

TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

H. B. NO. 10-173

FIRST REGULAR SESSION, 1996

AN ACT

To repeal and reenact 3 CMC Section 4434 (e) and (i); and for other purposes.

BE IT ENACTED BY THE TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Title. This Act may be known as the “Nonresident Worker Extension Act of 1996.”

Section 2. Findings and Purpose. The Legislature finds that current law exempts particular departments, agencies and other entities from the blanket prohibition on the hiring of nonresident workers by the Commonwealth Government and allows these entities to hire nonresident workers with limited restrictions. The Legislature also finds that sound social policy dictates that the Commonwealth Government reduce and eventually phase out its reliance on nonresident labor.

The Legislature further finds that, in accordance with Public Law 7-45, the exemptions for some of the entities have expired on September 30, 1995. The Legislature also recognizes that there is yet an insufficient locally available labor pool to supply the professional and technical needs for some of these Commonwealth government entities. For example, the local labor pool is presently incapable of supplying sufficient numbers of doctors, dentists, nurses, auditors, mechanics and teachers. To accommodate both the social policy of phasing out nonresident labor and the economic reality of current continued need, it is the purpose of this legislation to provide a mechanism whereby the number of nonresident workers employed by the Commonwealth government will be reduced by governmental responsibility and accountability. This legislation will extend the sunset provision imposed by Public Law 7-45 to September 30, 2000. The Legislature further finds that it was the intent of Public Law 7-45 to restrict the Commonwealth government from hiring nonresident workers both directly and indirectly through the use of manpower services or agencies.

It is the further purpose of this legislation to insure that all exempted government entities are actively working toward phasing out the reliance on nonresident workers. Therefore, this legislation requires each of the exempt government entities to develop a comprehensive manpower training and education plan in coordination with the Northern Marianas College and the Office of Personnel Management. This plan must include a management intern program for employees to receive the necessary job-skills training and/or education to eventually fill the positions currently occupied by non-resident workers. Furthermore, each government entity authorized under this Act to hire nonresident workers shall report annually, in writing, to the presiding officers of each house of the Legislature on the progress and status of this plan.

Section 3. Amendment. 3 CMC Section 4436 is hereby amended to add a new subsection (e) to read as follows:

“(e) A Nonresident Worker Certificate shall not be issued or renewed for any position for employment with the Commonwealth government unless the Office of Personnel Management, the President of the Northern Marianas College, or the Commissioner of Education, as the case may be, certifies that no resident worker is available to fill the position.”

Section 4. Repealer and Reenactment. 3 CMC Section 4434 (e) is hereby repealed and reenacted to read as follows:

“(1) The Director of Labor shall not approve Nonresident Worker Certificates for the following job classifications: taxi cab driver, secretary, bookkeeper, accounting clerk, messenger, receptionist, surface tour boat operator, bus driver, including tour bus driver, and telephone switchboard operator.

(2) The Director shall not approve Nonresident Worker Certificates for employment unless the number of resident workers employed by the applicant employer is at least equal to the number of nonresident workers employed by the applicant employer in any of the following job classifications: retail trade clerk, retail trade cashier, hotel front desk clerk, janitor, security guard, custodian, and tour guide. However, the Director may conditionally waive this restriction in accordance with provisions of 3 CMC § 4436 (b).

(3) The Director, or his/her designated representative, shall insure that job classifications established by the employer, together with occupational qualifications and experience, are reasonable for the position being applied for, and in the event the Director, or his/her designated representative, determines that such job classification or occupational qualifications or experience is not reasonable for such position, the Nonresident Worker Certificate shall not be approved.”

Section 5. Repealer and Reenactment. 3 CMC Section 4434 (i) is hereby repealed and reenacted to read as follows:

“(i) The Director shall not approve Nonresident Worker Certificates for any position for employment within the Commonwealth government except for employment within the following government entities and under the following conditions:

(A) In the Public School System for persons employed as of the effective date of this Act; provided, however, that nonresident workers employed as classroom teachers or supervisory personnel of classroom teachers, including but not limited to coordinators of special education programs, and education specialists must be a graduate of college or university in the United States, or which are accredited by the United States accrediting associations, or alternatively, must be graduate of a college or university and shall pass, prior to being issued a Nonresident Worker Certificate,

a “BESTE” test for English proficiency or its functional equivalent as designated by the Board of Education;

(B) In the Department of Public Health. Applicants for nursing positions shall be graduates of recognized colleges or universities with a degree in nursing science in his/her country of origin and shall successfully satisfy all-in-country licensing requirements prerequisite to employment as board licensed and registered nurses.

(C) In the office of the Public Auditor; provided, however, that such nonresident workers shall meet minimal professional qualifications imposed by the Public Auditor.

(D) For technical and professional employees in the Technical Services Division and the Division of Environmental Quality of the Department of Public Works; provided, however, that such nonresident workers must meet professional qualifications imposed by the Secretary of the Department of Public Works.

(E) For instructors, research scientists and other technical and professional employees at the Northern Marianas College; provided, however, that such nonresident workers must be graduates of colleges or universities in the United States, or colleges or universities which are accredited by the United States accrediting association, or, alternatively, that such nonresident workers are doctoral degree holders issued by colleges or universities in the United States, or colleges or universities which are accredited by the United States accreditation association.

(F) In the Commonwealth Utilities Corporation for technical and professional employees.

(G) In the Department of Commerce for temporary or part-time employees as needed for censuses and statistical surveys.

(2) In coordination with the Office of Personnel Management, the Northern Marianas College or the Public School System, as the case may be, each Commonwealth government entity authorized to hire nonresident workers pursuant to this Act shall develop a comprehensive manpower training and education plan. This plan must include a management intern program for employees to receive the necessary job-skills training and/or education to eventually fill the positions currently occupied by non-resident workers. At least 60 days prior to the beginning of each fiscal year, the hiring government entity shall report annually, in writing, to the presiding officers of each house of the Legislature on the progress and status of this plan together with a funding request necessary to implement the plan. Failure of the government hiring authority to comply with this provision shall be grounds to suspend the privilege of hiring non-resident workers by the non complying entity.

(3) Except for the employment of medical doctors, midwives, and dentists by the Department of Public Health, the exceptions authorized herein shall expire on September 30,

2000.”

Section 6. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 7. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 8. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

/s/ Diego T. Benavente
DIEGO T. BENAVENTE
Speaker
House of Representatives

ATTESTED BY:

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
House Clerk

Approved this 6th day of March, 1996

/s/ Froilan C. Tenorio
FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands