

#### COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial Governor

Eloy S. Inos
Lieutenant Governor

31 AUG 2012

Honorable Paul A. Manglona Senate President, The Senate Seventeenth Northern Marianas Commonwealth Legislature Saipan, MP 96950

Honorable Eliceo D. Cabrera Speaker, House of Representatives Seventeenth Northern Marianas Commonwealth Legislature Saipan, MP 96950

Dear Mr. President and Mr. Speaker:

This is to inform you that I have signed into law Senate Bill No. 17-62 entitled, "To repeal Sections 3 of Public Law 13-1 and repeal and reenact the Civil Service Act, 1 CMC Division 8, Part 1 in order to establish a non-partisan and independent Civil Service System; and for other purposes," which was passed by the Seventeenth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 17-80**. Copies bearing my signature are forwarded for your reference.

Sincerely,

ELOY S. INOS
Acting Governor

cc: Governor; Attorney General's Office; Press Secretary; Office of Personnel and Management; Civil Service Commission; Special Assistant for Administration; Special Assistant for Programs and Legislative Review

Caller Box 10007 Saipan, MP 96950 Telephone: (670) 664-2200 /2300 Facsimile: (670) 664-2211/2311



# The Senate Seventeenth Northern Marianas Commonwealth Legislature P.O. Box 500129 Saipan, MP 96950

August 14, 2012

The Honorable Eloy S. Inos Acting Governor Commonwealth of the Northern Mariana Islands Saipan, MP 96950

Dear Acting Governor Inos:

I have the honor of transmitting herewith Senate Bill No. 17-62, entitled, "To repeal Sections 3 of Public Law 13-1 and repeal and reenact the Civil Service Act, 1 CMC Division 8, Part 1 in order to establish a non-partisan and independent Civil Service System; and for other purposes," which was passed by the Senate and the House of Representatives of the Seventeen Northern Marianas Commonwealth Legislature.

Sincerely,

Dolores S. Bermudes

Senate Clerk

Attachment



### THE SENATE

#### SEVENTIENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SENATE BILL NO. 17-62, SS1

#### AN ACT

To repeal Section 3 of Public Law 13-1 and repeal and reenact the Civil Service Act, 1 CMC Division 8, Part 1 in order to establish a non-partisan and independent Civil Service System; and for other purposes.

Offered by Senator(s): Jude U. Hofschneider

Date: March 04, 2011

Referred to: Judiciary Government and Law Standing Committee Report No.: None

Final Reading: June 30, 2011

Referred to: Committee on Judiciary & Governmental Operations

Standing Committee Report No.: None First and Final Reading: August 03, 2012

SENATOR JOVITA M. TAIMANAO SENATE LEGISLATIVE SECRETARY

## THE SENATE SEVENTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

THIRD REGULAR SESSION, 2011

**SENATE BILL NO. <u>17-62, SS1</u>** 

#### **AN ACT**

To repeal Section 3 of Public Law 13-1 and repeal and reenact the Civil Service Act, 1 CMC Division 8, Part 1 in order to establish a non-partisan and independent Civil Service System; and for other purposes.

## BE IT ENACTED BY THE SEVENTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Findings and Purposes. Public Law 13-1 removed the administration of personnel policies from the Civil Service Commission and gave the Governor's Office the authority to administer personnel policies. The Legislature finds that it is the best interest of the CNMI government agencies and departments to repeal Public Law 13-1 and restore the provisions of the law so affected. Placing the Office of Personnel Management within the Civil Service Commission would reestablish a non-partisan and independent civil service system as required by Article XX of the Commonwealth Constitution.

Additionally, the Legislature finds that exemptions from the Civil Service System are being abused and civil service employees are being hired as excepted service employees, circumventing position requirements and salary limits. The Legislature also finds that the Civil Service Act has not been amended to reflect the changes required by Amendment 41 to the N.M.I. Constitution. The Legislature further finds that the Civil Service Act should be reenacted in order to insure that its meaning and purpose are restored. Therefore, the purpose of this act is to return the office of Personnel Management to the control of the Civil Service Commission for purposes of administrative efficiency.

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#### Section 2. Repealer.

- (a) Section 3 of PL 13-1 is hereby repealed in its entirety. It is intended that the laws repealed by this repealer will not revive PL 12-54 or Section 214 of Executive Order 94-3 as they existed prior to the enactment of PL 13-1.
- (b) Northern Mariana Islands Administrative Code Title 10, Chapter 10-10, Excepted Service Personnel Regulations and Title 120, Chapter 120-10, Excepted Service Personnel Regulations are hereby repealed.
- **Section 3.** Repeal and Reenactment. 1 CMC Division 8, Part 1, is repealed and reenacted as follows:

#### PART 1

#### CIVIL SERVICE ACT

"§ 8101. Title.

This part may be cited as the Commonwealth Civil Service Act.

§ 8102. Statement of Policy: General.

The purpose of this part is to establish a system of personnel administration based on merit principles and generally accepted methods governing the classification of positions and the employment, conduct, movement, and separation of public officials and employees.

It is also the purpose of this part to build a career service which will attract, select and retain the best qualified civil servants on merit who shall hold their offices or positions free from coercion, discrimination, reprisal or political influence, with incentives in the form of genuine opportunities for promotions in the public service, to provide competent and loyal personnel to render impartial service to the public at all times, and to render such service according to the dictates of ethics and morality.

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To achieve these purposes, it is the policy of the Commonwealth that the personnel system hereby established be applied and administered in accordance with the following merit principles:

- (a) Equal opportunity for all regardless of age, race, sex, religion, political affiliation or place of origin;
- (b) Impartial selection of the best person for government service by means of competitive tests which are fair, objective, and practical;
- (c) Just opportunity for competent employees to be promoted within the civil service:
  - (d) Reasonable job security for the competent employee;
  - (e) Systematic classification of all posts through adequate job evaluation;
- (f) Fair and reasonable grievance procedures for all employees pertinent to condition of employment; and
- (g) Proper employee relations to achieve a well trained, productive and happy work force.
- § 8103. Statement of Policy: Preference for Resident Citizens.

It is the policy of the Commonwealth to encourage the education and training of professional, technical and skilled resident citizens in filling positions in the government service, whether by appointment, recruitment, or promotion.

#### CHAPTER 1.

Civil Service Commission.

§ 8111. Civil Service Commission: Composition.

There is in the Commonwealth government a Civil Service Commission composed of seven members to be appointed by the Governor with the advice and consent of the Senate. No member of the Commission may be a candidate for public

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office or hold an elected position or a position in the executive branch which is filled by appointment by the Governor.

#### § 8112. Civil Service Commission: Tenure.

Six members shall serve a term of six years, staggered in such manner that the term of one member expires each year, and one member shall serve a term of four years expiring concurrently with the term of the Governor. Vacancies shall be filled for the unexpired term in the same manner as original appointments. A member of the Commission may be removed by the Governor for gross neglect or dereliction of duty, conviction of a felony, or mental or physical incapacity. The removal of a member from the Commission is subject to judicial review.

#### § 8113. Civil Service Commission: Meetings.

The Commission shall meet at least once each calendar quarter, with the date, time and place to be designated by the chairman or a majority of the Commission members. All decisions of the Commission shall be made by a vote of at least four members. Four members shall constitute a quorum. Meetings shall be held in accordance with the Open Government Act 1 CMC § 9901 et.seq.

#### § 8114. Civil Service Commission: Compensation.

Members of the Commission shall be compensated in accordance with 1 CMC § 8247.

#### § 8115. Civil Service Commission: Office.

The Commission may obtain suitable office facilities on Saipan and establish branch offices on the other inhabited islands of the Commonwealth.

#### § 8116. Civil Service Commission: Powers and Duties.

The Commission shall represent the public interest in assuring compliance with basic policy concerning personnel administration and insuring that the integrity

of the system is preserved. To this end, the Commission shall have the following powers and duties:

- (a) To prepare a comprehensive personnel management plan and proposed personnel policies of the Commonwealth government, and submit copies thereof to the Governor and the legislature;
- (b) To oversee the operation of the Office of Personnel Management, and employee such staff is necessary to carry out the purposed of this Act. Employees of the Commission and the Office of Personnel Management shall be in the civil service;
- (c) To hear and decide appeals of any person aggrieved by any action of the Office of Personnel Management of other management or any employee for disciplinary action, suspension, demotion or dismissal from the civil service. In deciding an appeal, the Commission may grant such relief as it deems appropriate, including an award of costs and attorney fees. The Commission may utilize the services of qualified hearing officers if the services are deemed essential by the Commission.
- (d) To issue subpoenas and administer oaths to witnesses in any matter pending before the Commission; and
- (e) To perform any other lawful acts required by law or deemed by it to be necessary to carry out its duties under this act.
- § 8117. Civil Service Commission: Rules and Regulations.

Pursuant to the Administrative Procedure Act (1 CMC § 9101 et.seq.), the Civil Service Commission shall prepare reasonable rules and regulations to carry out the provisions of this Act. The rules and regulations shall:

(a) Regulate appointments, promotions, removals, and other personnel matters;

- (b) Contain uniform provisions covering the method and manner of conducting examinations; on the job training programs; a uniform performance evaluation system, including the manner in which ratings are to be used in promotions; salary increases, suspensions and separations; and position classification;
- (c) Provide procedures for original appointment or temporary appointment, promotion, transfer, the filling of vacancies, leaves of absence, layoffs, suspension, demotion, separation, reinstatement, and reemployment;
- (d) Provide for the establishment, maintenance, consolidation, cancellation, and extension of eligibility lists and the removal of names from the lists;
- (e) Provide for the establishment of desirable standards of training, experience, and other qualifications of applicants;
- (f) Establish work test periods of not less than six nor more than twelve months before appointees acquire permanent civil service status;
  - (g) Establish procedures for grievance proceedings;
- (h) Fix the procedure and the time within which appeals may be taken and heard;
- (i) Establish the method of certification of eligibility for appointment and promotion. The appointing authorities shall be entitled to the certification of not less than five eligible applicants for each vacancy. If more than one vacancy is to be filled, an additional eligible applicant shall be certified for each additional vacancy.
- (j) Special and different rules and regulations may be established for unskilled labor lists, reemployment lists, reinstatements, emergency employment, positions which are difficult to fill, and appointments and promotion for a limited period and for other positions and employees where status in the civil service is not obtained; and

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(k) Prescribe conditions for the transfer of employees between departments, agencies and political subdivisions.

#### CHAPTER 2.

The Office of Personnel Management.

§ 8121. Office of Personnel Management.

There is in the Civil Service Commission an Office of Personnel Management, to be headed by a Director of Personnel appointed by the Commission. The Office of Personnel Management shall implement the personnel plans and policies of the Commission and conduct day-to-day Commonwealth personnel management functions, including classification and recruitment, appointments, promotions and discipline, public personnel labor relations, and related functions.

§ 8122. Director of Personnel.

The Director of Personnel shall direct and supervise all the administrative and technical activities of the Office of Personnel Management. The Director of Personnel may be removed by the Civil Service Commission only for cause.

§ 8123. Director of Personnel: Qualifications.

The Director of Personnel shall have a minimum of five years work experience in personnel administration, and shall subscribe to the principles of the merit system.

§ 8124. Director of Personnel: Duties.

The Director of Personnel has the following powers and duties:

(a) To serve as the principal adviser to the Governor and his staff on all matters concerning personnel administration;

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- (b) To administer the system of personnel administration for the executive branch of the Commonwealth government and the administrative staffs of the legislative and judicial branches;
- (c) To formulate and recommend to the Commission policies and regulations to carry out the provisions of this part;
- (d) To establish and maintain a roster of all persons in the government setting forth, as to each, the class of position held, the salary or pay, any change in class, title, pay or status, and any other necessary data;
- (e) To encourage and exercise leadership in the development of effective personnel administration within the several departments in the government, and make available the facilities of his or her department to this end;
- (f) To foster and develop, in cooperation with management officials and others, programs to promote the public service and to improve employee efficiency;
- (g) To develop and maintain adequate position classification plans and compensation plans in accordance with the provisions of this part;
- (h) To develop adequate and reasonable selection instruments and procedures for recruiting employees for the public service, and to determine when employees meet specific qualification requirements for positions;
- (i) To administer a program for staff housing for the Commonwealth government;
  - (i) To perform other duties assigned by the Civil Service Commission; and
- (k) To perform any other lawful acts deemed by the Director of Personnel to be necessary to carry out the purposes and provisions of this part.
- § 8125. Personnel Management Functions.

Boards, commissions, public corporations, the Legislative and Judicial Branches (for their administrative staffs), and other autonomous agencies subject to the jurisdiction of the Civil Service Commission, may, to the extent of budgetary resources, retain or establish personnel management functions within their organizations, or they may, by agreement, arrange with the Office of Personnel Management to perform such functions on their behalf.

#### CHAPTER 3.

#### The Civil Service System.

- § 8131. Civil Service System: Applicability; Exemptions.
- (a) Except as provided in this section Civil Service System shall apply to all employees of and positions in the departments and agencies of the executive branch and in the administrative staffs of the legislative and judicial branches now existing or hereafter established. Unless this part is otherwise specifically made applicable to them, the following persons or positions are exempt from the civil service system:
  - (1) Positions filled by election.
- (2) Positions filled by appointment of the Governor and Lieutenant Governor.
- (3) Positions of a temporary nature needed in the public interest where certified by the Director of Personnel and when the need for the same does not exceed 90 days. If a major disaster is declared by the President of the United States or if a disaster is declared by the Governor, the Director of Personnel may extend the 90-day period for a maximum of an additional 180 days for positions engaged in relief, repair, or rehabilitation as a result of such disaster.
- (4) Household and domestic employees at the official residence of the Governor and Lieutenant Governor.
  - (5) Election inspectors, election clerks, and other election employees.

(6) Any position established by law enacted by the Legislature above the level of division director, including the principal executive head, or deputy secretary of departments and the principal executive or head of offices, boards, commissions and councils, and the executive and staff of any Commonwealth liaison office.

- (7) Positions specifically exempted by any other law of the Commonwealth.
- (8) Any position involving intermittent performance which does not require more than 40 hours in any month.
- (9) Positions in the Mayor's offices of Rota, Tinian, Saipan and the Northern Islands.
  - (10) Positions and employees of the Commonwealth Utilities Corporation.
- (11) Personnel and staff of positions in the Municipal Council of any Commonwealth municipality; and
- (12) Positions in the Public School System and the Northern Marianas College that are covered by a merit system of employment consistent with the statement of policy set forth in 1 CMC § 8102 and 8103.
- § 8132. Civil Service System: Classification.

Class titles shall be used to designate positions in all official records, documents, vouchers, and communications; and no person shall be appointed to or be employed in a position in the civil service under any title which has not been approved by the Commission.

§ 8133. Civil Service System: Position Classification Plan.

All positions in the civil service shall be classified within a position classification plan, and all persons holding such positions shall be compensated as provided by law.

§ 8134. Exemptions from classification.

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The Commission may exempt positions from the classification system as it deems appropriate to meet the needs of the Commonwealth.

#### CHAPTER 4.

#### Prohibited Activities.

#### Article 1. General Provisions.

§ 8141. Prohibited Activities: Discriminatory Practices.

No person holding any position in the civil service shall be favored or discriminated against on account of age, race, sex, religion, political affiliation, or place of origin.

- § 8142. Prohibited Activities: Political Activities.
  - (a) No person in the civil service shall:
  - (1) Use official authority or influence for the purpose of interfering with an election or affecting the result thereof;
  - (2) Use official authority or influence to coerce the political action of any person or party;
  - (3) Be obligated to contribute to any political fund or to render any political service, nor shall he or she be removed or otherwise prejudiced for refusing to do so.
- (b) The foregoing prohibited activities shall not be deemed to preclude the right of any person in the civil service to vote as that person chooses and to express opinions on all political subjects and candidates or to be a member of any political party, organization or club. Any person in the civil service may make voluntary contributions to a political organization for its general expenditures. "Contributions" includes a gift, subscription, loan, advance, or deposit of money or anything of value

and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

#### § 8143. Prohibited Activities: Wrongful Certification of Payrolls.

- (a) No disbursing or certifying officer shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the civil service or otherwise employed under the provisions of this part unless payroll certification has been made by the Personnel Officer or his authorized agent that the person named therein has been appointed and employed in accordance with the provisions of this part and the rules and regulations adopted thereunder. The Personnel Officer may, for proper cause, withhold payroll certification for any position or positions in the civil service or for any other positions where the Personnel Officer's certification is required under the provisions of this part.
- (b) If the Personnel Officer wrongfully withholds payroll certification for a position in the government service held by any employee, the employee may maintain a proceeding in the courts to compel the Personnel Officer to certify the payroll.

#### § 8144. Prohibited Activities: Wrongful Payments.

(a) Any citizen may maintain a suit to restrain a disbursing officer from making any payments of any salary or compensation to any person whose appointment or employment has not been made in accordance with this part and the rules and regulations in force thereunder. Any sum paid contrary to the provisions of this part and the rules and regulations established thereunder may be recovered in an action maintained by any citizen from any officer who made, approved, or authorized such payment, or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer. The citizen bringing the action shall be entitled to the costs of the suit,

including a reasonable attorney's fee, from any money recovered in such action. The balance of any sums recovered shall be paid into the Commonwealth Treasury.

(b) Any person who is appointed or is employed in contravention of any provision of this part or of the rules and regulations thereunder and who performs services for which he is not paid may maintain an action against the officer or officers who purported so to appoint or employ him or her to recover the agreed pay for such services or the reasonable value thereof, if no pay is agreed upon. No officer shall be reimbursed at any time by the government for any sum paid to such person on account of such services.

#### § 8145. Other Prohibited Activities.

- (a) No recommendation of any person who applies for examination or appointment to any office or position under the provisions of this part which may be given by an elected official of the Commonwealth, except as to the ability or character of the applicant, shall be considered by any person in the giving of any examination or in the making of any appointment under this act;
- (b) It shall be unlawful for any candidate for election to any public office or for any public official or employee, any portion of whose compensation is paid by the Commonwealth government directly or indirectly, to solicit or assess any contribution or assessment for any political purpose whatsoever from any member in the civil service;
- (c) No person shall, in any room or building occupied in the discharge of official duties by any official or employee, solicit in any manner whatsoever or receive any contribution of money or other things of value from any official or employee for any political purpose whatsoever;
- (d) No public official or employee shall discharge, promote, or demote, or, in any manner, change the status or compensation of any other official or employee or

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26 27 promise or threaten to do so for giving or withholding or neglecting to make any contribution of money or other things of value for any political purpose whatsoever;

- (e) No public official or employee shall directly or indirectly hand over to any other official or employee any money or other things of value on account of or to be applied to the promotion of any political object whatsoever;
- (f) No public official or employee shall discharge, promote, demote, or, in any manner, change the status or compensation of any other official or employee, or promise or threaten to do so because of the political or religious actions or beliefs of the other official or employee or for the failure of the other official or employee to take any political action for any political purpose whatsoever or to advocate or fail to advocate the candidacy of any person seeking an elective office;
- (g) No person shall make any false statement, certification, mark, rating, or report with regard to any test, certification, or appointment made under any provision of this part nor commit or attempt to commit any fraud preventing the impartial execution of any provision of this part and of the rules and regulations adopted hereunder; and
- (h) No person shall, directly, or indirectly, give, pay, offer, solicit, or accept any money, service, or other thing of value to obtain any appointment, proposed appointment, promotion or proposed promotion to, or obtain any advantage in, a position in the civil service.

#### Article 2. Political Coercion.

#### § 8151. Legislative Intent and Findings.

It is the intent of this article to insulate government employees from being intimidated and harassed by threats to their employment security from political pressure relative to public elections. The legislature finds that in order to protect the fundamental political freedoms embodied in the Commonwealth Constitution and to ensure that the delivery of public services is not interrupted by partisan politics,

government employees should not be pressured or coerced into political activities or support for political parties or candidates by threats to their employment.

- § 8152. Coercion of Public Employees for Political Purposes Made Unlawful.
- (a) "Government employee" means any person employed by a branch, agency, department, commission, board, authority or public corporation of the Commonwealth of the Northern Mariana Islands, whether in the civil service system or otherwise.
- (b) It is an offense for any person to cause or threaten to be caused a demotion in rank or civil service classification or position, or a decrease in pay or any other benefit, or tenure of employment, of any government employee, with intent to discourage or encourage such government employee to support any candidate for public office, initiative or referendum, or political party.
- (c) A person convicted of the offense of coercion of a government employee pursuant to subsection (b) of this section shall be punished by not more than six months imprisonment, a fine of not more than \$1,000, or both such fine and imprisonment.
- § 8153. Other Remedies.
- (a) In addition to, independent of, and irrespective of the criminal penalties prescribed by 1 CMC § 8152(b), any person who has been the victim of political coercion as described in 1 CMC § 8152(b) may recover from the perpetrator of the political coercion, full damages, both tangible and intangible, as a result of the coercion, attorneys fees, and court costs by means of a civil action.
- (b) Nothing in this article shall be construed to in any way limit or reduced any other remedies that may be available under other law."
- **Section 4.** Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent

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jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 5. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 6. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

**CERTIFIED BY:** 

PAUL A. MANGLONA

President of the Senate

ATTESTED BY:

Senate Legislative Secretary

day of ANGUST

**ELOY S. INOS** 

**Acting Governor** 

Commonwealth of the Northern Mariana Islands