

NINTH NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE

PUBLIC LAW NO. 9-68  
SENATE BILL  
NO. 9-6, S. D. 1

FIRST REGUALR SESSION, 1994

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AN ACT

To amend and strengthen the Commonwealth Auditing Act of 1983, 1 CMC, Section 7811 et seq., to amend 1 CMC, Section 7831(a), (b), (c), and (d); 1 CMC, Section 7823(a) and (d), 1 CMC, Section 2302(d); to amend 1 CMC, Section 7844(b); to amend 7 CMC, Section 2303(g); and to add new Section 1 CMC 7822(d); 7851; 7852; and to repeal and reenact 1 CMC, Section 2305(a), and add a new Subsection 1 CMC Section 2305(d), and for other purposes.

**BE IT ENACTED BY THE NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:**

Section 1. (a) Short Title. This Act shall be called the "Public Auditor Amendments Act of 1994".

(b) Purpose. It is the purpose of this Act to grant the Office of the Public Auditor greater independence and authority with respect to the executive branch and independent agencies of the Commonwealth Government. This Act also conforms the Commonwealth Auditing Act of 1983, 1 CMC Section 7811, et seq., and other provisions of the Commonwealth law to the recently adopted Constitutional Amendment of Article III, Section 12 (Public Auditor) of the Commonwealth Constitution.

Section 2. Amendment. In order to provide the Public Auditor and his personnel greater independence and authority with respect to the executive branch and independent agencies of the Commonwealth Government, 1 CMC §7823(a) is hereby amended and new subsections (d) and (e) are added thereto to read as follows:

"(a) At the conclusion of the audit, the Public Auditor or a designee shall discuss the audit with the officials whose agency, grant, contract, or activity is subject to audit and submit to them a list of proposed findings which may be included in the audit report. The preliminary audit and proposed findings shall not be made public. If the officials are not available for personal receipt of the list of audit findings, then delivery shall be deemed made when it is delivered to the agency. The agency shall submit to the Public Auditor within 30 days after the receipt of the list of findings, its written statement of explanation or rebuttal concerning any of the adverse or critical audit findings, including any corrective action to be taken to preclude a recurrence of any adverse findings. The Public Auditor shall promptly notify the agency involved as well a the Coordinating Group in the event of an agency's failure to respond or the filing of unresponsive answers to the adverse or critical audit findings. The

Public Auditor shall publish the substance of the agency's response in the audit report."

"(d) The Public Auditor shall promptly make public in its entirety all final audit reports, recommendations, and other reports made. The audit report recommendations shall be implemented by the audited agency unless otherwise agreed on by the Public Auditor."

"(e) The Public Auditor shall report semi-annually to the Legislature on the audited agencies' compliance with the Public Auditor's recommendations."

Section 3. Repeal and Re-enactment. In order to conform 1 CMC Section 7831(a) to Article III, Section 12 of the Constitution requiring an annual budget for the Office of the Public Auditor of at least \$500,000, and to affirm the independence of the Office as established by 1 CMC Section 2301, 1 CMC Section 7831 is hereby repealed and re-enacted to read as follows:

"(a) The Director of Finance shall withhold one percent of all locally generated funds appropriated by Commonwealth law for all Commonwealth Government Agencies' operations and activities as well as for all capital improvement projects and, in no event, no less than \$1,000,000 for the Office of the Public Auditor. The term "appropriated by law" includes appropriations pursuant to the continuing spending authority provided for in Article III, Section 9(a) of the Commonwealth Constitution. The withheld amounts shall be deposited in a special account established by the Director of Finance separate from the General Fund, to be administered in accordance with 1 CMC §7206 and, therefore, may be expended without further appropriation. The Office of the Public Auditor shall report no later than 3 months after the closing of each fiscal year, to the Governor and the Legislature in detail on the use of the funds.

(b) The executive directors of all public corporations or other autonomous agencies of the Commonwealth which are not funded primarily by legislative appropriations shall pay to the Public Auditor an amount not less than the greater of one percent of its total operations budget from sources other than legislative appropriations or pursuant to any other formula upon which the Public Auditor and the agency may agree. The funds shall be administered pursuant to Subsection (a) of this Section.

(c) No funds paid into the account of the Office of the Public Auditor shall be reprogrammed for any other purpose to any other agency.

(d) The Legislature shall be exempt from the requirement of one percent contribution of legislative funds to the Office of the Public Auditor."

Section 4. Repeal and Re-enact. In order to conform 1 CMC Section 2302(d) to Article III, Section 12 of the Constitution mandating appointment of a temporary public auditor by the Governor, rather than the Senate President, 1 CMC Section 2302(d) is hereby repealed and re-enacted to read as follows:

"(d) If there is a vacancy in the Office of the Public Auditor, the Governor shall appoint a temporary public auditor with the same qualifications as required by law for the Public Auditor and the temporary public auditor shall serve until a Public Auditor is duly appointed and confirmed."

Section 5. Amendment. 1 CMC Division 7, Chapter 3 is amended by adding a new Section 7852 to read as follows:

"7852. Exclusion from Government Service. Any person who is convicted under a

prosecution pursuant to Section 7847 of this Chapter shall be prohibited from working for the Government of the Commonwealth for a period of ten years from the date of conviction of a crime."

Section 6. Repealed and Re-enacted. 7 CMC Section 2303(g) is hereby repealed and re-enacted to read as follows:

"(g) "Public Entity" means any governmental legal entity that is capable of suing or being sued, within the Executive, Legislative or Judicial Branches of the Government of the Northern Mariana Islands. Public entity includes government corporations, independent agencies, and the Public Auditor."

Section 7. Repeal and Re-enact. 1 CMC Section 7844(b) is hereby repealed and re-enacted to read:

"(b) The Public Auditor and his or her designees may audit and enforce a taxpayer's or debtor's compliance with Commonwealth law in the same manner and with the same authority as the Director and employees of the Department of Finance have to audit and enforce a taxpayer's or debtor's compliance with Commonwealth law. The Public Auditor may conduct audit activities after written notice to the Director of Finance."

Section 8. Repealer and Re-enact. 1 CMC Section 2305(a) is repealed and reenacted to read as follows:

"(a) The Public Auditor may appoint and remove such employees as he or she deems necessary to perform the duties of the office. These employees may include assistant public auditors, accountants, auditors, financial management analysts, investigators, attorneys, paralegals, secretaries, clerks and the like. All personnel employed by or contracted for by the Office of Public Auditor shall be exempt from the application of the Commonwealth Civil Service Act (1 CMC 8101 et seq.). The Office of the Public Auditor shall set its own compensation, wage and salary scales. The wage and salary scales shall be commensurate with those paid by the Commonwealth requiring comparable education, training and experience. The Office of the Public Auditor may provide staff housing as part of its compensation package to its employees. The Office of the Public Auditor may administer a program of staff housing for its employees."

Section 9. Repeal and Re-enact. 1 CMC 2305(d) is hereby repealed and re-enacted to read:

"(d) The Public Auditor shall promulgate procurement regulations substantially similar to CNMI Procurement Regulations and shall administer its own procurement function."

Section 10. Severability. Should any portion of this Act be held invalid by a court of competent jurisdiction the remaining portion shall not be affected by such holding.

Section 11. Effective Date. This Act shall be effective upon its approval by the Governor or its becoming law without such approval.

**CERTIFIED BY:**

**ATTESTED TO BY:**

/s/ Juan S. Demapan  
JUAN S. DEMAPAN  
PRESIDENT OF THE SENATE

/s/ David M. Cing  
DAVID M. CING  
SENATE LEGISLATIVE SECRETARY

Approved this 31st day of October, 1995.

/s/ Froilan C. Tenorio  
FROILAN C. TENORIO  
GOVERNOR  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS