



GOV. COMM. 23-129
(HOUSE)

Arnold I. Palacios
Governor

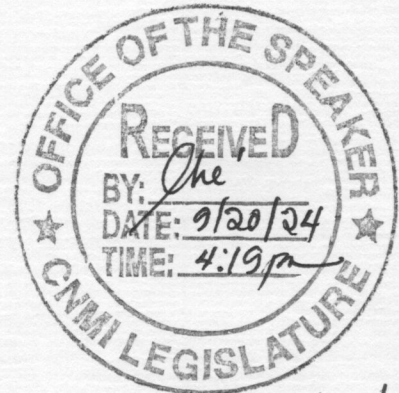
David M. Apatang
Lieutenant Governor

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

September 20, 2024

GOV2024-665

The Honorable Edmund S. Villagomez
Speaker, House of Representatives
Twenty-Third Northern Marianas
Commonwealth Legislature
Saipan, MP 96950



9/20/24

The Honorable Edith E. Deleon Guerrero
President of the Senate
Twenty-Third Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Madame President and Mr. Speaker:

This is to inform you that I have vetoed **House Bill No. 23-72, SD2**, entitled “To establish a Department of Labor Revolving Fund and authorize the collection of fees through the Administrative Hearing Office for services to other agencies,” which was passed by the House of Representatives and the Senate of the Twenty-Third Northern Marianas Commonwealth Legislature.

The Attorney General notes that as currently written, the bill is ambiguous as to the applicability of the Commonwealth Administrative Procedures Act to the Department of Labor’s administrative hearings office.


According to 3 CMC § 4511(a), the term “Administrative Hearing Office” refers to “the hearing office of the Department of Labor; and for purposes of 1 CMC §§ 9109 and 9110 *as those provisions may apply* to this chapter.” (emphasis added).

Clarification is needed, perhaps amendment to the language of 3 CMC § 4511(a) as well as of 1 CMC § 9115, to confirm that the administrative hearing office would apply the Administrative Procedures Act (and not only with respect to those matters involving the Department of Labor).

HOUSE CLERK'S OFFICE
RECEIVED BY [Signature]
DATE 9/20/2024 TIME 4:27pm

For the foregoing reasons, I respectfully exercise my constitutional authority to veto this Bill.

Sincerely,



ARNOLD I. PALACIOS
Governor

cc: Lieutenant Governor; Attorney General; Commonwealth Law Revision;
Public Auditor; Special Assistant for Administration; Secretary, Department of Labor;
Secretary, Department of Finance; Programs and Legislative Review Office



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Capitol Hill
Saipan, MP 96950

EDWARD MANIBUSAN
Attorney General

Review of Pending Legislation¹

August 26, 2024

OAGGOV: 2024-046
LSR No. 24-480

Hon. Arnold I. Palacios
Governor
Commonwealth of the Northern Mariana Islands
Caller Box 10007
Saipan, MP 96950

Re: House Bill No. 23-72, SD2, entitled: "To establish a Department of Labor Revolving Fund and authorize the collection of fees through the Administrative Hearing Office for services to other agencies."

Dear Governor Palacios:

Thank you for the opportunity to review and comment on House Bill No. 23-72, SD2, which is pending for your action.

I have read and reviewed the local bill and I advise as follows:

The Local Bill MAY BE SIGNED – no legal deficiency

FURTHER CONSIDERATION IS ADVISED

The Local Bill SHOULD NOT BE SIGNED

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Telephone: (670) 237-7500
Facsimile: (670) 664-2349

Criminal Division
Telephone: (670) 237-7600
Facsimile: (670) 234-7016

Attorney General Investigation Division
Telephone: (670) 237-7628
Facsimile: (670) 234-7016

Victim Witness Advocacy Unit
Telephone: (670) 237-7602
Facsimile: (670) 234-7016

House Bill No. 23-72, SD2

This bill appears to address the needs of various CNMI agencies for administrative due process hearings by having the Department of Labor (“DOL”) provide the hearing services; it also seeks to establish a revolving fund to support this endeavor.

Legal Issue:

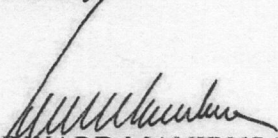
While the bill is constitutionally permissible, the establishment of a revolving fund may not be necessary as there is an existing statute, 1 CMC § 7712 (Interagency Transfers), that provides a mechanism for agencies to receive reimbursements for the provision of materials, supplies, equipment, or services to other agencies.

Additionally, as currently written, the bill is ambiguous as to whether the hearing office is limited to the Department of Labor. According to 3 CMC § 4511(a), the term “Administrative Hearing Office” refers to “...the hearing office of the *Department of Labor*; and for purposes of 1 CMC §§ 9109 and 9110 as those provisions may apply to this chapter².” (Emphasis added.). Clarification is needed to confirm that the administrative hearing office would apply the Administrative Procedures Act (and not just with regards to only those matters involving the Department of Labor).

Conclusion:

The Governor may approve the local house bill if he so chooses.

Sincerely,


EDWARD MANIBUSAN
Attorney General

² Chapter refers to the section under Title 3, Division 4 (in particular, the chapter discussing the Department of Labor).



**TWENTY-THIRD NORTHERN MARIANA COMMONWEALTH LEGISLATURE
IN THE HOUSE OF REPRESENTATIVES**

SECOND REGULAR SESSION

SEPTEMBER 7, 2023

REPRESENTATIVE EDWIN K. PROPST OF SAIPAN, PRECINCT 1 (*for himself*, Representatives Roman C. Benavente, Angelo A. Camacho, Diego V. F. Camacho, Joel C. Camacho, Manny G. T. Castro, Marissa R. Flores, Julie M. A. Ogo, Edmund S. Villagomez, and Ralph N. Yumul) in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

H. B. No. 23-72, SD2

AN ACT

**TO ESTABLISH A DEPARTMENT OF LABOR REVOLVING
FUND AND AUTHORIZE THE COLLECTION OF FEES
THROUGH THE ADMINISTRATIVE HEARING OFFICE FOR
SERVICES TO OTHER AGENCIES.**

IN THE HOUSE OF REPRESENTATIVES

The Bill was referred to the House Committee on Ways and Means, which submitted Standing Committee Report 23-64 adopted 1/12/2024.

**THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON
FIRST AND FINAL READING, JANUARY 12, 2024;
without amendments and transmitted to THE SENATE.**

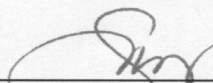
IN THE SENATE

The Bill was referred to the Senate Committee on Fiscal Affairs, which submitted Standing Committee Report 23-86 adopted 5/13/2024.

**THE BILL WAS PASSED BY THE SENATE ON FIRST AND FINAL READING, MAY 13, 2024;
with amendments in the form of H. B. No. 23-72, SD2 and returned to THE HOUSE OF
REPRESENTATIVES.**

The House of Representatives accepted the Senate amendments and passed H. B. No. 23-72, SD2 during its First Day, Fourth Regular Session on August 8, 2024.

**H. B. NO. 23-72, SD2 IS DULY PASSED BY THE TWENTY-THIRD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE.**



Linda B. Muña, House Clerk



TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
IN THE HOUSE OF REPRESENTATIVES

FIRST DAY, FOURTH REGULAR SESSION

AUGUST 8, 2024

H. B. No. 23-72, SD2

AN ACT

**TO ESTABLISH A DEPARTMENT OF LABOR REVOLVING FUND
AND AUTHORIZE THE COLLECTION OF FEES THROUGH
THE ADMINISTRATIVE HEARING OFFICE FOR SERVICES
TO OTHER AGENCIES.**

**BE IT ENACTED BY THE TWENTY-THIRD NORTHERN
MARIANAS COMMONWEALTH LEGISLATURE:**

1 **SECTION 1. FINDINGS AND PURPOSE.**

2 The legislature recognizes that the CNMI Department of Labor (DOL) has been
3 reorganized and renamed several times since it was originally created in 1978. In 1994, during
4 the first reorganization, funds collected as part of DOL agency duties were converted into the
5 general fund. The current-day Department of Labor was organized in 2003. There is a need to
6 update the DOL, including the creation of a revolving account to supplement the CNMI
7 Department of Labor's operational needs.

8 The DOL Administrative Hearing Office (AHO), which provides due process hearings
9 for cases within the Department's jurisdiction, was established in the 2003 reorganization.
10 Since then, there has been an increase in requests from other CNMI agencies for assistance in
11 administrative hearings. The AHO has been established for 20 years and has the experience

HOUSE BILL 23-72, SD2

1 and skill to provide administrative hearing services to other agencies. With the creation of a
2 revolving fund, DOL would be able to collect fees from providing such services, along with
3 fees collected through established DOL regulations.

4 In the CNMI, the published regulations of over 25 agencies, offices, and public entities
5 call for the need for a hearing officer or other due process hearing. Despite these regulations,
6 most agencies do not have a hearing officer to preside over due process hearings. Most agencies
7 do not have the resources to replicate their own Administrative Hearing Office.

8 The CNMI Legislature finds that the imposition of fees for hearing services is necessary
9 to support the Department of Labor operations. The CNMI Legislature further recognizes that
10 using the DOL AHO to provide services for other agencies would be more efficient and cost-
11 effective than replicating it for themselves.

12 The Commonwealth Code sets out the general process for conducting administrative
13 hearings. 1 CMC § 9101 *et seq.* However, the CNMI Department of Labor Administrative
14 Hearing Office was established to provide administrative hearings for cases within the
15 Department's jurisdiction. 3 CMC §§ 4511 (a) & (h) and 3 CMC § 4528.

16 This bill authorizes the DOL to establish a revolving fund account and, through an
17 amendment to regulations, provide administrative hearing services for a fee for such agencies
18 that are authorized to resolve administrative cases. Those fees collected by DOL may be used
19 to fund personnel and operations expenses of DOL AHO.

20 **SECTION 2. AMENDMENT.**

21 1 CMC §9115 of the Commonwealth Code is hereby amended to read as follows:

22 **“§ 9115. Administrative Procedure: Implementation.**

23 (a) Each agency is granted the authority to comply with the requirements of this
24 chapter through the issuance of rules.

25 (b) Notwithstanding any other law, the Administrative Hearing Office, as
26 defined in 3 CMC § 4511(a), may assign a hearing officer to provide services for any
27 CNMI government agency that has complied with subsection (a). Such services may

HOUSE BILL 23-72, SD2

1 include administrative adjudication, mediation or any other administrative hearing
2 support.

3 (1) DOL must adopt regulations to authorize and establish a process for
4 requesting and receiving hearing officer services and include a uniform fee schedule
5 for payment of those services. Until regulations have been adopted, but not more than
6 180 days from the effective date of this Act, DOL may rely upon memorandums of
7 understanding with agencies to provide hearing officer services and receive payments
8 for such services.

9 (2) Fees collected from an agency by DOL for providing hearing officer
10 services shall be deposited on behalf of DOL into a revolving account, established by
11 the Department of Finance and known as the DOL Revolving Fund.

12 (3) The DOL Revolving Fund shall be non-lapsing and may be used for the
13 exclusive purpose of funding the personnel and operational needs of DOL. The
14 Secretary of Labor shall be the expenditure authority for this Fund. Fund monies shall
15 be available for expenditure without further appropriation and without fiscal year
16 limitations.”

17 **SECTION 3. SEVERABILITY.**

18 If any provisions of this Act or the application of any such provision to any person or
19 circumstance should be held invalid by a court of competent jurisdiction, the remainder of this
20 Act or the application of its provisions to persons or circumstances other than those to which
21 it is held invalid shall not be affected thereby.

22 **SECTION 4. SAVINGS CLAUSE.**

23 This Act and any repealer contained herein shall not be construed as affecting any
24 existing right acquired under contract or acquired under statutes repealed or under any rule,
25 regulation, or order adopted under the statutes. Repealers contained in this Act shall not affect
26 any proceeding instituted under or pursuant to prior law. The enactment of the Act shall not

HOUSE BILL 23-72, SD2

1 have the effect of terminating, or in any way modifying, any liability, civil or criminal, which
2 shall already be in existence on the date this Act becomes effective.

3 **SECTION 5. EFFECTIVE DATE.**

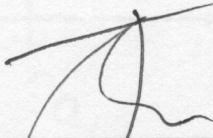
4 This Act shall take effect upon its approval by the Governor, or it becoming law without
5 such approval.

Attested to by:



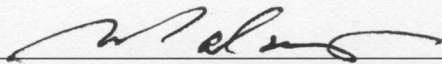
Linda B. Muña, House Clerk

Certified by:



ACTING SPEAKER JOEL C. CAMACHO
House of Representatives
23rd Northern Marianas Commonwealth Legislature

Disapproved this 20th day of September, 2024



ARNOLD I. PALACIOS
Governor
Commonwealth of the Northern Mariana Islands