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I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

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

This is to certify that **Bill No. 352-32 (LS), "AN ACT TO *ADD* A NEW § 3104 TO CHAPTER 3, TITLE 5, GUAM CODE ANNOTATED, AND TO *ADD* A NEW § 77109.1 TO CHAPTER 77, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE REINSTATEMENT OF THE FIRE CHIEF AND THE CHIEF OF POLICE TO PREVIOUS CLASSIFIED POSITIONS UPON EXPIRATION OF APPOINTMENT; AND TO *AMEND* § 3105 OF CHAPTER 3, TITLE 5, GUAM CODE ANNOTATED, AND § 77109 OF CHAPTER 77, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN ALTERNATIVE COMPENSATION FOR THE FIRE CHIEF AND THE CHIEF OF POLICE POSITIONS,"** was on the 3rd day of October, 2014, 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 6 day of Oct, 2014, at 6:32 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 DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 352-32 (LS)
As amended by the Author and
the Committee on General Government Operations
and Cultural Affairs.

Introduced by: T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW § 3104 TO CHAPTER 3, TITLE 5, GUAM CODE ANNOTATED, AND TO *ADD* A NEW § 77109.1 TO CHAPTER 77, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE REINSTATEMENT OF THE FIRE CHIEF AND THE CHIEF OF POLICE TO PREVIOUS CLASSIFIED POSITIONS UPON EXPIRATION OF APPOINTMENT; AND TO *AMEND* § 3105 OF CHAPTER 3, TITLE 5, GUAM CODE ANNOTATED, AND § 77109 OF CHAPTER 77, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN ALTERNATIVE COMPENSATION FOR THE FIRE CHIEF AND THE CHIEF OF POLICE POSITIONS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Finding and Intent. *I Liheslaturan Guåhan* finds that § 3105 of Chapter 3, Title 5, Guam Code Annotated, establishes specific

qualifications and criteria for the Fire Chief position of the Guam Fire Department. The criteria essentially requires that the candidate be, or have been, a career employee with either a local or federal fire department possessing no less than ten (10) years of experience in fire control or prevention, and have served as a Battalion Chief for a minimum of two (2) years.

I Liheslaturan Guåhan further finds that § 77109 of Chapter 77, Title 10, Guam Code Annotated, similarly establishes specific qualifications and criteria for the Police Chief position of the Guam Police Department. The criteria essentially requires that the candidate be, or have been, a career employee with either a local or federal law enforcement agency possessing no less than fifteen (15) years of law enforcement experience, and have served at least five (5) years in a senior management position.

I Liheslaturan Guåhan further finds that the annual income of eligible candidates, who are still in active service, is substantially more than the salary level established for the Chief positions. Consequently, despite a desire to serve in the capacity of Fire Chief or Police Chief, the prospective candidate would incur a significant loss of income if nominated and confirmed. The loss of pay is an economic factor sufficient to deter most (active) eligible candidates from wanting to even be considered.

I Liheslaturan Guåhan further finds that an active employee selected to fill the position of Chief is not guaranteed reinstatement to his previous classified position upon expiration of his appointment. This would be another significant economic disincentive for prospective candidates who have not yet satisfied service requirements for retirement, and would deter qualified candidates from considering a nomination.

I Liheslaturan Guåhan intends to authorize the use of a three (3) year income average as the compensation level for an active classified employee who is nominated for Fire Chief or Police Chief, if it is higher than the established compensation level for the position of Chief. Additionally, a new § 3104 will be added to address the reinstatement issue.

Section 2. § 3105 of Chapter 3, Title 5, Guam Code Annotated, is hereby *amended* as follows:

"**§ 3105. Guam Fire Department.**

There is within the Executive Branch of the government of Guam a Guam Fire Department. The Fire Chief is the head of the Department.

(a) The Fire Chief is appointed by *I Maga'lahen Guåhan* (the Governor) with the advice and consent of *I Liheslaturan Guåhan* (the Legislature). The Fire Chief *shall* meet the following qualifications:

(1) must have a Bachelor's degree in Fire Science or Public Administration, or a closely related field or discipline, at an accredited institution; and

(2) have *at least* ten (10) years of experience in fire control, including control and extinguishment of fires and fire prevention, of which two (2) years must be served in a position equivalent to Battalion Chief or higher; or

(3) must have an Associate's degree in Fire Science, or a closely related field or discipline, at an accredited institution; and

(4) have *at least* fifteen (15) years of experience in fire control, including control and extinguishment of fires and fire

prevention, of which four (4) years must be served in a position equivalent to Battalion Chief or higher.

(b) Compensation of Fire Chief. Notwithstanding any other provision of law, a person appointed by *I Maga'lahen Guåhan* (the Governor) and confirmed by *I Liheslaturan Guåhan* (the Legislature) to be Fire Chief, and who at the time of appointment is an active member of the classified service *shall* receive a salary established by the government of Guam compensation schedule for heads of agencies, or a salary equivalent to the three (3) year average of the annual income earned immediately prior to appointment as Fire Chief, whichever is greater. Said three (3) year average *shall* be reviewed annually to determine if mandated pay increases would have affected the three (3) year average."

Section 3. A new § 3104 is hereby *added* to Chapter 3 of Title 5, Guam Code Annotated, to read:

"**§ 3104. Reinstatement of Fire Chief to Previous Position or Position Qualified For.**

Notwithstanding any other provision of law, a person who is an active classified employee of the Guam Fire Department immediately prior to appointment by *I Maga'lahen Guåhan* (the Governor) and confirmation by *I Liheslaturan Guåhan* (the Legislature) to be Fire Chief *shall*, if not removed for cause, be reinstated to the position he or she previously held immediately prior to such appointment, or to an equivalent position, upon the expiration of his or her appointment as Fire Chief."

Section 4. § 77109 of Chapter 77, Title 10, Guam Code Annotated, is hereby *amended* to read:

"§ 77109. **Appointment of the Chief of Police.**

(a) The Chief of Police *shall* be appointed by *I Maga'lahen Guåhan* with the advice and consent of *I Liheslaturan Guåhan* and shall meet the following qualifications:

(1) be at least thirty-five (35) years of age;

(2) have no less than fifteen (15) years of progressive experience in a government law enforcement position, including at least five (5) years at the supervisory command level, and five (5) years in a senior position with law enforcement management responsibilities, or equivalent executive management experience in the field of public administration, criminal justice administration, or law, or a closely related field or discipline;

(3) graduated with a Bachelor's degree or higher in police science, criminal justice administration, public administration, law, or a closely related field or discipline from an accredited institution recognized by the Council for Higher Education Accreditation (CHEA) or its successors;

(4) have no felony, domestic or family violence convictions;

(5) have no misdemeanor convictions involving moral turpitude;

(6) submit to and pass a drug screening test, including, but *not* limited to, urinalysis testing, *unless* the appointee is a current employee of the Guam Police Department occupying a

Test-Designated Position (TDP) pursuant to the Department's Drug-Free Workplace Program;

(7) be of good health and good moral character;

(8) submit to psychological testing;

(9) submit to a polygraph examination; and

(10) submit to a thorough investigation of his or her background and moral character.

(b) Compensation of Police Chief. Notwithstanding any other provision of law, a person appointed by *I Maga'lahen Guåhan* (the Governor) and confirmed by *I Liheslaturan Guåhan* (the Legislature) to be Chief of Police, and who at the time of appointment is an active member of the classified service *shall* receive a salary established by the government of Guam compensation schedule for heads of agencies, or a salary equivalent to the three (3) year average of the annual income earned immediately prior to appointment as Chief of Police, whichever is greater. Said three (3) year average *shall* be reviewed annually to determine if mandated pay increases would have affected the three (3) year average."

Section 5. A new § 77109.1 is hereby *added* to Chapter 77 of Title 10, Guam Code Annotated, to read as follows:

"**§ 77109.1. Reinstatement of Police Chief to Classified Service.** A person who is an active classified employee of the Guam Police Department immediately prior to appointment by *I Maga'lahen Guåhan* (the Governor) and confirmation by *I Liheslaturan Guåhan* (the Legislature) to be Police Chief *shall,* if not removed for cause, be reinstated to the position

he or she previously held immediately prior to such appointment or to an equivalent position upon expiration of appointment as Police Chief."

Section 6. 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.

Section 7. Effective Date. Notwithstanding any other provision of law, upon enactment this Act *shall* be effective retroactively to January 1, 2011.