

WM- 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: 9/6/2023

Date: _____

Introduced by: _____

Rep. Edwin K. Propst

Reviewed for Legal Sufficiency by:

Johny 9-6-23
House Legal Counsel

