

Public Law 27-104

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

Bill No. 280 (COR)

As amended.

Introduced by: F. R. Cunliffe

F. B. Aguon, Jr.

J. M. Quinata

J. M.S. Brown

C. Fernandez

Mark Forbes

L. F. Kasperbauer

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L. A. Leon Guerrero

J. A. Lujan

v. c. pangelinan

T. R. Muña Barnes

R. J. Respicio

Toni Sanford

Ray Tenorio

AN ACT TO REMOVE POTENTIAL CONFLICTS OF INTEREST ON BOARDS AND COMMISSIONS OF THE GOVERNMENT OF GUAM, BY AMENDING 4 GCA §8138(b)(4), 9 GCA §85.10, 12 GCA §11107, AND 22 GCA §35104; AND BY ADDING A NEW 4 GCA §2104.1.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent.

I Liheslaturan Guåhan finds that maintaining the separation of powers between and amongst the various branches of government is in the best interests of the people. Elected officials should not serve in other capacities within the government which may be or may appear to be, in conflict with the duties and responsibilities of the primary office a public official holds. *I Mina'Bente Siete Na Liheslaturan Guåhan* has set a standard with the passage of Public Law 27-31, which reorganized the Guam Judiciary and removed the Chairperson of the Judiciary Committee of *I Liheslaturan Guåhan* from the Judicial Council of Guam.

I Liheslaturan Guåhan finds that the standard applied by Public Law 27-31 should also be applied to the Board of Trustees of the Public Defender Service Corporation, the Guam Board of Accountancy, and the Territorial Parole Board, on which elected officials currently serve, in addition to all other boards and commissions of the government of Guam. It has also been determined that elected officials are eligible to serve on the Board of Trustees of the Government of Guam Retirement Fund, which *I Liheslaturan Guåhan* finds to be in conflict with the best interests of the people.

It is the intent of *I Liheslaturan Guåhan* to restrict any public official holding an elected office from concurrently serving in an appointed or second elected office, in addition to the primary office to which such elected public official was first elected.

Section 2. A new §2104.1 is hereby *added* to Title 4 of the Guam Code Annotated, to read as follows:

“§2104.1. Service Limited. Notwithstanding any other provision of law, elected officials of any branch, agency, department, office, public corporation, or commission of the government of Guam, are prohibited from serving in any other capacity on a board or commission of the government of Guam unless specifically holding said position on the board or commission by virtue of the elected office or pursuant to the duties of that elected office as provided by law.”

Section 3. Reconstitution of the Board of Trustees of the Public Defender Service Corporation. §11107(a) of Chapter 11, of Title 12 of the Guam Code Annotated, is hereby *amended* to read as follows:

“§11107. Board of Trustees. (a) All powers vested in the Corporation, except as otherwise provided in this Chapter, shall be exercised by the Board. The Board shall consist of five (5) Trustees: the Chief Justice of the Supreme Court of Guam, who shall be Chairman; the Presiding Judge of the Superior Court of Guam who shall be Vice-Chairman; the President of the Guam Bar Association; and two (2) members appointed by the Chief Justice of the Supreme Court of Guam, whose terms shall be for three (3) years. Neither person appointed by the Chief Justice shall be the Attorney General, or a member of his staff. The Trustees shall *not* be employees of the Corporation.”

Section 4. Reconstitution of the Board of Trustees of the Government of Guam Retirement Fund. §8138(b)(4) of Article 1, Chapter 8, Title 4 of the Guam Code Annotated, is *amended* to read as follows:

“(4). Elected Officials and Retirement Fund Employees Disqualified. Any person holding an elected office and any employee of the Retirement Fund shall be disqualified from serving on the Board of Trustees.”

Section 5. Reconstitution of the Territorial Parole Board. §85.10 of Chapter 85 of Title 9 of the Guam Code Annotated, is *amended* to read as follows:

“§85.10. Territorial Parole Board Created. There is in the Executive Branch of the government of Guam, a Territorial Parole Board, hereinafter referred to as the Board, consisting of five (5) members appointed by *I Maga’lahi*, by and with the advice and consent of *I Liheslatura*. Only persons, who by their knowledge and experience are prepared to perform efficiently the duties of the Board as hereinafter provided, shall be eligible to such appointment.

Any person holding an elected office shall not be eligible to serve on the Territorial Parole Board.”

Section 6. Reconstitution of the Guam Board of Accountancy. §35104(a) of Division 3, Chapter 35 of Title 22 of the Guam Code Annotated, is hereby *amended* to read as follows:

“(a) There is hereby created the Guam Board of Accountancy, which shall have responsibility for the administration and enforcement of this Chapter. The Board shall consist of five (5) members appointed by *I Maga’lahi*, all of whom shall be residents of Guam and holders of certificates currently valid under §35105 of this Chapter. Any person holding an elected office shall be disqualified from serving on the Board. At least a majority plus one (1) of such members shall be holders of currently valid permits issued under §35106 of this Chapter, or corresponding provisions of prior law. The term of each member of the Board shall be four (4) years. Vacancies occurring during a term shall be filled by appointment by *I Maga’lahi*, for the unexpired term. Upon the expiration of a member's term of office, such member shall continue to serve until a successor shall have been appointed and taken office. Any member of the Board whose certificate under §35105 of this Chapter is revoked, or suspended, shall automatically cease to be a member of the Board, and *I Maga’lahi*, may, after a hearing pursuant to the Administration Adjudication Law, remove any member of the Board for neglect of duty, or other cause.”

Section 7. Severability. *If* any provision of this Law or its application to any person or circumstances 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 applications, and to this end the provisions of this Law are severable.