EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

SEP 18 2018

Honorable Therese M. Terlaje
Acting Speaker
I Mina'trentai Kuåttro Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Vice Speaker Therese M. Terlaje
34GL-18-2324
SEP 18 2018
Time: 3:04pm
Received by: [illegible]

Dear Madam Speaker:

Transmitted herewith is Bill No. 303-34 (COR), **"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',"** which lapsed on September 9, 2018, as **Public Law 34-123.**

Senseramente,

EDDIE BAZA CALVO

2018 SEP 18 PM 3:04

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

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

This is to certify that **Bill No. 303-34 (COR), "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,"** was on the 28th day of August 2018, duly and regularly passed.

Benjamin J.F. Cruz
Speaker

Attested:

Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 28th day of AUGUST, 2018, at 5:16 o'clock P .M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: SEP 0 9 2018

Public Law No. 34-123

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

Bill No. 303-34 (COR)

Introduced by: Michael F.Q. San Nicolas
Thomas C. Ada
FRANK B. AGUON, JR.
William M. Castro
B. J.F. Cruz
James V. Espaldon
Fernando Barcinas Esteves
Régine Biscoe Lee
Tommy Morrison
Louise B. Muña
Telena Cruz Nelson
Dennis G. Rodriguez, Jr.
Joe S. San Agustin
Therese M. Terlaje
Mary Camacho Torres

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.

BE IT ENACTED BY THE PEOPLE OF GUAM:

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

Section 2. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that in 1968, the Ninth (9th) Guam Legislature passed Bill No. 476 establishing the

"Public Employee-Management Relations Act of Guam;" and, it was signed into law as Public Law 9-240 by Governor Manuel F.L. Guerrero on August 13, 1968.

I Liheslaturan Guåhan further finds that when the Legislature enacted the Public Employee-Management Relations Act, it made the intent of the law clear when it stated, "the Legislature of the territory of Guam declares that it is the policy and purpose of this Act, in the public interest, to promote orderly and constructive relationships between government and its public employees by providing an opportunity for effective participation by employees in the formulation and implementation of policies and procedures affecting conditions of their employment, subject to paramount requirements of law for conducting efficient and uninterrupted operations of government."

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

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

I Liheslaturan Guåhan further finds that these provisions are intended to limit representation by employee organizations only to the extent such representation may

endanger a valid state interest, which is deemed to be the security requirements or considerations of the government agencies described in 4 GCA § 10103.

I Liheslaturan Guåhan further finds that the Public Employee-Management Relations Act requires that employee organizations do not include those which assert "the right to strike against the Government, or to assist, participate or conduct any such strike," or "advocate[] the overthrow of the constitutional form of government in the United States or the government of Guam;" and, such organizations are prohibited from "disciplining or otherwise discriminating against any public employee member of the organization as reprisal for, or for the purpose of obstructing the discharge of the employee's official duties in the government service" or "engaging in or inducing public employees to engage in any strike, work stoppage, slowdown or picketing against the Government."

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

> "(a) maintain efficient government operations and direct public employees;
>
> (b) hire, promote, transfer and assign employees to government positions;
>
> (c) suspend, demote, discharge or take other disciplinary action against employees for just cause;
>
> (d) to determine the methods, organization and assignment of personnel for the conduct of operations, including necessary actions in emergency situations."

I Liheslaturan Guåhan finds that, considering the aforementioned provisions that govern employee organizations and the ability of management to direct employees, it is unclear how representation by an employee organization, consistent

with the Public Employee-Management Relations Act, interferes or could reasonably interfere with security requirements or considerations.

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

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

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

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