

HOUSE OF REPRESENTATIVES
TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FIRST REGULAR SESSION, 2000

TWENTIETH DAY

March 09, 2000

The House of Representatives of the Twelfth Northern Marianas Commonwealth Legislature convened in its Twentieth Day, First Regular Session, on Thursday, March 9, 2000, at 10:31 a.m. in the House Chamber, Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Benigno R. Fitial, Speaker of the House, presided.

A moment of silence was observed.

In accordance with Rule XIII, § 2(a), seventeen members were present and Representative Diego T. Benavente was excused.

Speaker Fitial: A quorum is duly constituted for the Twentieth Day of our First Regular Session. The absent representative member is excused.

ADOPTION OF JOURNALS

The Chair recognized the Floor Leader.

Floor Leader Babauta: Mr. Speaker, thank you. I move for the adoption of the 18th Day, First Regular Session journal.

The motion was seconded.

18th Day, First Regular Session journal (3/7/00)

There was no discussion raised. The motion to adopt the 18th Day, First Regular Session journal was carried by voice vote.

Speaker Fitial: The 18th Day journal is adopted.

INTRODUCTION OF BILLS

None

INTRODUCTION OF RESOLUTIONS

None

MESSAGES FROM THE GOVERNOR

None

SENATE COMMUNICATIONS

None

HOUSE COMMUNICATIONS

None

COMMUNICATIONS FROM THE JUDICIAL BRANCH

None

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

None

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

None

OTHER COMMUNICATIONS

Misc. Comm. 12-8: From Mr. Herman T. Guerrero, Chair, NMI Council for Humanities regarding the Covenant Day Essay Contest.

Speaker Fitial: This is for your information. The CNMI Council for Humanities have requested for a Joint Session, originally for the 13th, now they have changed their minds and they're asking for a Joint Session between the 21st and 23rd of this month.

Rep. Attao: You're going off-island, Mr. Speaker. You are going off-island on the 23rd.

Floor Leader Babauta: Commonwealth Day, Mr. Speaker.

Speaker Fitial: How about 21st, can we –

Floor Leader Babauta: No objection, Mr. Speaker.

Speaker Fitial: Okay, I'll communicate with them to have the Joint Session on the 21st.

REPORTS OF STANDING COMMITTEES

The Chair recognized the Floor Leader.

Floor Leader Babauta: Mr. Speaker, I move for the adoption of the following Standing Committee Report Nos.: 12-44, 12-45, and 12-46.

The motion was seconded.

S. C. R. NO. 12-44: Reporting on House Bill No. 12-79, entitled, “A Bill for an Act to add new sub-section (i) to 1 CMC § 8347, to authorize the retirement for person with cancer; and for other purposes.” *Your Committee on Health and Welfare recommends the Bill be filed by the House.*

S. C. R. NO. 12-45: Reporting on House Resolution No. 12-29, entitled, “A House Resolution applauding Japan Airlines for aggressively promoting the Japan-CNMI route by reducing its fares up to 76 percent from April through September, 2000; and for other purposes.” *Your Committee Commerce and Tourism recommends adoption of the Resolution.*

S. C. R. NO. 12-46: Reporting on House Resolution No. 12-26, entitled, “A House Resolution urgently requesting the Commonwealth Development Authority to cause the publication, production, marketing and promotion, and widespread distribution of business and investment prospectus about investment opportunities in the Commonwealth of the Northern Mariana Islands including the installation of an investment website; and for other purposes.” *Your Committee on Commerce and Tourism recommends adoption of the Resolution.*

Speaker Fitial: Discussion? Representative Attao?

Rep. Attao: Thank you, Mr. Speaker. On Standing Committee Report No. 12-44, I would like to ask the Committee on Health and Welfare to reconsider their position in filing this Bill, Mr. Speaker. According to Standing Committee Report No. 12-44, recommendations made by the Committee that this House Bill be filed by the House. Analysis: Findings: Your Committee appreciates the intent of the bill; however, 1 CMC §8347 (a) through (h) as written, does provide any government employee with a medical disability the necessary procedure to follow while seeking to retire from work because he or she is unable to meet the demands of his or her job. Mr. Speaker, looking at the subsection of 1 CMC, 8347, I cannot and I do not see anything or any provision that allows persons with cancer to retire if that employee’s found to have cancer. Unless the Committee can identify under that subsection that specifically says that cancer is also eligible to retired.

Speaker Fitial: Representative Peter?

Rep. Peter: Thank you, Mr. Speaker. The author of the Bill is correct that there is nowhere in the section that specifically state to include cancer. But what the section is clear about that when they are disabled and they are not able to function, the two physicians will declare that and that they will be qualified for medical retirement.

Speaker Fitial: Representative Attao, you still have the floor.

Rep. Attao: Mr. Speaker, it is very important. I know that my Bill is in need and my Bill does cover the cancer patient the existing statute (a) to (h) does not, and I am asking the Committee for

reconsideration on this to at least accommodate those cancer employees to be part of section 1 CMC 8347. I am only asking, Mr. Speaker, for reconsideration to solicit comments from the Retirement Funds also from CHC or the respective departments who can give us the necessary information relative to cancer patient, because 1 CMC, 8347 does not in no way include cancer patient.

Rep. Peter: Mr. Speaker?

Speaker Fitial: Proceed.

Rep. Peter: Mr. Speaker, this specific section that Representative Attao is mentioning does not mention any type of sickness, it generalizes, it covers every sick person that is not able to perform, to continue to perform the job. And the Committee feels that a cancer person, a hemodialysis person, any other type of sickness falls under this section. Thank you, Mr. Speaker.

Rep. Attao: Mr. Speaker, may I yield to Representative Hofschneider because I think he has an answer to the Bill?

Speaker Fitial: Representative Hofschneider?

Rep. Hofschneider: Thank you, Mr. Speaker. Both arguments are correct, in the fact that one, it is a general rule that is in the statute, it requires two physicians to certify that a person may not be able to fulfill the physical demand of an employment or occupation. A fact remains that same that if we do not specify this particular section in the current statute the practice will continue to deprive those individuals. For instance, Mr. Speaker, anyone of us who has a family member or who knows of a person who is undergoing cancer treatment, it is an average between three months to six months. Now, a person may apply for annual leave for instance or sick leave, but in the midst of this you can exhaust all that you have under you, even with the sick leave bank in place. It is a way of really effectively bankrupting a family if you do not provide for a mechanism. The problem is that physicians are put in a predicament to make a determination that a person in cancer treatment cannot fulfill an occupation. Further in the section if you read carefully, it is intended that at any given time for that period when two physicians certified that a person cannot perform the occupation or employment, that five years and three years period, that person when declared to be incapable of performing their occupation shall be reexamine by a physician to ensure that the person did not recover and continue to draw down pensions. What we are trying to do here is, in the initial face of a person succumbing to cancer that that person, especially when a single income earner in the family is subjected to cancer and undergoing treatment, it is a tremendous distress not only the physical aspects, but the economics of that family. And, if the annuity is the only source of income, and in the current statute, it provides for a revisiting of that person state of health so that you can revisit after three years or five years and have a physician reexamine that person and he or she is free and is capable of going back to a physical state where he or she can be employed or gainfully employed than he or she can be taken of the annuity from the Retirement Fund. What we are only trying to do is provide a relief during the period of a physical distress or health distress so that a person undergoing medical treatment or even more relevant if a person is determine to be a terminal cancer, that means no matter what we do, surgical or radiation, or chemo, that person will not be cured. This is why we need to ensure that this particular clause is inserted so that we relief the physician from making the God given so-called decision to make. They're put in a predicament to make a determination that just

because you are undergoing treatment, you may look healthy. But to perform a physical task under chemotherapy or radiation therapy is just a person essentially to determine that. The physician can only make a guess as to the gravity of the impact on the health of that individual. There is a safeguard in place that this person when recovering from chemotherapy or radiation therapy, he or she will be reexamined so that if he or she is capable of going back to gainful employment, then Retirement Board would remove the annuity the pension itself and go back again for employment because he or she is recovered. We have seen so many of these occupational related – we can say disaster on the person itself and the family because that person is the only income earner in the family, Mr. Speaker. I think it is fair that a person undergoing treatment, for instance, for cancer, especially when they're terminally ill that we given them that particular privilege to continue supporting their family. It is only descent that we do that. Right now, it is a general language and this is the ambiguity of the law, because it subjects the two physicians to make a determination whether you are able to perform. You may in fact come, but the rigorous eight-hour a day requirement of keeping a job down. If you undergo medical treatment sometimes just the smell of food would influence your state of health. Vomiting is classic example, dizziness, and fatigue. So, Mr. Speaker, we are just trying to provide a means of income and a means of protection for those individuals and families. So, please reconsider this, I think this is the descent thing to do and it is a human thing to do.

Speaker Fitial: Representative Ichihara?

Rep. Ichihara: After listening to those, they're all correct. What I would like to share is that, as a former School Principal, I had one teacher that had cancer and was receiving disability retirement, when it came to that point. So, I know that the physicians here and also one screening either in Guam or Hawaii, they do give those – they have to get the statement of certification that they cannot perform their job. And it does happen so I know that cancer patients do get disability retirement from the Retirement Office here. But how far do we go, do we go from the initial stage? Because I know that if it's terminal, it doesn't have to be just cancer, it can be like the dialysis patients. They go there for so many hours just to be treated and they sometimes go there, two or three times a week and they may look fine. So, I don't know whether it is just cancer or we should include the other patients, but like I said, to me, the Retirement Office does provide disability retirement for patients. And this is a cancer patient that I am talking about.

Rep. Hofschneider: Mr. Speaker, just a clarification.

Speaker Fitial: State your point of clarification.

Rep. Hofschneider: Mr. Speaker, in order for one to tap into the disability and in order for one to tap into the annuity, first you must secured two physicians signature certifying that that person is in capable. This is where the problem lies, because it gives the discretion of two physicians, however we trust them. But every illness is different you can be mentally alert and well, but physically incapable of sitting and performing an eight-hour job. This is where the problem lies. It is like asking the two physicians to be God to get into your state of mind and state of health to make a determination just looking at you physically. But really, Mr. Speaker, the aggravation of being told and undergoing the treatment of cancer is so huge that we cannot begin to fathom until we are subjective to that kind of illness. For individual cases, Mr. Speaker, in the clarification of this endeavor to include these people, we consider sick leave and annual leave to be computable towards retirement and they're able individuals, we allow that by law, and yet, when it comes to

something more descent and more human, we disallow it, because we are under the guidance of two physicians trying to be God to make the determination.

Speaker Fitial: So, why can't we just remove the God?

Rep. Hofschneider: Exactly, Mr. Speaker. By this proposed legislation, you remove that aspect of ambiguity acting like God to make a determination.

Speaker Fitial: You mean this amendment would remove the requirement of certification from –

Rep. Hofschneider: No. It would limit the parameters that when a patient is subjected to cancer that this person is entitled to certification by two physicians that they are in fact as coming to cancer and undergoing treatment, if and when that particular patient is well in remission, then that annuity under the existing law, will be taken off, removed from that individual, and inform the individual that now, you are in remission, you are okay, you can go back to work. But in the present situation, the physicians are scared to make those judgments.

Rep. A. Camacho: Mr. Speaker?

Speaker Fitial: Representative Tony Camacho?

Rep. A. Camacho: Thank you, Mr. Speaker. I think we are getting away from the real issue. Subsection (a) provides a general pattern for patients to receive the annuities and House Bill 12-79 provides for one kind of patient, one kind of sickness. I would suggest the author to put items (i), (ii), (iii), (iv), what kind of patients, cardiac, kidney, cancer, so we can really be specific on really who needs to be treated and be given the annuity as a priority. I would ask the author to reintroduce the Bill in the form of: (i), (ii), (iii), (iv).

Rep. Attao: Mr. Speaker?

Rep. Hofschneider: And the Committee retracts, Mr. Speaker, to look at those other parameters.

Speaker Fitial: Anybody wants to join in the discussion before I recognize again the author? Representative Attao?

Rep. Attao: That was the very reason why I am asking the Committee to reconsider their position in filing the Bill so that the Committee can go back and discuss the Bill and insert the necessary – as what Representative Ton Camacho has stated. Put all the necessary information and incorporated into this Bill, but filing it at this point in time is, I think it is very inappropriate that is why I'm asking for reconsideration. Thank you.

Rep. Peter: Mr. Speaker?

Speaker Fitial: Representative Peter?

Rep. Peter: The way the Bill it is now, it is appropriate that the Committee files it. The concern of the Committee here is that, we are opening it up. It is not just cancer. We would have to include HIV, hemodialysis patients, diabetes, when every one of them fall under the present law

that if they were just to go in the Retirement Office with their physicians' certification of their sickness they will be able to get this assistance. I am in favor to allow people to be compensated when they are sick, but we do have current law that allows this. If the rest of the Committee members, maybe we can consider their request, but as the Chair, I still feel that this will not be able to go through because we do have the current statute that allows the patients to be retired when they are not able to continue to work.

Speaker Fitial: My concern is the certification requirement by these physicians, because even though we have workers who have cancer or HIV, if the certification requirement cannot be satisfied then these sick people cannot retire. I think we should language this to say that any government worker, who is suffering from terminal cancer, and terminal HIV, and terminal diabetes, and terminal, terminal, shall be retired without certification.

Rep. Attao: You are correct, Mr. Speaker. So, can we ask the Chair to reconsider and include those concerns too?

Speaker Fitial: Well, looking at the Bill, the Chairperson is correct because the language of the current statute does allow sick people to retired provided that they get certification.

Rep. Hofschneider: That is hitch.

Speaker Fitial: So, there is a problem with the phraseology of this particular Bill.

Rep. Attao: So, can we ask the Committee Chair to reconsider this Bill?

Speaker Fitial: That statute is general and it includes everybody, but it does not require these everybody to retire without the certification. So, there is a problem and I think we need to cure that problem before it becomes cancerous.

Rep. Hofschneider: Mr. Speaker, may I have a second crack at it?

Speaker Fitial: Recognized.

Rep. Hofschneider: Again, I think that we all also share the same concern about opening up a Pandora's box here, but people invest money for the future for their own protection. And, if we cannot tap into it then what good is it? You wait until you are half paralyzed from a stroke or disabled because you have a massive heart attack? Or do you need to get into a car accident to be physically maim in order for you to get two certifications from physicians, or physicians to certify? There is a protective mechanism in the Code that if and when these individuals are in remission, they are taken off. All we are saying is that let us give them that window to ensure protection for a short period of time. If they are terminally ill, then there is nothing on this earth that we can do, but to provide the accessibility to their investment for their own needs. I think that it is, like I said, Mr. Speaker, there is enough protection in the Code, but we need to relieve that particular parameters where the physicians are really called to make a God given decision to have a person be determined. We are trying to narrow that. Right now the Code is general. If you receive chemotherapy and radiation therapy, the physician obviously is not going to consider you. Because saying, 5% out of leukemia for instance, adult once on leukemia, for instance, Mr. Speaker, when we have currently a couple of patients in Honolulu undergoing treatment, and

these are with families. I know one, our neighbors, the two of us, is undergoing such of treatment, do we wait until that person dies that he or she can tap into the fund that they have invested?

Speaker Fitial: Well, I have stated my reading on the problem of this legislation, and I'm afraid that who ever gets terminal cancer, or terminal HIV, or terminal diabetes, you know, I think this Bill will not help them because they might die before they retire.

Rep. Hofschneider: But at least, Mr. Speaker, they get to provide for their family because they contributed into the fund. And it is only right that we give them the opportunity to continue providing for their family needs under that duress.

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Floor Leader?

Floor Leader Babauta: Mr. Speaker, thank you. Mr. Speaker, after hearing many of the pros and cons of the provisions, primarily the four line paragraph, from line 3 to 6, much have been said, there is goodness in passing the legislation in itself and also the badness in not acting on it. But overall, Mr. Speaker, the detail of 8347, as most members and for that matter the Chair, implied to include; with that, Mr. Speaker, I would move to defer action on Standing Committee Report No. 12-44 and probably the Committee on Health and Welfare can revisit the provision and extend the same to all others that are in need of getting into the program of special annuity for disabled government employees.

Rep. Attao: Second.

Speaker Fitial: I haven't recognized the motion, yet. If the counsels were to research the legislative intent perhaps by reviewing the Committee Report that sets up this particular statute, I am sure they will find what kind of sickness or diseases are included under this disability. I am sure word "disability" does not just service without specific sicknesses or diseases.

Rep. Hofschneider: Mr. Speaker, may I just give one – I am not going to mention the name of this person – but I found out that there were others that were deprived of the opportunity. This person was sent to Honolulu for leukemia, it is a cancer of the bone marrow. And, this person was held back in the hospital in Honolulu for more than four months, a government employee, because the period that this person was required to stay off unemployment or any physical activity, for over six months no income, Mr. Speaker. Returning back to Saipan, this person found out that she was forced to give up the employment. This is the kind of thing that is happening in our system.

Speaker Fitial: It will continue to happen if we still allow the system as it is to continue and that is securing the certification requirement.

Rep. Hofschneider: That is the problem.

Speaker Fitial: And that is the real problem, because I don't care if your tongue is already hanging out because you have tongue cancer and if the certification is absent you will not retire.

I hope you people are seeing the real problem here, which is not the cancer, or the diabetes, or what, it is the certification requirement because that triggers and kicks in the retirement pension.

Rep. Hofschneider: Absolutely and it can trigger also to come off once that person recovers.

Speaker Fitial: So, now, I will recognize the Floor Leader for the appropriate motion to be or not to be.

Floor Leader Babauta: Mr. Speaker, at the request of the Chair, my motion is to defer action on Standing Committee Report No. 12-44, so that the Chair of the Committee can itemized and come up with a detailed whether it be amendment to the Bill, or a substitute, or whatever.

The motion was seconded and carried by voice vote.

Speaker Fitial: Standing Committee Report No. 12-44 is deferred. Floor Leader – I believe we still have the main motion to adopt the other two Standing Committee Reports.

The motion to adopt Standing Committee Report Nos. 12-45 and 12-46 was carried by voice vote.

Speaker Fitial: Standing Committee Report Nos. 12-45 and 12-46 are adopted.

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

The Chair recognized the Floor Leader.

Floor Leader Babauta: Mr. Speaker, I move for the adoption of House Resolution No. 12-26 and 12-29.

The motion was seconded.

H. R. NO. 12-26: A HOUSE RESOLUTION URGENTLY REQUESTING THE COMMONWEALTH DEVELOPMENT AUTHORITY TO CAUSE THE PUBLICATION, PRODUCTION, MARKETING AND PROMOTION, AND WIDESPREAD DISTRIBUTION OF BUSINESS AND INVESTMENT PROSPECTUS ABOUT INVESTMENT OPPORTUNITIES IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS INCLUDING THE INSTALLATION OF AN INVESTMENT WEBSITE; AND FOR OTHER PURPOSES.

H. R. NO. 12-29: A HOUSE RESOLUTION APPLAUDING JAPAN AIRLINES FOR AGGRESSIVELY PROMOTING THE JAPAN-CNMI ROUTE BY REDUCING ITS FARES UP TO 76 PERCENT FROM APRIL THROUGH SEPTEMBER, 2000; AND FOR OTHER PURPOSES.

There was no discussion raised. The motion to adopt House Resolution Nos. 12-26 and 12-29 was carried by voice vote.

Speaker Fitial: House Resolution Nos. 12-26 and 12-29 are adopted.

BILL CALENDAR

None

MISCELLANEOUS BUSINESS

None

ANNOUNCEMENTS

The Chair recognized the Floor Leader.

Floor Leader Babauta: Reminding the members of the session tomorrow at 1:30 p.m. in Rota, Sunset Villa.

Speaker Fitial: Please take note of that reminder. If no further reminder -- Floor Leader?

Floor Leader Babauta: Mr. Speaker, move to recess until 1:30 tomorrow afternoon in Rota.

The motion was seconded and carried by voice vote.

The House recessed at 11:05 a.m.

Respectfully Submitted,

Joan P. Kaipat, Journal Clerk
House of Representatives