



House Journal

SECOND REGULAR SESSION, 2006

Ninth Day

August 22, 2006

The House of Representatives of the Fifteenth Northern Marianas Commonwealth Legislature convened its Ninth Day, Second Regular Session on Tuesday, August 22, 2006, at 2:22 p.m. in the House Chamber on Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Oscar M. Babauta, Speaker of the House, presided.

A moment of silent prayer was observed.

The Clerk called the roll and fifteen members were present. Representatives Martin B. Ada and Candido B. Taman are excused. Representative Stanley T. McGinnis Torres came in late.

ADOPTION OF JOURNALS

None

INTRODUCTION OF BILLS

H. B. No. 15-171: A Bill for an Act to amend Section 2 of Public Law No. 15-2; and for other purposes.

Introduced by: Rep. Francisco S. Dela Cruz

H. B. NO. 15-172: A Bill for an Act to require the Department of Public Lands to reserve 5 hectares of public Land on each Senatorial District for the purpose of planting local medicinal plants; and for other purposes.

Introduced by: Rep. Crispin M. Ogo

H. B. NO. 15-173: A Bill for an Act to prohibit the cruel treatment of animals; to provide for penalties; and for other purposes.

Introduced by: Rep. Stanley T. McGinnis Torres and four others
Referred to: Committee on Judiciary and Governmental Operations

H. B. NO. 15-174: A Bill for an Act to provide for the regulation and control of the operation of gambling enterprises in the Commonwealth; and for other purposes.

Introduced by: Stanely T. McGinnis Torres and one other
Referred to: Committees on Commerce & Tourism and Ways & Means

H. L. I. NO. 15-6: A House Legislative Initiative to amend Article XI of the Constitution of the Northern Mariana Islands to change the term permitted for the transfer of a leasehold interest in public lands, and to clarify issues with respect to renewals of existing leases.

Introduced by: Rep. Absalon V. Waki, Jr.
Referred to: Committee on Natural Resources

H. L. I. NO. 15-7: A House Legislative Initiative to amend Article XII Section 3 of the Constitution of the Northern Mariana Islands to change the term permitted for the transfer of a leasehold interest in private lands, and to clarify issues with respect to renewals of existing leases.

Introduced by: Rep. Absalon V. Waki, Jr.
Referred to: Committee on Natural Resources

INTRODUCTION OF RESOLUTIONS

H. R. NO. 15-68: A House Resolution to honor the heroic actions of Mariano Shiano, Ber Moses Terry, Justin Terry, Kurtis Terry, and Keven and Kyoko Deleon Guerrero, who are private citizens, in rescuing the victims of the Taga Air airplane crash on August 11, 2006.

Introduced by: Rep. Absalon V. Waki and seventeen others

Rep. Waki: Mr. Speaker, this is a replacement for House Joint Resolution that we just passed the other day. It is unfortunate that the Senate would not be meeting today to entertain that Joint Resolution, and since we need to make a presentation to the rescuers tomorrow, we went ahead and decided to just make it a House Resolution for now. The Senate would probably do a Senate Commemorative later.

There was no objection.

H. J. R. NO. 15-11: A House Joint Resolution recognizing and honoring Mr. John Pincetich for his contributions to the people of the Northern Marianas Islands during his tenure as Director of Peace Corps Micronesia from 1966 to 1968 and requesting the Honorable Governor Benigno R. Fitial to designate September 4, 2006 as the John Pincetich Appreciation Day.

Introduced by: Rep. Jacinta M. Kaipat and seventeen others

MESSAGES FROM THE GOVERNOR

Gov. COMM. 15-145: (8/18/06) Informing the House that he signed into law S. B. NO. 15-51, SD2, HS2, HD3, SS1, HD3 (Government Austerity Holiday. Became **Public Law No. 15-24**.)

There was no discussion.

SENATE COMMUNICATIONS

None

HOUSE COMMUNICATIONS

None

COMMUNICATIONS FROM THE JUDICIAL BRANCH

None

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

None

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

None

REPORTS OF STANDING COMMITTEES

None

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

The Chair recognized the Acting Floor Leader.

Floor Leader Florencio Deleon Guerrero: So moved, Mr. Speaker, for the suspension under Rule IX, Section 8, 9, 10 and 11 for the placement of H. R. No. 15-68 and H. J. R. NO. 15-11.

The suspension motion was seconded and carried by voice vote

Speaker Babauta: The motion carries. Adoption motion, Floor Leader.

Floor Leader Florencio Deleon Guerrero: So moved, Mr. Speaker, for the adoption of H. R. No. 15-68 and H. J. R. No. 15-11.

The motion was seconded.

H. R. NO. 15-68: A House Resolution to honor the heroic actions of Mariano Shiano, Ber Moses Terry, Justin Terry, Kurtis Terry, and Kevin and Kyoko Deleon Guerrero, who are private citizens, in rescuing the victims of the Taga Air airplane crash on August 11, 2006.

H. J. R. NO. 15-11: A House Joint Resolution recognizing and honoring Mr. John Pincetich for his contributions to the people of the Northern Marianas Islands during his tenure as Director of Peace Corps Micronesia from 1966 to 1968 and requesting the Honorable Governor Benigno R. Fitial to designate September 4, 2006 as the John Pincetich Appreciation Day.

Speaker Babauta: Discussion. I recognize Representative Tenorio.

Rep. Tenorio: On H. J. R. NO. 15-11...I just have a concern that I wanted to raise. On September 4, 2006, we are designating this day as a Pincetich Appreciation Day. What does it involve in terms of the community or in terms of our role?

Rep. Kaipat: It is not going to cause...it is a Commemorative Day just to recognize a friend of the Commonwealth. It is a presentation of this Resolution to one of the former Peace Corps volunteers on his behalf. So the gentlemen is back in the States, and this is just something that the Commonwealth wants to send to him as a thank you for the years of service that he provided in the leadership during the years that we had the Peace Corps volunteers.

Rep. Tenorio: Is he one of the original?

Rep. Kaipat: He was a Director and you should be getting copies of that. We will be transmitting a copy of this Resolution to the Washington Representative so that it could be presented to him and his family.

There being no further discussion, H. R. NO. 15-68 and H. J. R. NO. 15-11 was adopted through a voice vote.

Speaker Babauta: The motion carries. H. R. NO. 15-68 and H. J. R. NO. 15-11 is hereby adopted. Bill Calendar.

BILL CALENDAR

Floor Leader Florencio Deleon Guerrero: So moved, Mr. Speaker, for the suspension of Rule IX, Section 8, 9, 10 and 11 for placement on the Bill Calendar, H. B. NO. 15-171 and H. B. NO. 15-172.

Speaker Babauta: Discussion on the suspension? I recognize Representative Palacios.

Rep. Palacios: Could I request that H. B. NO. 15-171 be put on First Reading Calendar.

Speaker Babauta: We will place it first then we will request once we come down to that bill. I recognize Representative Joseph Deleon Guerrero.

Rep. Joseph Deleon Guerrero: Just for clarification, I think he asked that question because the motion that the Floor Leader did was for suspension for placement and passage?

Speaker Babauta: For placement on the Bill Calendar.

Rep. Joseph Deleon Guerrero: Okay, so clarified.

There being no further discussion, the suspension motion was seconded and carried by voice vote.

Speaker Babauta: Floor Leader, first bill.

Floor Leader Florencio Deleon Guerrero: So moved, Mr. Speaker, for the passage on First and Final Reading, S. B. NO. 15-6, SD1.

The motion was seconded.

S. B. No. 15-6, SD1: A BILL FOR AN ACT TO GIVE A CNMI GOVERNMENT RETIREE WHO IS SUBSEQUENTLY REEMPLOYED WITH THE GOVERNMENT THE OPTION TO WAIVE SALARY AND INSTEAD CONTINUE RECEIVING RETIREMENT BENEFITS; AND FOR OTHER PURPOSES.

Speaker Babauta: Discussion and I recognize the Vice Speaker for the amendments.

Vice Speaker Quitugua: Thank you, Mr. Speaker. The Sergeant-at-arms had just passed out the House Substitute One to all the members and I would like to...

Speaker Babauta: Any second?

The House Substitute offered by the Vice Speaker was seconded.

Speaker Babauta: Discussion. I recognize the Minority Leader.

Rep. Palacios: Thank you, Mr. Speaker. Could I ask the Vice Speaker to kind of take us through where it is that he changed?

Vice Speaker Quitugua: The last time, Mr. Speaker, when we discussed this issue on the floor, which is on page 2, Section 8442. We clarified the waived salaries and kind of a reworded letter (b) on the salaries that will be going to the Retirement Fund as a result of the choice to waive the employment salary for non-elected officials or employees.

The Chair recognized the Minority Leader.

Rep. Palacios: There are existing laws that restrict certain or most government employees (retirees) from returning to government employees. My question is does this repeal all those laws that restrict or restricting statutes? What I am trying to say simply is does this open up the whole issue of reemployment? Does that mean that anyone or any retiree wishing to go back to work for the government again may choose so provided that his/her annuities or if they decide to take their annuities...does this change anything the fundamental issues of who can be reemployed?

Vice Speaker Quitugua: Can I refer that to the legal counsel.

The Chair recognized Legal Counsel Ian Catlett.

Legal Counsel Ian Catlett: *Thank you, Mr. Speaker. What this would do is there may be other clause...all this deals with is where waived salaries go. This does not change anything else that maybe on the books concerning reemployment. So those are the laws may need to be amended first. If they are then any salary, this law just makes sure that any of your salaries go to the Scholarship Fund and anyone else's salary that is waived goes to Retirement. But that is all it addresses is the waiver of the salary.*

The Chair recognized Representative Tenorio.

Rep. Tenorio: I am just curious, is there any additional cost to the Retirement Fund if we take this up this route. Actually right now, it is only the elected individuals, right? We are opening this to everybody right?

Vice Speaker Quitugua: No. According to the Legal Counsel, it is not.

Rep. Tenorio: It is all government employee's right? Is that right?

Speaker Babauta: If you go back to page 2 that is where the amendment is primarily from line 6 to line 15 that added...the elected official is presently in the books.

Rep. Tenorio: I understand that.

Speaker Babauta: There is an added portion that says, (b) All non-elected employees who are picked up by the government to do whatever that are required of them can waive their salary and that in turn shall revert to the Retirement Fund quarterly to satisfy portions of the employee contribution.

Rep. Tenorio: My question is whether or not, if this bill is enacted into law, whether or not it will increase the cost of service?

Speaker Babauta: There is a prevailing law that clarifies that. Let us say you retire at a base of \$40, and you were engaged to perform for a year or a year and a half or maybe 2 years at a level of \$60, that engagement of new pay-level or whatever the contract that is given to you would not change your whatever annuity that you receive.

Rep. Tenorio: I understand that.

Speaker Babauta: This is pursuant to Public Law 13-62. Minority Leader, is that correct?

Rep. Tenorio: I understand that, Mr. Speaker. This then will not allow double dipping, but you have the option and this option here is that you do not have to take the lower of two or you do not have to give up your retirement or give up your salary. You have an option. An option is a choice. It will cost the government or the Retirement a little more, right?

Vice Speaker Quitugua: No. If you have the option, I do not think it will cost the Retirement more.

Rep. Tenorio: Or the government for that matter.

Vice Speaker Quitugua: But not the Retirement Fund because your waived salary if you chose to continue receiving your pension, the Retirement Fund will be paying for your salary.

Rep. Tenorio: But we are opening up the double-dipping or rather the avenue for other employees to participate in this program, in other words, not only elected individuals. If there is going to be any fiscal impact, we have to maybe try to identify where it is going to hurt most.

Vice Speaker Quitugua: The only impact here for the government is that the waived salary goes to the Retirement Fund.

Rep. Tenorio: It does not go back to the Retirement Fund because you do not issue it out in the first place. It does not go back.

Vice Speaker Quitugua: No. The amendment here says that if you are an elected official, which remains in the books, it goes to the Scholarship Office. If you are qualified under the statute to waive your salary and continue your pension that waived salary goes to the Retirement Fund.

Rep. Tenorio: I see. So we are just opening this up. I mean, I do not have any problem with that. If you are going to give it to elected officials then give it to all the retirees. I know that nobody is going to say that I am going to take the lower of the two. They would just say, take my retirement and put it to the Scholarship Office but give me my new salary which is \$10,000.00 more than the pension and the benefits that I will be receiving if I am taking that option. In other words, you have a choice. Am I wrong on this?

Vice Speaker Quitugua: You only have one choice. You cannot take both. It is either you take one or the other.

Rep. Tenorio: That is what I am saying. You have a choice, but you said that your retirement benefits will go to the Scholarship.

Vice Speaker Quitugua: No. It is the salary not the benefits. If you choose to take your salary then Retirement Fund would stop your pension.

Speaker Babauta: Counsel, can you read the fine lines of those two subsections, please.

Legal Counsel Ian Catlett: At this point, (a) is really what is happening under the current law that is, when you are elected and you waive, goes to the Scholarship Fund. I think the concern last time was to make it clear that we do not want all of this to go to the Retirement Fund. You still want the elected members' waived salaries to go to the Scholarship. This just divides it into two groups, elected and non-elected reemployed retirees. It makes it clear that elected retirees that waive their salaries go to the Scholarship Fund and then non-elected employees that are waived, now they still would have to be authorized by law to be rehired as retirees, this just handles the event when they

waive their salaries. That is why I am saying that this bill is limited to waiver of salary and it just diverts waived salaries into one of two places depending on what your status is.

The Chair recognized Representative Tenorio.

Rep. Tenorio: Mr. Speaker, what bothers me is...and I still do not understand this. We are playing with words here. On page 2, line 11 (b). It says; all salaries of non-elected employees that are waived under the provisions of this chapter shall be remitted to the Retirement Fund queerly to satisfy the government employer contribution. How is that? I mean, you know, it is from one pocket to the other and where is that tax money? I do not care how you maneuver it, how are you going to satisfy the government contribution when they are not contributing in the first place. You are getting hired and you have two choices. You have salary and you have benefits. What this one is saying is that this would be treated as a government contribution, but from where? I mean, there is nothing new. It is just playing with...

Speaker Babauta: Let me recognize the Minority Leader. I think he has some explanation.

Rep. Palacios: I fully agree and fully understand my colleague's concern because it is coming from the general fund, but why not? At least we will be remitting something to the Retirement Fund. I had this question too, but at in the end I said, well, even if it is a little bit, let us take some from the general fund and remit some to the Retirement Fund.

Speaker Babauta: I agree. I recognize the Vice Speaker.

Vice Speaker Quitugua: If you really look at it, it is only fitting that since you are paid by the Retirement Fund, that your waived salary goes to the Retirement Fund. If not, it will remain in the general fund for government use.

Speaker Babauta: So this is a revolving fund?

Vice Speaker Quitugua: In a way, yes, if it stays in the government's general fund. But we owe the Retirement Fund so much and we are going to owe them more by having you as a retiree work for the government and still pay for your salaries.

Rep. Tenorio: And you as a retiree is paying the government contribution.

Vice Speaker Quitugua: No.

Rep. Tenorio: You work right? You have one job with two salaries...and you have a choice as to which one you are going to pick. Let us say, I pick the higher of the two, but give my low salary to...Jesus, I mean...

Speaker Babauta: Can we have at least a minimum order.

Rep. Tenorio: Sorry, Mr. Speaker. I do not understand this.

The Chair recognized Representative Torres.

Rep. Torres: Mr. Speaker, esta hu komprendi hafa ma sasangan lao hayi para u benefisio esti na bill? How many of them? I am looking at maybe the Judges and the Doctors would be the only employees that would waive their retirement pension, because who in his right mind to waive his salary and continue with the pension when the pension is lower than the regular salary? I do not see any significant reason. If I am going to work for the Governor tomorrow, I am going to tell Retirement Fund to stop my pension because I know that Governor Ben Fitial will give me more than what I am making now.

Rep. Tenorio: Precisely.

Rep. Torres: Right?

Speaker Babauta: That is what I am saying earlier. That is what I am trying to clarify, but when you go back to your pension, it still remains the same. You are not getting the higher of whatever you receive.

Vice Speaker Quitugua: Mr. Speaker, there are retirees that are earning over \$50,000.00 a year. It might not be that many, but there are some that are politically connected to politics, and who knows in the future, they might be working for...

Rep. Torres: So instead of approving this bill, I think we should do the reverse, and if a Doctor earning \$60,000.00 through pension, maybe we should tell him to stop taking the pension and work for \$40,000.00 less and save the Retirement Fund.

Speaker Babauta: Let us approve the substitute and let us try and work it out.

Rep. Torres: Let us save the Retirement Fund.

Speaker Babauta: Or the return of the contribution or rather the salary is in fact a genuine show of return of investment of whatever you are paid. Am I correct, Representative Tebuteb? I recognize Representative Joseph Deleon Guerrero.

Rep. Joseph Deleon Guerrero: You know, I was a member of the Committee that reviewed this and in the initial bill format, it did not have these two provisions which is now (a) and (b). When I looked at it at first glance, it looked like exactly what somebody said here. It looked like it allowed for government retiree who is perhaps earning more than what salary he would be offered to come in and work and not avail of that salary and basically work for free. You are right, Representative Torres, that I do not know who in his right mind who would do something like that, maybe unless he gets more, but he just wants to work pro bono. I said, okay, I will support the bill. Now we have these two amendments here and I still support the bill in its amended format in that it would give something as Representative Palacios said to the Retirement Fund to satisfy the employer contribution rather than that money or funding staying with the department and being used to perhaps hire additional FTE's. So, the one question I have and I want to ask the legal counsel is, let us take this as an example, if I was a retiree and I come back to work, I do not avail of the new salary, I want to chose to get paid with my pension, would that affect the retirement benefit? In

other words, would I continue to gain additional years or percentage or any benefits from the Retirement Fund? Would anything change? I think it is no, but I want to get a clearer interpretation.

The Chair recognized the Legal Counsel.

Legal Counsel Ian Catlett: I would say, no.

Rep. Joseph Deleon Guerrero: Okay. I wanted that to be on record.

The Chair recognized Representative Seman.

Rep. Seman: I echo the comments of Representative Torres, but it comes back to this question with regards to whether or not this employee would be able to be earning annual or sick leave, and with this bill, it would not grant that employee annual/sick leave because this person is technically considered a volunteer. I spoke to Personnel Office, Mr. Frank Gibson, and he had several clarifications with their legal counsel. One other concern that they have is something in regards to the federal positions. Federal positions are required to have some sort of compensation and a retirement pension is not one of it. You have to let the employee be the one to waive his salary and give it to the Scholarship or the Retirement Fund, but you cannot put it in a public law. So it comes back to the question whether or not we should just allow retirees to come back and volunteer and give them the option of whether or not maybe they will voluntarily donate their salary to the Retirement Fund or the Scholarship. But you have to give that to the employee themselves. You cannot mandate that salary to be given or turned over to the Scholarship or to the Retirement Fund. Now with regards to regular civil service, we ask ourselves, if I as a retiree to volunteer my time and I all of a sudden I want to go on vacation, do I just pick up my bag and go because nobody has the right to tell me whether or not I can take vacation? I believe and I think that this bill is basically allowing retirees to come back and volunteer. Many people retire so that they can take that pension and go and get a second income, but not go back and work for nothing, because I am receiving my pension already.

Speaker Babauta: Legal Counsel, under item (b) is opening a new stage of class for waived salary, right?

Legal Counsel Ian Catlett: Just for the waiver. The employee would still have to qualify to be hired as a non-elected employee.

Speaker Babauta: But this is opening another sets of class of employees other than elected officials who are retired, right?

Legal Counsel Ian Catlett: It is addressing and I would not say it is opening them. They would still have to comply with the law on whether or not they can be reemployed at all. If they are reemployed then this is what happens to their waived salary.

Speaker Babauta: One is a requirement that you need to be certified or actually get a waiver from the Chief executive, for that matter, the Governor to waive your retirement. That is the present law. In order for you to be reemployed under the Administration or the Executive Branch for that matter or any agency of the government, you need to get a waiver, and the waiver is only issued by the

Governor certifying the need for that particular position. That was reinstated I think on Public Law 13-62, right Minority Leader?

Rep. Palacios: I think it is Public Law 13-60.

The Chair recognized Representative Joseph Deleon Guerrero.

Rep. Joseph Deleon Guerrero: As it stands now, we have elected officials and I believe...

Speaker Babauta: Presently, yes.

Rep. Joseph Deleon Guerrero: I believe also Special Assistants? For the double dipping...

Speaker Babauta: No, the double dipping is only applied to nurses and school teachers.

Rep. Joseph Deleon Guerrero: Hafa eyu ni man gaige i special assistants to the Governor. Eyi gue fana'an manma allow para...

Speaker Babauta: Yes and other. There is this list of office positions that are allowed under the present law to be waived. So you cannot be waived for a supervisory position when you do not fall under that category or for that matter the Director of Parks...

Rep. Joseph Deleon Guerrero: Right. The language here is kind of confusing because under Section 1, purpose, it says, to extend the option granted to elected officials under Public Law 10-88 to any Commonwealth Government retiree wishing to return to the government service. That is the part that is kind of lead you to take that it can allow any government retiree to return to government service. Now to reiterate the question, does it create a new class of...can any government retiree come to any government position or does it open up? I am assuming no, but I want to hear it clear.

Legal Counsel Ian Catlett: This does not amend any other public law. It only amends the statute considering waiver. So it is not a full complete way of opening the door to that. That would still have to be done through amending other laws to allow the reemployment of non-elected.

Rep. Joseph Deleon Guerrero: Okay.

The Chair recognized Representative Yumul.

Rep. Yumul: My question regarding the bill itself is the issue on government employer contribution since we had suspended it. I have a feeling that the Secretary of Finance might consider this part of the suspension provisions and not even remit at all. So I would like to ask the Counsel if that is going to be a potential loophole or a possibility for the Secretary of Finance to take advantage of this situation.

The Chair recognized the House Legal Counsel.

Legal Counsel Ian Catlett: It is a potential loophole. It could be written or could be amended however.

Rep. Yumul: So you are saying that the Secretary of Finance can possibly not even remit these savings because they will consider it a government employer contribution.

Legal Counsel Ian Catlett: ...which has legally been suspended.

Rep. Yumul: Thank you, Mr. Speaker. I think this bill still has some flaws that it probably would not even pass.

The Chair recognized the Minority Leader.

Rep. Palacios: Let me yield to my colleague.

The Chair recognized Representative Torres.

Rep. Torres: Would this bring in question of liability or legality of a contractual to the government? It would weaken your employment as a government employee if you do not get paid from the government.

The Chair recognized the House Legal Counsel.

Legal Counsel Ian Catlett: It does not change the fact that you would still be in a government position either civil service or contract. Your salary instead of being paid to you would be paid somewhere else. You would still have a salary level. You would still have an FTE position. You would still probably even have a contract, in that case, it is just your salary instead of being paid into your account it would have been paid to a different account.

The Chair recognized the Minority Leader.

Rep. Palacios: I think that there is going to be a hell of a lot of people that is going to take this option. Congressman Torres is right. If there is a unique individual out there that has a large enough annuity and decides to do public service other than going through the rigorous campaigning to get elected into office wants to contribute his time to a public office. Maybe there are some unique individuals out there and that is what this is trying to do. It is trying to allow this individual to have the option to take that salary and put it back to the Retirement Fund. I do not see a lot of impact in it. It certainly raises a lot of questions regarding contracts and liability issues. There might not be a lot of people that would qualify or would want to take this option for that matter.

Speaker Babauta: To follow up on Representative Deleon Guerrero's comment earlier about the specific prohibition with respect to those positions that are normally be waived. This is very few and you are absolutely right. The Governor has that authority to waive certain positions. I recognize Representative Tenorio.

Rep. Tenorio: Mr. Speaker, as I look at the bill, I see one potential negative impact on this and that is it would not. If a retiree works, and gives up the salary, and continues his benefits, he is taking a job of somebody that is probably unemployed out there, and even though the money is budgeted, you take that money and pay it to the Retirement Fund; still the opportunity is taken away an

unemployed personnel that is looking for a job. So I look at that as a negative impact. I think the intent of this, Mr. Speaker, is to get those retired people that would probably want to contribute their time with the government, and instead of them getting that salary, they still get the retirement pension. But on the contrary, this would have affected those people who are unemployed and looking for a job. So I do not know, Mr. Speaker.

Speaker Babauta: It could be also said that we are depriving the potential candidates that would be members of the House or the Senate whom are retired and can be elected. You have a point there, however, there are certain positions in the government that are required serious consideration in order for that position to be waived or a salary be waived to hire the retired individual. I recognize Representative Deleon Guerrero.

Rep. Joseph Deleon Guerrero: As you look at it, it raises more questions. One that jumps to mind quickly is when you hire somebody like this you have classes of employees whether they be civil service, right? You may want to think about this, Mr. Waki. Are they civil service? Are they civil service contract or none contract? What would an employee like this fall under? You are not paying him. Is he going to get any kind of benefit? Would he be contracted without benefits? The liability issue is something that question arises. Are we liable for injuries for workers compensation when you are technically not paying the guy? Health insurance? I just wonder, legal counsel, as to what class of employee would this person be?

The Chair recognized the Legal Counsel.

Legal Counsel Ian Catlett: *I think the class would go by the position that they are hired into whether it be civil or excepted, but you are correct, there are other issues like benefits that are not addressed in this, but they are also not addressed in the present statute concerning your salaries that are waived. You are correct.*

Rep. Joseph Deleon Guerrero: Esta.

There being no further discussion, the Substitute version offered by the Vice Speaker was carried by voice vote.

Speaker Babauta: The motion carries. We are now voting on S. B. No. 15-06, SD1, HS1. Clerk, roll call.

The Clerk called the roll on the motion to pass S. B. NO. 15-06, SD1, HS1 on First and Final Reading:

Rep. Martin B. Ada	excused
Rep. Edwin P. Aldan	yes
Rep. Francisco S. Dela Cruz	yes
Rep. Florencio T. Deleon Guerrero	yes
Rep. Joseph P. Deleon Guerrero	abstained
Rep. Jacinta M. Kaipat	yes
Rep. Jesus SN. Lizama	yes
Rep. Crispin M. Ogo	yes
Rep. Arnold I. Palacios	yes
Rep. Justo S. Quitugua	yes

Rep. Benjamin B. Seman	yes
Rep. Candido B. Taman	excused
Rep. Ramon A. Tebuteb	yes
Rep. Manuel A. Tenorio	abstained
Rep. Stanley T. Torres	abstained
Rep. Absalon V. Waki, Jr.	yes
Rep. Ray N. Yumul	yes
Rep. Oscar M. Babauta	yes

Speaker Babauta: With a vote of 13 “yes”, S. B. NO. 15-06, SD1, HS1, hereby passes the House on First and Final Reading. Floor Leader.

Floor Leader Florencio Deleon Guerrero: So moved, Mr. Speaker, for the passage of H. B. NO. 15-53 on First and Final Reading.

The motion was seconded.

H. B. NO. 15-53: A BILL FOR AN ACT TO PROMOTE LOCAL PROCUREMENT BY AMENDING CHAPTER 4 OF THE PLANNING AND BUDGETING ACT OF 1983; AND FOR OTHER PURPOSES.

Speaker Babauta: Discussion. This is a recalled bill from the Commerce and Tourism Committee. I recognize Representative Joseph Deleon Guerrero.

Rep. Joseph Deleon Guerrero: Mr. Speaker, I would like to ask the author to please enlighten us as to the need for an amendment on this bill.

The Chair recognized Representative Tenorio.

Rep. Tenorio: Thank you, Mr. Speaker. This is just out of experience, and we have been hearing complaints by the public about hiring consultants from outside for things that our people can do very well and maybe even better than hiring from outside. This bill allows the most of the consulting work, renovation work and all other government projects that can be done locally instead of having to farm it out to other people. This would create jobs locally and the money that comes out of this project will stay here instead of going out. There are so many activities especially in the construction business or small businesses that had to fold because of the outside business coming in and competing locally. They can very effectively compete with us because they are settled with the minimum wage and they would not increase the minimum wage to our local people. So this is kind of a self-serving bill, but the purpose is to allow growth locally, and also perhaps open the door for those at the Apprenticeship program at the college that they are trying to increase more participation of the local people. It is not only in construction but refrigeration, mechanics, and it is a potential business for our local people to go into. I do not think that we can effectively develop a decent industry here in the construction and mechanics because of limitations and that we are holding back the opportunities for our people. This is a bill that I think if you limit it to U.S. citizens, you are not denying anybody else an opportunity to go into this business. It is restricted to U. S. citizens and you have a cap of a \$100,000.00 and not more than that. So that is the whole purpose of the bill and that is to try to induce more local participation and increase the business activities here on the island.

The Chair recognized Representative Joseph Deleon Guerrero.

Rep. Joseph Deleon Guerrero: I thought we already had a local preference bill or a law in place. So if we already have something in place and I do not even think it has a dollar value on it, is that the big difference between this and the current existing local preference bill? Now we place a dollar value on it that projects up to \$500,000.00, I mean it seems like without a dollar figure, local preference is given to local contractors for any projects, small or big. That is why I am questioning what difference is this from the existing law?

The Chair recognized Representative Tenorio.

Rep. Tenorio: This bill has been introduced so long that I forgot all about it and that I had to dig it out from the Commerce. But, yes, there is a local preference bill and if you really read it, everybody is local. So you come here and open a shop and you are a local. We try to redefine the local by putting a value and not actually discriminating anybody but putting a U. S. citizenship requirement to be local. Yes, there is a preference bill, but it does not work. Anybody that opens business here and has a business license for one year can qualify as a local. So you can count your fingers more on any of the job in construction, refrigeration, mechanics, consulting work and all these...I am just trying to put a cap on the trying to protect the local or the U. S. citizens here an opportunity to try to increase the industry to improve our industry here.

Speaker Babauta: Let me just ask you. Section 7404 of the Public Law 3-68 comprises of 1, 2, 3, 4, 5, 6, 7 subsections and your amendment would eliminate the entire sections.

Rep. Tenorio: It is just putting one additional section here. It is not a repealer. It is adding a new section.

Speaker Babauta: Well, you are inferring to Section 7404 which has 7 subsections and what the bill is saying is by adding a new section 7404...

Rep. Tenorio: And then we designate the remaining sections.

Speaker Babauta: Short recess.

The House recessed at 3:21 p.m.

RECESS

The House reconvened at 3:43 p.m.

Speaker Babauta: We are back to our plenary session and we are discussing, H. B. NO. 15-53. During recess, we clarified some of the concerns and moreover, it appears that we allow the author to address some of the concerns of the members primarily on Section 7404. Floor Leader, can you make a motion for First Reading only so that we allow the author and the Counsel to work on the appropriate language and re-designations of those sections. Floor Leader.

Floor Leader Florencio Deleon Guerrero: So moved, Mr. Speaker, for the subsidiary motion for First Reading only.

The subsidiary motion to place H. B. NO. 15-53 was seconded and carried by voice vote.

Speaker Babauta: The motion carries. I recognize Representative Tenorio.

Rep. Tenorio: Thank you, Mr. Speaker. I understand that there are some more work that needs to be done on this bill, I will work with the legal counsel and hopefully be able to address that by next session.

Speaker Babauta: Okay. Please have your Substitute ready otherwise. Thank you. I recognize the Floor Leader.

Floor Leader Florencio Deleon Guerrero: So moved, Mr. Speaker, for passage on First and Final Reading, H. B. NO. 15-141.

The motion was seconded.

H. B. No. 15-141: A BILL FOR AN ACT TO AMEND ARTICLE 3 UNDER TITLE 1, CHAPTER 13, TO PROVIDE FOR THE DEPARTMENT OF PUBLIC LANDS TO LEASE TO THE UNITED STATES POSTAL SERVICE AND THE UNITED STATES INTERNATIONAL BROADCASTING BUREAU PUBLIC LANDS AT A MINIMUM CHARGE; AND FOR OTHER PURPOSES.

Speaker Babauta: Discussion. I recognize Representative Waki.

Rep. Waki: I think, Mr. Speaker, that it was I think from the Chairman of Lands and Natural Resources that was mentioning to us that earlier we were discussing this that the rental, I mean, we checked with the Public Lands and there is no charge to the U. S. Postal Service for the property at this particular time. So to charge \$1.00 is more than what they are being charged right now. I think we need to review this just a little bit more, Mr. Speaker. I would like to recommend that we refer it back to the Committee just so that we can get more clarification in writing. That would be my suggestion if I am not out of order. Thank you.

The Chair recognized Representative Aldan.

Rep. Aldan: Thank you, Mr. Speaker. I called up the Department of Public Lands and according to them, the lease for the Postal is \$1.00 a year, and it is expiring next year January 2007. The IBB is paying \$15.00 per year and they are trying to find out when is the expiration date for the lease.

The Chair recognized Representative Torres.

Rep. Torres: Mr. Speaker, on the issue of the Postal Office, the reason why it is there in that bill is because during the change of MPLA to DPL, I guess the drafter of the bill forgot to include the continuity of the U. S. Post Office as a perpetual. I do not remember expiring by next year. It is a perpetual lease for the Post Office in Chalan Kanoa.

Speaker Babauta: Let me call for a brief recess. Short recess.

The House recessed at 3:47 p.m.

RECESS

The House reconvened at 4:08 p.m.

Speaker Babauta: We are back to our plenary session and I recognize Representative Torres.

Rep. Torres: Thank you, Mr. Speaker. I move to offer an oral floor amendment.

Speaker Babauta: Proceed.

Rep. Torres: On the Title after the word amend, please delete the words, "Article 3 under Title 1, Chapter 13" and insert, "Public Law 15-2." On another portion of the bill on line 6, delete, "Article 3, Title 1, Chapter 13" and insert, "Public Law 15-2." On line 13, delete the word, "one" and the figure (1) and replace it with the word, "fifteen" and numeral (15).

The oral floor amendment offered by Representative Torres was seconded and carried by voice vote.

Speaker Babauta: The motion carries. I recognize the Vice Speaker.

Vice Speaker Quitugua: Just looking at the Title, Mr. Speaker, the Title says, "to provide for the Department of Public Lands to lease" and then on line 9, it says, "the Governor is hereby authorized", but on the Title it says, "the Department of Public Lands."

Speaker Babauta: Short recess.

The House recessed at 4:11 p.m.

RECESS

The House reconvened at 4:12 p.m.

Speaker Babauta: We are back to our plenary session. I recognize the Minority Leader.

Rep. Palacios: Mr. Speaker, I have an oral floor amendment on the heading. Please delete the words "Department of Public Lands to lease" and replace it with "leasing of public lands."

The oral floor amendment offered by the Minority Leader was seconded and carried by voice vote.

Speaker Babauta: The motion carries. We are now voting on H. B. NO. 15-141, HD2. Clerk, call the roll.

The Clerk called the roll on the motion to pass H. B. NO. 15-141, HD2 on First and Final Reading:

Rep. Martin B. Ada
Rep. Edwin P. Aldan

excused
yes

Rep. Francisco S. Dela Cruz	yes
Rep. Florencio T. Deleon Guerrero	yes
Rep. Joseph P. Deleon Guerrero	yes
Rep. Jacinta M. Kaipat	no

Mr. Speaker, before I vote on this, let me just say that I still believe that DPL has the right to make these types of decision that we do not really need to go this far to do this, so I vote “no” and let them handle it themselves.

Rep. Jesus SN. Lizama	yes
Rep. Crispin M. Ogo	yes
Rep. Arnold I. Palacios	yes
Rep. Justo S. Quitugua	yes
Rep. Benjamin B. Seman	yes
Rep. Candido B. Taman	excused
Rep. Ramon A. Tebuteb	yes
Rep. Manuel A. Tenorio	yes

Mr. Speaker, on line 2 page 1, delete the words, “Department of Public Lands” so we could be consistent with the heading.

Speaker Babauta: Recess.

The House recessed at 4:15 p.m.

RECESS

The House reconvened at 4:16 p.m.

Speaker Babauta: Clerk, continue.

Rep. Stanley T. Torres	yes
Rep. Absalon V. Waki, Jr.	no

Mr. Speaker, just for your information, I concur with Congresswoman Kaipat on the decision that Public Lands should have full control of this, so at this time, my vote is “no.”

Rep. Ray N. Yumul	yes
Rep. Oscar M. Babauta	yes

Speaker Babauta: By a vote of 14 “yes” H. B. NO. 15-141, HD2 passes the House on First and Final Reading. I promised the Minority Leader to get him out today. This is his special day and Floor Leader, please present the Minority Leader his birthday surprise by making a motion for H. B. NO. 15-71.

Floor Leader Florencio Deleon Guerrero: So moved, Mr. Speaker, for the passage on First and Final Reading, H. B. NO. 15-71.

The motion was seconded.

H. B. NO. 15-71: To repeal and re-enact Section 2 (c)(2) of Public Law 13-7; and for other purposes.

Speaker Babauta: Discussion. I recognize the Minority Leader.

Rep. Palacios: Mr. Speaker, I have a written floor amendment to offer.

Speaker Babauta: Proceed.

Rep. Palacios: On page 1, Section 2, on line 10. It should read: “to cover the funding shortfall for the drainage and road paving projects in China Town/As Falipe Road (Commonwealth Drive, PL 12-64 and PL 14-1.”

The written floor amendment offered by the Minority Leader was seconded and carried by voice vote.

Speaker Babauta: The motion carries. We continue to discuss H. B. NO. 15-71, HD1.

Several members voiced, “ready.”

Speaker Babauta: Clerk, call the roll.

The Clerk called the roll on the motion to pass H. B. NO. 15-71, HD1 on First and Final Reading:

Rep. Martin B. Ada	excused
Rep. Edwin P. Aldan	yes
Rep. Francisco S. Dela Cruz	yes
Rep. Florencio T. Deleon Guerrero	yes
Rep. Joseph P. Deleon Guerrero	yes
Rep. Jacinta M. Kaipat	yes
Rep. Jesus SN. Lizama	yes
Rep. Crispin M. Ogo	yes
Rep. Arnold I. Palacios	yes
Rep. Justo S. Quitugua	yes
Rep. Benjamin B. Seman	yes
Rep. Candido B. Taman	excused
Rep. Ramon A. Tebuteb	yes
Rep. Manuel A. Tenorio	yes
Rep. Stanley T. Torres	yes
Rep. Absalon V. Waki, Jr.	yes
Rep. Ray N. Yumul	yes
Rep. Oscar M. Babauta	yes

Speaker Babauta: By a vote of 16 “yes”, H. B. NO. 15-71, HD1 passes the House on First and Final Reading. Under Miscellaneous, and I recognize Representative Tenorio.

MISCELLANEOUS

Rep. Tenorio: Mr. Speaker, I am just curious, I read the paper on the signing of the bill that we passed on the austerity holidays, and I understand also that the Governor waived or rather cancelled the furlough, but there is one more little thing that we requested that we were assured that he would leave and that is the over hundred employees that were given the marching orders. I was just wondering if that also had been addressed and if the Governor had rescinded those orders? If you have any information, I would appreciate you sharing it with the members.

Speaker Babauta: Thank you. I would seek those information and find out if whether or not if those are incorporated. I recognize the Vice Speaker.

Vice Speaker Quitugua: Mr. Speaker, guaha guine katta ma passed huyong ginen PTI. Is this going to be considered as a House Communication?

Speaker Babauta: Members information only.

Vice Speaker Quitugua: Okay.

The Chair recognized Representative Torres.

Rep. Torres: Mr. Speaker, in reference to the Vice Speaker's statement, I would like to make that into a House Communication because this is a letter to our largest investors. I think that this matter should be addressed to by DLNR. I think that they should take that into consideration and bring it up with the Governor or the Public Lands.

Speaker Babauta: Before I ask the members whether or not the Communication would be allowed, may I kindly also seek the indulgence to make sure that in the future if you want this Communication and others to be part of the House, please make sure that copies are provided to the members and the Clerk so that we would allow it. Continue, Representative Torres.

Rep. Torres: Mr. Speaker, I apologize for not indicating the distribution but it is because I was in a hurry last Friday. May I continue with my short Miscellaneous?

Speaker Babauta: I guess the members have read it already.

Rep. Torres: Well, Mr. Speaker, consider it is read, and it should be in the Journal.

Speaker Babauta: I think it has been read already.

Rep. Torres: Thank you.

Speaker Babauta: Clerk, please note Representative Torres' letter to PTI as a Communication under item number 7.

HOUSE COMMUNICATIONS

HSE. COMM. NO. 15-11: A letter from Representative Torres dated August 22, 2006 to the Speaker and members of the House regarding the Department of Public Lands.

There was no discussion.

ANNOUNCEMENT

The Chair recognized Representative waki.

Rep. Waki: Thank you, Mr. Speaker. Tomorrow at 12:30 p.m. here in the House Chamber, Ms. Rosemary Cohen, the division chief for the Workforce System Unit, United States Department of Labor, ETA Region 6, as well as her colleague, John Jacob, will be here to talk about the Federal

Programs that they are reviewing right now under WIA, OVR and a couple of other programs. I think it is a great concern that you listen to what they have to say because they are looking at the Federal Programs right now as being like removed. So that is quite a bit of funds that we may lose if we do not address the problems and issues that they are addressing to these different agencies. They would like to at least address us and give us their concerns so that we may be able to work with the different agencies to make sure that we do not lose the federal grants. It would be really important that you all be here tomorrow if possible from 12:30-1:30. Their schedules are very tight and they will just try to address this as quickly as possible. We will try to invite our members of the Upper House to be here also so that way, they will be aware of what is going on.

The Chair recognized the Minority Leader.

Rep. Palacios: Just a short comment. I appreciate the announcement. I guess Representatives Kaipat and Waki attended the session with them yesterday, which provided for a much lengthier discussions as to what is going on. Perhaps, we would like them also at a later date after tomorrow's presentation because I think an hour of presentation would be too short. I hope that our two colleagues can brief us on the issues and what we need to do to ensure that these programs continue because we will need them.

The Chair recognized Representative Kaipat.

Rep. Kaipat: I appreciate that. It is true that the schedule is jam packed and there were other attendees of this meeting yesterday, other people who are part of the WIA board as well as business communities and PSS, NMC and Labor. I invited all the Representatives up here to join us in case members of the Legislature have any questions. Because of the short time period, we will not be able to engage in the kind of necessary dialogue that I had hope they would have with us. So we suggested to them that they perhaps come up here and give us a presentation of what they have discovered on the times that they have been going around to all these programs and talking to the agencies. We want to hear from them as to what types of problems they discovered. We heard from them what they discovered, but it would be better to have all the members hear from them. Part of the reason why I invited the other Representatives up here is because it behooves all of us to work together, the agencies and the Legislature as lawmakers to make sure that we do what we need to do to make the program succeed. Just to give a very brief overview of what they were telling us, basically they said that we have ad hoc intentions, different groups have different plans. We do not have a master plan basically. You start from point A. You have a vision, you have a goal. So this group starts by developing this talent or this school and then it graduates on to the next step all the way to the end product, and that is not what they are seeing. But the big part of the problem that they found also is that we are not meeting our obligation under the program to report or to be accountable. There is no accountability and they are willing to give us the time. They said that we are in the red zone which is like a step down from this being yanked and they are willing, and we had expressed our sincere desire to rescue this program by working together in partnership with all the appropriate agencies and us lawmakers. That is what I would like this body to do tomorrow and that is to express to them that we are sincere that this is a much needed program. Another thing that they expressed is the fact that we need to look at our nonresident worker population and the impact that had on our resident workers. So we need to do some serious dialogue and take action. I just wanted to reiterate Representative Waki's invitation and extend this invitation to our colleagues in

both Houses. I know that we are planning to meet at 12:30 p.m. and that is your lunch time, but this is the only schedule that they could give us and they are willing to squeeze us in.

Speaker Babauta: During the last session, somebody inquired about that particular program so anybody that has the ample time tomorrow, please join the Chairwoman and...

Rep. Kaipat: Mr. Speaker, I believe it was the Minority Leader who requested the audience of the Federal officials and I wrote that letter to Edith Deleon Guerrero and we got the appointment yesterday. I just wanted to report it back to the House.

Rep. Palacios: Thank you.

Speaker Babauta: Any other Announcement? The Chair would like to announce something for tomorrow. I would be receiving as a courtesy call a visitor from Bridge Creek, Mr. John Carson and he had asked me if I can extend the invitation to all of you for a brief short visit with the Legislature. I understand that he would be meeting with the Senate tomorrow afternoon also. So whoever has time tomorrow at 10:00 a.m. please come to the Conference Room for a brief visit by Mr. Carson. I recognize Representative Waki.

Rep. Waki: On the Resolution for the rescuers of the Taga Air crash victims, the presentation will be over at the Governor's Conference Room at 11:00 a.m. I know that we are all on a tight schedule, but I think it would be really nice to see as many members here since the Resolution is from the Committee as a Whole. So that would be tomorrow at 11:00 a.m.

Speaker Babauta: Is this in conjunction with the Administrations?

Rep. Waki: Yes.

The Chair recognized Representative Ogo.

Rep. Ogo: Because of that, Mr. Speaker, I am moving up the time to meet with the Conference Committee to 8:00 a.m. at the Speaker's Conference Room. We have to finalize and finish everything by tomorrow.

Speaker Babauta: Will you be kind enough to keep informing the members of the time changes because yesterday when I walked into your office, some members were present and some were not and those that were not present were told that it was going to be in the morning while the meeting was conducted in the afternoon. I sincerely appreciate having a consistent time and informing the other Conferees of the House.

Rep. Ogo: Mr. Speaker, I understand your request but I also consider birthdays, funerals and session. So yesterday was Congressman Palacios' birthday.

Speaker Babauta: So when is the Conferees' meeting?

Rep. Ogo: Tomorrow at 8:00 a.m.

The Chair recognized Representative Kaipat.

Rep. Kaipat: I know that today is a special day for the Minority Leader because he is celebrating his 16th Birthday, but I also want to say that we also have a bright superstar who is also celebrating her birthday today, and I want to wish Ms. Francine Sablan a Happy Birthday also.

Speaker Babauta: Happy Birthday. Floor Leader, motion to recess until Thursday morning at 10:00 a.m.

Floor Leader Florencio Deleon Guerrero: So moved, Mr. Speaker, for recess subject to your call.

The House adjourned at 4:35 p.m.

Respectfully submitted,

Vicky T. Guerrero, Journal Clerk
House of Representatives

APPEARANCE OF LOCAL BILLS

SECOND APPEARANCE

THIRD APPEARANCE: