



Commonwealth of the Northern Mariana Islands

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The Honorable Joseph S. Inos
President of the Senate
Seventh Northern Marianas
Commonwealth Legislature
Saipan, M.P. 96950

GOV. COMM. 7-139
(HOUSE)

and

The Honorable Pedro R. Guerrero
Speaker of the House of Representatives
Seventh Northern Marianas
Commonwealth Legislature
Saipan, M.P. 96950

Dear Mr. President and Mr. Speaker:

This is to inform you that I have signed into law Senate Bill No. 7-89, to prohibit public employees from striking against their government employers, which was passed by the Seventh Northern Marianas Commonwealth Legislature.

I agree that any action by government employees which causes stoppage to public services is detrimental to our community, and is not in the best interest of the government or the people. However, the Public Employment Officer in promulgating the rules and regulations for the implementation of this Act, must ensure that the rights guaranteed to the people of the CNMI pursuant to Article 1, Section 2 of the Constitution of the CNMI are protected.

Incidentally, an amendment is needed to address a situation whereby the employees of the Department of Commerce and Labor are a party to a dispute. In addition, funding is needed to implement this Act.

This bill becomes Public Law No. 7-43. Copies bearing my signature are forwarded for your reference.

Sincerely,


LORENZO I. DE LEON GUERRERO
Governor

CC Director, Department of Commerce and Labor
Presiding Judge, CNMI Superior Court
Special Assistant for Programs & Legislative Affairs

House Clerk
RECEIVED
BY @A DATE 11/6/91
8:22 AM

SEVENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FOURTH REGULAR SESSION, 1991

SENATE BILL NO. 7-89

AN ACT

To prohibit public employees from striking against their government employers; to establish a labor dispute grievance procedure for public employees within the Department of Commerce and Labor; and for other purposes.

Offered by Senator Joseph S. Inos


Date: May 6, 1991

SENATE ACTION

Referred to: Committee on Judiciary, Government & Law
Standing Committee Report No.: None
Second & Final Reading: June 14, 1991

HOUSE ACTION

Referred to: Committee on Judiciary and Governmental
Operations
Standing Committee Report No. 7-54
First and Final Reading: September 13, 1991


EDWARD U. MARATITA
Senate legislative Secretary

AN ACT

To prohibit public employees from striking against their government employers; to establish a labor dispute grievance procedure for public employees within the Department of Commerce and Labor; and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section I. Short Title. This Act may be known and cited
2 as "The Public Employees Strike Act of 1991".

3 Section 2. Findings and Purpose.

4 (a) Findings. The Legislature finds that in the
5 American system, sovereignty is inherent in the people,
6 who can delegate it to a government which they create.
7 In essence, the people give to government the power and
8 authority to perform certain services. The government so
9 created and empowered must employ people to carry on its
10 task. People so employed are agents of the government.
11 Such employees occupy a status entirely different from
12 those who carry on a private enterprise in that they
13 serve the public welfare and not a private purpose. To
14 say such employees can strike would be equivalent to
15 saying that they could deny the authority of government
16 and contravene the public welfare.

17 The Legislature finds that there is no
18 Constitutional guarantee of the right to strike.
19 Further, no such right exists in the Federal statutes,
20 Commonwealth Code or in common law.

1 The Legislature further finds that the Commonwealth
2 Constitution impressed the Legislature with the duty to
3 provide certain government services: a thorough and
4 efficient public school system; police protection; fire
5 protection; health care; delivery of vital utilities and
6 disaster relief. It logically follows that those who,
7 under the implementing statutes, become agents to fulfill
8 the will of the people in such respect are themselves
9 charged with the duty to refrain from conduct that will
10 render the delivery of the services to the public
11 marginal or impossible.

12 Therefore, the Legislature finds that the drastic
13 remedy of organized strikes is in direct contravention of
14 such duty.

15 However, the Legislature finds that bona fide labor
16 disputes may arise between public employees and their
17 employers. In order to mitigate any hardship arising out
18 of exclusion from the right to strike, a mechanism must
19 be available whereby labor disputes are addressed in a
20 manner most likely to satisfy both public employees and
21 public employers. Therefore, the Legislature finds that
22 a grievance procedure must be established whereby both
23 employees and employers not only have a chance to air
24 their views and needs before an impartial panel but are
25 required to participate in the process. The Legislature
26 further finds that such a grievance procedure belongs
27 within the Department of Commerce and Labor.

1 (b) Purpose. The intent and purpose of this Act is
2 to recognize that there exists a public policy in the
3 Commonwealth of the Northern Mariana Islands against
4 strikes by public employees as a means of settling their
5 labor disputes; that the uninterrupted and dedicated
6 service of these employees is vital to the welfare and
7 public safety of the Commonwealth; that to promote such
8 dedicated and uninterrupted public service there should
9 exist an effective and adequate alternative means of
10 settling disputes. The provisions of this Act are
11 intended to be additional to other remedies and shall be
12 liberally construed to accomplish their purpose.

13 Section 3. Application This Act shall apply to all
14 departments, instrumentalities, agencies, corporations and
15 authorities of the Commonwealth government whether established
16 by statute or the Commonwealth Constitution. For the purposes
17 of this Act, Commonwealth government includes any political
18 sub-division thereof.

19 Section 4. Definitions. As used in this Act:

20 (a) "Public employer" means any officer, board,
21 authority, commission, corporation, council or other
22 person or body acting on behalf of the Commonwealth
23 government or political subdivision;

24 (b) "Public employee" means any employee of the
25 public employer except any person (1) elected by popular
26 vote, or (2) appointed to office pursuant to a statute,
27 ordinance or executive order for a specified term of
28 office by the Governor or a Mayor;

1 (c) "Department" means the Department of Commerce
2 and Labor;

3 (d) "Director" means the Director of the Department
4 of Commerce and Labor;

5 (e) "Officer" means the Public Employment Disputes
6 Officer;

7 (f) "Panel" means the Interest Arbitration Panel;

8 (g) "**Strike**" means a concerted stoppage of work by
9 employees and any concerted slowdown or other concerted
10 interruption of operations by employees in an effort to
11 enforce a demanded concession from an employer.

12 Section 5. Dispute Resolution. There is hereby
13 established within the Department of Commerce and Labor a
14 division for Dispute Resolution. The Director shall appoint
15 a Public Employment Officer to administer the provisions of
16 this Act. The Officer shall promulgate, revise or rescind
17 such rules and regulations as deemed necessary or appropriate
18 to administer the provisions of this Act in conformity with
19 its purpose and consistent with the best standards of labor-
20 management relations.

21 (a) Declaration of Dispute. The Officer shall
22 establish a procedure for filing a declaration of labor
23 dispute such a declaration may be filed by either party,
24 Provided, however, that if the dispute is with respect to
25 reclassification, promotion, wages or wage related
26 matters, the declaration shall be immediately referred to
27 the Civil Service Commission for prompt action.

1 (b) Mediation. Upon receipt of such a declaration,
2 the Officer shall select a mediator who may meet either
3 jointly or separately with the parties and who shall take
4 whatever steps necessary to persuade the parties to
5 resolve their differences and effect an agreement. The
6 expenses of the mediator, including per diem shall be
7 provided by the Department.

8 (c) ~~Interest Arbitration Panel.~~ If after a
9 reasonable time an agreement has not been negotiated and
10 upon the recommendation of the assigned mediator, the
11 Officer shall declare an impasse and create an interest
12 arbitration panel to resolve the dispute.

13 (1) The issues for determination by the panel
14 shall be limited to the issues certified by the
15 Officer;

16 (2) Within seven (7) days of the
17 determination of the issues, each party shall name
18 one person to serve as its arbitrator on the panel.
19 The Officer shall appoint a neutral chairperson for
20 the panel. Each party shall pay the fees and
21 expenses of its arbitrator and the fees and
22 expenses of the neutral chairperson shall be shared
23 equally between the parties;

24 (3) The panel so constituted shall promptly
25 establish a date, time and place for a hearing and
26 shall provide reasonable notice thereof to the
27 parties to the dispute. A hearing, which shall be
28 informal, shall be held, and each party shall have

1 the opportunity to present evidence and make
2 argument. No member of the panel may present the
3 case for a party to the proceedings. The rules of
4 evidence used in judicial proceedings in the
5 Commonwealth are not binding at these proceedings,
6 and any oral testimony or documentary evidence or
7 other data deemed relevant by the chairperson may
8 be received in evidence. The panel has the power
9 to administer oaths, require the attendance of
10 witnesses, and require the production of such
11 books, papers, contracts, agreements and documents
12 as may be deemed by the panel to be material to a
13 just determination of the issues in dispute. If
14 any person refuses to obey a subpoena issued by the
15 panel or refuses to be sworn or to make an
16 affirmation to testify or any witness, party, or
17 attorney for a party is guilty of any contempt
18 while in attendance at any hearing held hereunder,
19 the panel may invoke the jurisdiction of the
20 Superior Court and the Court has jurisdiction to
21 issue an appropriate order. Any failure to obey
22 the order may be punished by the Court as a
23 contempt thereof. The hearing conducted by the
24 panel shall be concluded within twenty days of the
25 selection of the neutral chairperson unless the
26 parties agree to a longer period.

1 (4) The chairperson shall consult with the
2 other members of the panel, and, within ten days
3 following the conclusion of the hearing, the
4 chairperson shall make a written findings of fact
5 and a written determination of the issues in
6 dispute, based on the evidence presented. A copy
7 thereof shall be served on the Officer, on each of
8 the members of the panel, and on each of the
9 parties to the dispute. That determination shall
10 be final and binding on the parties to the dispute,
11 subject to review by the Commonwealth Superior
12 Court upon the application of either party solely
13 upon the question of whether the decision of the
14 panel was arbitrary or capricious.

15 (d) Fact-Finder. If either party, by written
16 notice to the other party and the Officer, requests that
17 matters in dispute be submitted to a fact-finder for
18 recommendations, initiation of fact-finding proceedings
19 shall commence.

20 (1) The Officer shall provide the parties
21 with a list of five persons qualified to serve as
22 the neutral fact-finder. The parties shall without
23 delay attempt to agree upon a fact-finder from the
24 list provided or to agree upon some other person as
25 a fact-finder. If after seven days after the
26 issuance of the list, the parties fail to agree
27 upon a fact-finder, then the Officer shall appoint
28 a fact-finder. The fact-finder so appointed shall
29 not be the mediator appointed in the dispute;

1 (2) The fact-finder shall promptly establish
2 a date, time, and place to meet with the
3 representatives of the parties and shall provide
4 reasonable notice of the meeting to the parties to
5 the dispute. The fact-finder shall make inquiries
6 and investigations, hold hearings, and take such
7 other steps as deemed appropriate. The fact-finder
8 may issue subpoenas requiring the attendance and
9 testimony of witnesses and production of evidence;

10 (3) The fact-finder shall, within fifteen
11 days following the conclusion of the hearing, make
12 written findings of fact and written
13 recommendations to the parties as to how their
14 dispute should be resolved. A copy shall be
15 delivered or mailed by certified mail to each of
16 the parties of the dispute. A copy shall be filed
17 with the Office. The findings and recommendations
18 of the fact-finder are advisory only.

19 Section 6. Enforcement. If the representative of either
20 or both the public employees and the public employer refuse to
21 submit to the procedures set forth in Section 5a, b, or c, the
22 parties, or the Officer may invoke the jurisdiction of the
23 Commonwealth Superior Court and the court shall have
24 jurisdiction to issue an appropriate order. A failure to obey
25 such order may be punished by the court as a contempt thereof.
26 A decision of the arbitration panel shall be final and binding
27 on the parties, and may be enforced at the instance of either
28 party, the arbitration panel or the Officer in the
29 Commonwealth Superior Court.

1 Section 7. Prohibition. The right of public employees
2 to engage in any strike, work slowdown or stoppage, or walk
3 out is not granted.

4 Section 8. Penalties.

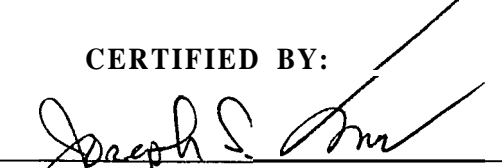
5 (a) Where an organization, group or individual
6 wilfully disobeys a lawful order by the Commonwealth
7 Superior Court pursuant to Section 6 or wilfully offers
8 resistance to such an order, whether by strike or
9 otherwise, the punishment for each day that such contempt
10 persists, may be a fine fixed at the discretion of the
11 court in an amount not to exceed two hundred fifty
12 dollars (**\$250.00**) per day; immediate suspension without
13 pay from any Commonwealth government employment and after
14 seven (7) days, failure to honor such order, may result
15 in termination and a five year disqualification from
16 public employment in any capacity.

17 (b) Where an employer wilfully disobeys a lawful
18 order of the Commonwealth Superior Court pursuant to
19 Section 6 or wilfully offers resistance to such order,
20 the punishment for each day that such contempt persists
21 may be a fine at the discretion of the Court in an amount
22 not to exceed five hundred dollars (**\$500.00**) per day to
23 be assessed against the employer.

24 Section 9. Severability. If any section of this Act or
25 any regulation issued under the authority to this Act should
26 be declared invalid or unenforceable by a court of competent
27 jurisdiction, the judicial determination shall not affect the
28 validity of the Act or regulations as a whole, or any part
29 thereof, other than the particular part declared invalid or
30 unenforceable.


1 Section 10. Effective Date. This Act shall take effect
2 upon its approval by the Governor or upon its becoming law
3 without such approval.

CERTIFIED BY:




JOSEPH S. INOS
President of the Senate

ATTESTED TO BY:



EDWARD U. MARATITA
Senate Legislative Secretary

APPROVED this 1st day of NOVEMBER, 1991.



LORENZO I. DE LEON GUERRERO
Governor
Commonwealth of the Northern Mariana Islands