



TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

HOUSE OF REPRESENTATIVES

COMMITTEE ON WAYS AND MEANS

P.O. BOX 500586 SAIPAN, MP 96950

RALPH N. YUMUL
CHAIRMAN

STANDING COMMITTEE REPORT NO. 27-64
DATE: December 22, 2023
RE: HOUSE BILL No. 23-72

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

Dear Mr. Speaker:

Your Committee on Ways and Means to which was referred:

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

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion, your Committee recommends that the House passes H. B. No. 23-72 in its current form.

HOUSE CLERK'S OFFICE
RECEIVED BY *Sm*
DATE *11/4/2024* TIME *10:58am*

II. ANALYSIS:

A. Purpose:

The purpose of this Act is to establish a Department of Labor Revolving Fund and authorize the collection of fees through the Administrative Hearing Office for services to other agencies.

B. Committee Findings:

Your Committee finds that Title 3, Division 4: Employment and Registration, § 4511 (a) and (h) define the following:

(a) "Administrative Hearing Office" means 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;

(h) "Hearing officer" means a hearing officer appointed by the Secretary who serves in the Administrative Hearing Office and who conducts mediations, hearings, and other proceedings as necessary; and for purposes of 1 CMC §§ 9109 and §§ 9110 as those provisions may apply to this chapter;

Your Committee further finds that Title 1 §§ 9109 and §§ 9110 are sections of the Administrative Procedure Act pertaining to:

§ 9109: Administrative Procedure: Conduct of Hearings.

§ 9110: Administrative Procedure: Issuance of Orders and Decisions Upon Hearing.

Your Committee finds that the published regulations of more than twenty-five agencies, offices, and public entities in the CNMI mandate the attendance of a hearing officer or an alternative due process hearing. In spite of the existence of these regulations, the majority of agencies lack a hearing officer to preside over due process hearings. The majority of agencies lack the financial means to establish an Administrative Hearing Office.

Your Committee further finds that the 2003 reorganization established the Department of Labor's Administrative Hearing Office (AHO), which conducts due process hearings for cases falling under the Department's purview. There has been a subsequent surge in inquiries from additional CNMI agencies seeking support with administrative hearings. The AHO, which has been in operation for two decades, possesses the knowledge and expertise necessary to conduct administrative hearings

for other agencies. In addition, your Committee acknowledges that it would be more economical and expedient for the DOL AHO to provide services for other agencies rather than to replicate it.

Your Committee concludes that by amending existing regulations, this Act grants the DOL to offer administrative hearing services to agencies authorized to resolve administrative cases in exchange for a fee. Your Committee further finds that the Department of Finance will establish a revolving account that will be known as the Department of Labor Revolving Fund that shall be non-lapsing and may be used for the exclusive purpose of funding the personnel and operational needs of DOL. Fees collected from an agency by DOL for providing hearing officer services, along with any other fees collected by DOL pursuant to DOL regulations, shall be deposited into the Fund. The Secretary of Labor shall be the expenditure authority for this Fund and Fund monies shall be available for expenditure without further appropriation and without fiscal year limitations.

Your Committee agrees with the intent and purpose of House Bill No. 23-72 and recommends that the House pass the legislation in its current form.

C. Public Comments/Public Hearing:

The Committee received the following comment for House Bill No. 23-72:

Mr. Raymond Muna, Chairperson, Civil Service Commission. Comments dated October 24, 2023.

“While we recognize the bill’s aspiration to streamline administrative procedures across government agencies, it is paramount to underscore the financial constraints faced by the Commission in maintaining its Memorandum of Understanding (MOU) with the Department of Labor (DOL) for Administrative Hearing Officer (AHO) services.

In the previous financial setup, where the Commission carried fees similar to those associated with hiring external entities, we encountered significant challenges. Combined with the obligation to cover a portion of the fringe benefits for DOL’s payroll-based employee, this structure hinders our ability to consistently secure and maintain Administrative Hearing Officer (AHO) services, amplifying our financial difficulties. Sadly, these circumstances forced the Commission to suspend services, leaving numerous cases in a state of uncertainty and without resolution.”

Chairperson Muna’s comments has been attached as part of this committee report.

D. Legislative History:

House Bill No. 23-72 was introduced by Representative Edwin K. Propst on September 7, 2023 and was subsequently referred to the House Standing Committee on Ways and Means for disposition.


E. Cost-Benefit Analysis:

The enactment of House Bill 23-72 will result in additional costs to the CNMI Government in the form of administrative costs and other resources needed to effectively carry out the intent of the proposed legislation. With this legislation in place, it will ensure accountability, increase financial transparency, and help the Department of Labor supplement its operational needs.

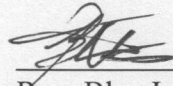
III. CONCLUSION:

The Committee is in accord with the intent and purpose of H. B. NO. 23-72 and recommends its passage in its current form.

Respectfully submitted,



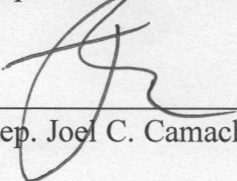
Rep. Ralph N. Yumul, Chairman



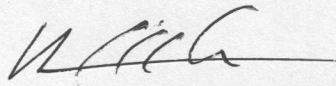
Rep. Blas Jonathan "BJ" T. Attao, Vice Chair

Rep. Roman C. Benavente, Member

Rep. Angelo A. Camacho, Member

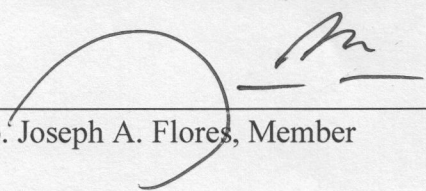


Rep. Joel C. Camacho, Member

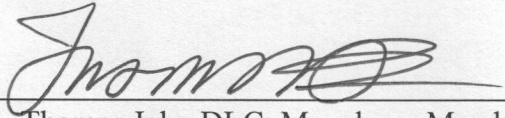


Rep. Vicente C. Camacho, Member

Rep. Manny Gregory T. Castro, Member

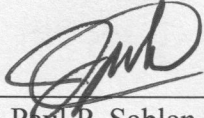


Rep. Joseph A. Flores, Member



Rep. Thomas John DLC. Manglona, Member

Rep. Julie Marie A. Ogo, Member

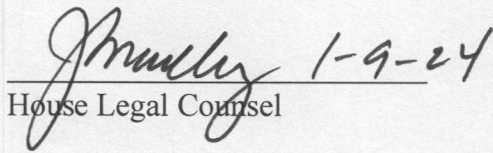


Rep. John Paul P. Sablan, Member

Rep. Patrick H. San Nicolas, Member

Rep. Denita Kaipat Yangetmai, Member

Reviewed by:



House Legal Counsel

Attachment: Mr. Raymond Muna, Chairperson, Civil Service Commission. Comments dated October 24, 2023.



RAYMOND M. MUÑA
Chairperson, CSC

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
CIVIL SERVICE COMMISSION
OFFICE OF PERSONNEL MANAGEMENT

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FRANCES TORRES-SALAS
Director of Personnel

October 24, 2023

OUT-2024-003

Ralph N. Yumul
Chairperson
House of Representatives, Ways and Means Committee
23rd Commonwealth Legislature
Honorable Jesus P. Mafnas Memorial Bldg
P.O. Box 500586
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and

Blas Jonathan T. Attao
Vice Chairperson
House of Representatives, Ways and Means Committee
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Re: Public Comments for House Bill 23-72

On behalf of the Civil Service Commission ("Commission"), we extend our gratitude for the opportunity to comment on House Bill 23-72 and shedding light on the challenges we encounter in securing administrative hearing officer services.

While we recognize the bill's aspiration to streamline administrative procedures across government agencies, it is paramount to underscore the financial constraints faced by the Commission in maintaining its Memorandum of Understanding (MOU) with the Department of Labor (DOL) for Administrative Hearing Officer (AHO) services.

In the previous financial setup, where the Commission carried fees similar to those associated with hiring external entities, we encountered significant challenges. Combined with the obligation to cover a portion of the fringe benefits for DOL's payroll-based employee, this

structure hinders our ability to consistently secure and maintain Administrative Hearing Officer (AHO) services, amplifying our financial difficulties. Sadly, these circumstances forced the Commission to suspend services, leaving numerous cases in a state of uncertainty and without resolution.

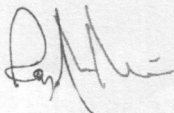
The proposed fee schedule in HB 23-72 raises critical questions. Will the fees be reasonable, considering our shared identity as one government entity? Can agencies or departments access financial assistance from the established revolving fund to procure these services without unduly straining their budgets?

Moreover, it is crucial to deliberate on the potential service delays within a system where a lone Administrative Hearing Officer (AHO) caters to the needs of multiple agencies with varied regulatory requirements. Faced with a substantial backlog of appeal cases, the Civil Service Commission is in urgent need of prompt and consistent service. Some cases have extended over a period ranging from a year to up to five years, depriving civil servants of resolution, due process, and justice. As a result, we sincerely request to seek and designate our own administrative hearing officer.

We sincerely request your collaboration in securing the resources necessary to address this backlog. Our devoted civil servants, who form the bedrock of our government, are contending with issues such as **diminished work hours**, a **complete halt in salary increases (even in the face of outstanding performance)**, and currently, **the absence of due process for appeals**. This is a stark reality that warrants our attention—our workforce predominantly consists of dedicated civil servants, and the government would unquestionably face significant challenges without their unwavering commitment.

In conclusion, while we cannot wholeheartedly support the current provisions of HB 23-72, we propose the exclusion of the Commission and request the opportunity to discuss alternatives with this esteemed committee. Let us forge a solution that ensures justice for our civil servants, upholds the integrity of the appeals process, and fosters a government that genuinely serves its employees and the public. I thank you for your attention and consideration.

Sincerely,



Raymond Muña
Chairperson
Civil Service Commission

WSM 9/7/2023

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

September 7, 2023

Sec. Reg. Session, 2023

H. B. 23- 72

A BILL FOR 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 23RD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and Purpose.** The Legislature recognizes that the
2 CNMI Department of Labor (DOL) has been reorganized and renamed several
3 times since it was originally created in 1978. In 1994, during the first
4 reorganization, funds collected as part of DOL agency duties were converted into
5 the general fund. The current day Department of Labor was organized in 2003.
6 There is a need to update the DOL, including the creation of a revolving account to
7 supplement the CNMI Department of Labor's operational needs.

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

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

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

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

13 The Commonwealth Code sets out the general process for conducting
14 administrative hearings. 1 CMC Division 9, Chapter 1. Administrative Procedures
15 Act. However, the CNMI Department of Labor Administrative Hearing Office was
16 established to provide administrative hearings for cases within the Department's
17 jurisdiction. 4 CMC §§ 4511(a) & (h) & 4528.

18 This bill authorizes the DOL to establish a revolving fund account and,
19 through an amendment to regulations, provide administrative hearing services for
20 a fee for such agencies that are authorized to resolve administrative cases. Those

1 fees and other fees collected by DOL may be used to fund personnel and operations
2 expenses of DOL.

3 **Section 2. Amendment.** 1 CMC §9115 is hereby amended to read as
4 follows:

5 **“§ 9115. Administrative Procedure: Implementation.**

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

8 (b) Notwithstanding any other law, the Administrative Hearing Office, as
9 defined in 3 CMC § 4511(a), may assign a hearing officer to provide
10 services for any CNMI government agency that has complied with
11 subsection (a). Such services may include administrative adjudication,
12 mediation or any other administrative hearing support.

13 (1) DOL must adopt regulations to authorize and establish a process
14 for requesting and receiving hearing officer services and include a
15 uniform fee schedule for payment of those services. Until regulations
16 have been adopted, but not more than 180 days from the effective date
17 of this act, DOL may rely upon memorandums of understanding with
18 agencies to provide hearing officer services and receive payments for
19 such services.

20 (2) Fees collected from an agency by DOL for providing hearing
21 officer services, along with any other fees collected by DOL pursuant

1 to DOL regulations, shall be deposited on behalf of DOL into a
2 revolving account, established by the Department of Finance and
3 known as the DOL Revolving Fund.

4 (3) The DOL Revolving Fund shall be non-lapsing and may be used
5 for the exclusive purpose of funding the personnel and operational
6 needs of DOL. The Secretary of Labor shall be the expenditure
7 authority for this Fund. Fund monies shall be available for expenditure
8 without further appropriation and without fiscal year limitations.”

9 **Section 3. Severability.** If any provisions of this Act or the application of
10 any such provision to any person or circumstance should be held invalid by a court
11 of competent jurisdiction, the remainder of this Act or the application of its
12 provisions to persons or other circumstances other than those to which it is held
13 invalid shall not be affected thereby.

14 **Section 4. Savings Clause.** This Act and any repealer contained herein shall
15 not be construed as affecting any existing right acquired under contract or acquired
16 under statutes contained in this Act shall not affect any proceeding instituted under
17 or pursuant to prior law. The enactment of the Act shall not have the effect of
18 terminating, or in any way modifying, any liability, civil or criminal, which shall
19 already be in existence on the date this Act becomes effective.

20 **Section 5. Effective Date.** This Act shall take effect upon its approval by
21 the Governor, or its becoming law without such approval.

Prefiled: 9/6/2022

Date: _____

Introduced by: _____

Rep. Edwin K. Propst

Reviewed for Legal Sufficiency by:

Jonny 96-23
House Legal Counsel

Ed Propst
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