the effective date of this Act and
12 September 30, 2013, any active member of the Defined Benefits Plan of the
13 Government of Guam Retirement Fund who has a minimum of twenty (20) years
14 of creditable service may retire and receive the following additional benefits:

- 15 1. Actively employed members of the Defined Benefit Plan who would
16 reach their full service requirement pursuant to Title 4 GCA, Chapter
17 8, §8120.1 are eligible to apply to purchase up to five (5) years of
18 retirement credit.
- 19 2. Actively employed members of the Defined Benefit Plan who are
20 eligible to participate *may* apply for this plan beginning October 1,
21 2012 until September 30, 2013.
- 22 3. Employees who are eligible *may* apply to their respective department /
23 agency heads to participate in the program to purchase up to five (5)
24 years of retirement credit. Department / agency heads will have
25 approval authority based on assessments of their respective agencies’
26 operations.

- 1 4. Eligible employees who are approved to participate in the program
2 will have up to one year to train and transition institutional
3 knowledge, policies, and procedures to other remaining staff to ensure
4 continuity of services.
- 5 5. The member retiring shall suffer no penalty or diminishing of the
6 amount of annuity to be received on account of the age of the member
7 retiring upon the date of retiring.
- 8 6. No employee voluntarily purchasing early retirement credit shall be
9 rehired by the government of Guam in any position, whether
10 contractual or otherwise, for at least five (5) years from the effective
11 date of retirement, except for those specifically determined by the
12 Governor of Guam to be critical to the delivery of services. The
13 Retirement Fund shall make all individuals who voluntarily apply for
14 early retirement credit aware that their purchase of such credit shall be
15 construed as a voluntary waiver of their right to re-employment or
16 reinstatement.
- 17 7. Employees who are approved to participate in the program will have
18 to pay, in full at the time of retirement, the remaining contributions
19 that would have been paid to the GGRF should they have remained
20 employed. Except however, employees may have up to five (5) years
21 to pay for those contributions through execution of a promissory note
22 with the GGRF. The term of any such promissory note shall not
23 exceed five (5) years at an interest rate determined by the GGRF.
- 24 8. Employees who are approved and purchase additional years of service
25 credit are entitled to the full application of such additional years of
26 service immediately upon their retirement, regardless of when a
27 promissory note is finalized between the Retirement Fund and the

1 retiree. Should the Retirement Fund be unable to have a promissory
2 note effectuated simultaneously to the separation of the employee
3 from government service or their retirement from the government of
4 Guam, the Retirement Fund shall retroactively apply the annuity
5 based on the additional years of service.”

6 **Section 16. Government Unfunded Liability extension of amortization**
7 **period.** §8137(b), Article 1, Chapter 8, Title 4 Guam Code Annotated, is hereby
8 amended to read:

9 "(b) Government Unfunded, Liability Amortization Cost. An amount
10 resulting from the application of a rate percent of total salaries of all members
11 which will amortize the remaining liability for prior service over a period of ~~eighty~~
12 ninety (80 90) years following May 1, 1951. From July 1, 1955, to August 30,
13 1972, the rate of contribution shall be not less than one and three hundred
14 seventeen thousandths percent (1.317%) of the total salaries of the members
15 participating in the Fund. From September 1, 1972, the rate of contributions shall
16 be not less than one and four hundred and seven thousandths percent (1.407%) of
17 the total salaries of the members participating in the Fund. From the beginning of
18 the first full pay period following the beginning of the 1992 fiscal year, the rate of
19 contribution shall be equal to thirteen and six hundred sixty-five thousandths
20 percent (13.665%) of the total salaries of the members participating in the Fund.
21 From October 1, 1993, the rate of contribution shall be equal to the Government
22 Unfunded Liability Amortization Cost rate percent determined in the latest
23 completed actuarial valuation prepared for the Board of Trustees by the actuary
24 appointed by the Board, subject to the approval by *I Liheslaturan Guåhan* by
25 legislation. From March 1, 2003, until the next completed actuarial valuation
26 prepared for the Board of Trustees by the actuary appointed by the Board, the rate
27 of contribution shall be eighteen percent (18%) of the total salaries of the members

1 Unfunded Liability Amortization Cost rate percent determined in the latest
2 completed actuarial valuation prepared for the Board of Trustees by the actuary
3 appointed by the Board, subject to the approval by *I Liheslaturan Guåhan* by
4 legislation. From March 1, 2003, until the next completed actuarial valuation
5 prepared for the Board of Trustees by the actuary appointed by the Board, the rate
6 of contribution shall be eighteen percent (18%) of the total salaries of the members
7 participating in the Fund. Thereafter, the contribution shall be equal to the
8 Government Unfunded Liability Amortization Cost rate percent prepared for the
9 Board of Trustees by the actuary appointed by the Board, subject to approval by *I*
10 *Liheslaturan Guåhan* by legislation, which will amortize the remaining liability for
11 prior service for the full period authorized herein.

12 The amount of contributions by the Government shall be determined by
13 applying the applicable percentage rate of contributions as hereinabove prescribed
14 to the total salaries paid to the members during each payroll period, and all such
15 amounts shall be paid into the Fund following the close of each payroll period,
16 concurrently with the contributions made to the Fund by the members. For
17 purposes of this Section, the term total salaries of members shall be interpreted to
18 include Base Pay, as defined in 4 GCA, §8301(l), of members participating in the
19 Government Defined Contribution System."

20 **Section 17.** This Act shall be effective upon enactment.

21 **Section 18. Severability.** *If* any provisions of this Act or its application to
22 any person or circumstances is held invalid, the invalidity shall *not* affect other
23 provisions or applications of this Act which can be given effect without the invalid
24 provision or application, and to this end the provisions of this Act are severable.