



GOVERNMENT OF GUAM

CIVIL SERVICE COMMISSION KUMISION I SETBISION SIBIT

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CSC RESOLUTION NO. 2009-02

RELATIVE TO SUPPORTING THE PASSAGE OF LEGISLATIVE BILL NO. 92, TO RESTORE AND CLARIFY CERTAIN FUNCTIONS AND JURISDICTIONS TO THE CIVIL SERVICE COMMISSION SO THAT THE MERIT SYSTEM OF EMPLOYMENT CAN BE PROPERLY ADMINISTERED AND THE FAIR AND EQUITABLE TREATMENT OF GOVERNMENT EMPLOYEES CAN BE ENSURED.

WHEREAS, Public Law 28-68 was enacted into law on September 30, 2005, and took effect on January 1, 2006;

WHEREAS, Public Law 28-68 divested the Commission of critical jurisdiction and authority of certain functions key to the protecting and upholding the merit system of employment within the Government of Guam;

WHEREAS, Public Law 28-68 has caused much confusion because of the statute's inconsistent demarcation of "adjudicatory" versus "non-adjudicatory" functions;

WHEREAS, Public Law 28-68 was drafted and enacted without collaboration with the Commission;

WHEREAS, Public Law 28-68 was in effect a reorganization legislation that was inserted as a rider into an appropriations bill, thus did not follow the necessary statutory requirements involving reorganization, codified in 5 GCA § 11101 et seq.;

WHEREAS, the Organic Act of Guam, codified in 48 U.S.C. § 1422c(a), states in pertinent part that "[t]he Legislature shall establish a merit system to the extent as far as practicable in the appointment and promotion in the merit system. The Government of Guam may by law establish a Civil Service Commission to administer the merit system...";

WHEREAS, the "merit system" is defined in the case of *Haeuser v. Dept. of Law, et al.* (9th Circuit Ct. of Appeals, No. 94-16987, D.C. No. CV-94-0007A; Oct. 8, 1996) as a system that encompasses the job protection of employees, including the ability to appeal adverse employment decisions and a system of promoting and appointing civil service personnel on the basis of merit, determined by competitive examinations;

WHEREAS, Bill 92 was introduced on April 6, 2009 by Senators Guthertz, Palacios, and Respicio after extensive collaboration with the Commission regarding necessary changes and additions to statutes affecting Civil Service Commission functions and jurisdictions;

WHEREAS, Bill 92 was entitled, "An act to restore certain jurisdictions and clarify certain functions of the Civil Service Commission by repealing and reenacting Title 4 GCA §§ 4403, (4406,) 4408, 4409, and 5105; subitems (b) and (c) of Title 4 GCA § 4405; and new §§ 4410 and 4411."

WHEREAS, the intent of Bill 92 is to restore jurisdiction to the Commission so that it can properly administer the merit system and ensure the fair and equitable treatment of government employees;

WHEREAS, public hearings on Bill 92 were held at *Liheslaturan Guahan* on April 13 and 15, 2009;


WHEREAS, Commission Chairman Luis R. Baza and Executive Director Naomi E. Lujan-Gonzales both testified in support of Bill 92 on April 13, 2009;

WHEREAS, on Oct. 22, 2009, the Chairman and Executive Director issued CSC No. 2009-91, a joint letter of support for Bill 92 as it was originally introduced and public hearings were held with few amendments noted and attached thereto;

BE IT RESOLVED that the Civil Service Commission hereby unanimously and unequivocally supports the passage of legislative Bill 92 with the noted amendments by CSC No. 2009-91;

BE IT FURTHER RESOLVED, that this Resolution No. 2009-02 be transmitted to the *I Liheslaturan Guahan* and copies be transmitted to the Governor and Lieutenant Governor.

DULY AND REGULARLY ADOPTED THIS 3rd DAY OF NOVEMBER 2009.



LUIS R. BAZA
Chairman



MANUEL R. PINAUIIN
Vice-Chairman



PRISCILLA T. TUNCAP
Commissioner



LOURDES HONGYEE
Commissioner



JOHN SMITH
Commissioner