

Public Law 26-157

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session**

Bill No. 343 (COR)

As substituted by the Author
and amended on the Floor.

Introduced by:

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AN ACT TO ELIMINATE VARIOUS LEGAL HOLIDAYS BY AMENDING 1 GCA §§ 1000 AND 1017; TO REPEAL 1 GCA CHAPTER 10 §1001; AND TO TAKE OTHER STEPS TO PREVENT UNAFFORDABLE EXPENDITURES PENDING THE INAUGURATION OF A NEW ADMINISTRATION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Statement of legislative findings. The long hoped for recovery of Guam's economy has yet to materialize. Although there have been modest gains in the number of visitors coming to the island, the comparative count of visitors in 2002 still trails 2001 month-to-month. The private sector continues to struggle to stay afloat. Military activity on the island appears on the upswing, but much of it is short-lived, such as the visit to Guam earlier this year of the USS Kitty Hawk and other ships. While COMSUBRON 15 has been reactivated on Guam and the submarine San Francisco is now home ported here, the arrival of the submarine Corpus Christi and another submarine are still awaited. Tax collections are down precipitously when compared to the same periods in the previous

year. An estimated 2,750 persons have left Guam since September 11, 2001, in the hope of finding better job opportunities. All of these factors are putting the government of Guam in an ever-tightening economic dilemma.

The threat of payless paydays hangs heavy over the heads of government employees and workers in both the public and private sectors worry that their salaries may be reduced or, worse still, their positions may be abolished.

In these circumstances austerity measures must be immediately implemented.

While *I Liheslaturan Guåhan* is not disposed to impose an across-the-board pay reduction for all government employees or ordering massive reductions in force, there are cost-reduction steps that can be immediately implemented to conserve the government's limited financial resources. Among these are the freezing of all pay increases and limiting the appointment of new employees in the classified service of the Executive and Legislative branches through January 6, 2003; and reducing the number of paid holidays for government employees from fifteen (15) to ten (10). It is also appropriate in these austere times to eliminate the once-every-four-year holiday set aside for the inauguration of *I Maga'lahaen Guåhan* and *I Segundu na Maga'lahaen Guåhan*.

I Liheslaturan Guåhan finds that the following steps are necessary to preserve essential government services and enacts this measure, pursuant to 2 GCA 2103, as an emergency necessary to assure the public health and safety of the community.

Section 2. Pay increases barred through January 6, 2003. No person employed in any branch of the government of Guam, including those employed in autonomous agencies, however denominated, shall receive a pay increase of any kind through January 6, 2003. Any personnel action executed in violation of this paragraph shall be a nullity and no pay increase shall be paid to any person on the basis of such a personnel action. Any person executing or attempting to execute a personnel action in violation of this paragraph shall be guilty of a felony of the third degree. This paragraph shall not be construed to prohibit the promotion of a qualified person within the merit system to a vacant higher paying position, provided funds have been appropriated and are available for the payment of the salary of the higher paying position.

Section 3. Limitation on the filling of vacancies in the classified service. No person shall be hired in the classified service of the Executive or Judicial Branch to fill any vacancy occurring after the effective date of this act through January 6, 2003, except upon a written determination by the appointing authority that such hiring is necessary to preserve the health or safety of the people of Guam. The appointing authority of the Executive or Judicial Branch hiring any person in the classified service after the effective date of this act shall give the Speaker of *I Liheslaturan Guåhan* written notice of such hiring within five (5) days of its occurrence. Any citizen may challenge the necessity of such hiring by an action for declaratory judgment filed in the Superior Court. In such an action, the defendant's time for answering the complaint shall be five (5) days. Upon a finding by the Superior Court that an appointment is not necessary to preserve the health or safety of the people of Guam, the appointment shall be void. Although a defendant may appeal the decision of the Superior Court to the Supreme Court, the decision ordering that the appointment be void shall not be stayed pending the appeal. A citizen who prevails in such an action shall be awarded reasonable attorney's fees and costs, which sum shall be paid from the allotment appropriated to the agency or entity that is found to have violated this section of this Act.

Section 4. Freeze on legislative employment and pay raises. *I Mina Bente Sais Na Liheslaturan Guåhan* shall hire no new employees, whether to fill a new position or to fill a vacancy however caused, through January 6, 2003. No person employed by *I Mina Bente Sais Na Liheslaturan Guåhan* on the effective date of this Act shall have his or her rate of pay increased through January 6, 2003.

Section 5. Section 1000 of Title 1 of the Guam Code Annotated is repealed and re-enacted to read:

"Section 1000. Holidays. (a) The holidays of Guam are:

New Year's Day;

Memorial Day, the last Monday in May;

Independence Day, July 4th;

Liberation Day, July 21st;
Labor Day, the first Monday in September;
All Souls' Day, November 2;
Veterans' Day, November 11;
Thanksgiving, the fourth Thursday in November;
Our Lady of Camarin Day, December 8; and
Christmas, December 25th.

(b) Whenever a holiday falls on a Saturday or Sunday, neither the preceding Friday nor the following Monday shall be a holiday."

Section 6. Section 1017 of Title 1 of the Guam Code Annotated is amended to read:

"Section 1017. Gubernatorial Inauguration Day. The first Monday in January of every fourth year, beginning with January 1971, is a designated Gubernatorial Inauguration Day, on which day *I Maga'lahren Guåhan* and *I Segundu na Maga'lahren Guåhan* elected in the general election preceding such day shall be sworn into office. The inauguration shall be arranged by *I Maga'lahren Guåhan*-elect's Transition Committee, which shall coordinate its planning with the incumbent *I Maga'lahren Guåhan*.

Section 7. Repeal of inconsistent law. Section 1001 of Chapter 10 of Title 1, Guam Code Annotated, is hereby *repealed* in its entirety.

Section 8. Immediate effect. This Act shall have immediate effect.

Section 9. Severability. If any provision of 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 Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.