

TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

THIRD REGULAR SESSION, 2001

Public Law 12-65

H. B. NO. 12-376, SD2

AN ACT

To further amend the Commonwealth Auditing Act of 1983 for the purpose of addressing the section of the “Nonresident Worker Extension Act” affecting the ability of the Office of the Public Auditor to hire nonresident professionals after September 30, 2000, and for other purposes.

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

Section 1 Short Title. This Act shall be called the “Commonwealth Auditing Amendments Act of 2001.”

Section 2. Purposes. The purposes of this Act are: (1) to extend the exemption granted to the Office of the Public Auditor (OPA) for hiring nonresident professionals beyond September 20, 2000 and until three years after the effective date of this act when at such time as sufficient professionals in the field of accounting or auditing are available locally, (2) to allow the Public Auditor to grant compensation packages beyond the ceiling previously established in the Compensation Adjustment Act (1 CMC § 8248) in order to attract and retain professionals and mitigate the effect of the restriction against engaging in any other business, profession, or government office, and (3) to actively involve OPA in monitoring the progress of students receiving CNMI financial assistance (grants and/or loans) in connection with their taking courses for degrees in accounting or auditing. The Legislature further finds that in view of the immense responsibilities placed upon the Office of the Public Auditor the salary of the Public Auditor must be commensurate with such responsibilities and qualifications required for the position. Therefore, this act raises the annual base salary of the CNMI Public Auditor to reflect the prominent policing role of that office.

Section 3. Repealer and Reenactment. 1 CMC §2305 is hereby repealed and reenacted to read as follows: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. Provided, however, that in order to attract and retain professional staff members and to mitigate the economic impact of the restriction imposed in paragraph (b) of this section, the Public Auditor shall be allowed to set higher compensation rates for certain technical and managerial positions to be determined by the Public Auditor. The higher compensation rates shall be exempt from the salary ceiling established by the Compensation Adjustments Act (1 CMC § 8248); provided further that such compensation and salary adjustment schedule shall be approved by the Legislature. The Office of the Public Auditor may provide staff housing or housing allowance as part of its compensation package to its employees. The Office of the Public Auditor shall administer the housing program for its employees.

(b) The Public Auditor may establish supplemental personnel regulations including a code of ethics for the employees of the office. No employee of the Office of the Public Auditor may hold, or be a candidate for, any elective public office while an employee, nor may the employee hold office in any political party or political committee, or participate in any political campaign of any candidates for public office

while an employee. No employee may actively engage in any other business, profession, or governmental office.

(c) Notwithstanding the provisions of any other CNMI laws, nonresident workers as defined in 3 CMC § 4412(i) are not permitted to work for the Office of the Public Auditor, except to fill a vacant professional position when no resident applicant for such position is found to be qualified. The Office of the Public Auditor may hire up to five nonresident workers under this subsection, provided that the employment of any nonresident worker hired pursuant to this subsection shall automatically expire not later than three years from the effective date of this Act.

(d) The Office of the Public Auditor shall still comply with the requirement of 3 CMC § 4434(i)(2) to implement a management intern program. The Public Auditor is authorized to hire up to ten additional employees for the management intern program. The Public Auditor may reprogram funds appropriated to its office to fund the salaries and expenses associated with hiring and training the additional employees.

(e) On or before May 31 each year, the Scholarship Office, the Northern Marianas College, and any other CNMI agency overseeing any scholarship program shall provide the Office of the Public Auditor, the Presiding Officers of the Legislature, the Chairpersons of Committees with oversight on education in both House of the Legislature, and the Office of Personnel Management with a list of resident students pursuing college degrees. The list shall be sorted by name and shall show the field of study, number of years in college, and expected year to graduate. The list shall be used by the CNMI Legislature in determining when to pass a law that will cease allowing the Office of the Public Auditor to hire nonresident professionals.

(f) The Public Auditor may, when in his or her judgment it is necessary, delegate any duties and powers to any employees employed by the Public Auditor. The employees shall report their findings for review by the Public Auditor.

(g) The Public Auditor shall promulgate procurement regulations substantially similar to Commonwealth procurement regulations and shall administer its own procurement function.

Section 4. Public Auditor Compensation. Notwithstanding any provision of law, the Public Auditor shall receive an annual salary not to exceed \$100,000.00

Section 5. Reprogramming Authority. Notwithstanding any other provision of law to the contrary, the Public Auditor is authorized to reprogram funds appropriated to its office to accommodate the increase in the Public Auditor's salary pursuant to Section 4 of this Act.

Section 6. Amendment. 1 CMC §7823 is amended by adding subsection (f) to read as follows:

“§ 7823. Audit Procedures and Requirements.

(f) It shall be unlawful for any person in possession of, with knowledge of, or privy to information contained in a preliminary audit and proposed findings report (draft audit report) to disseminate, release, disclose or otherwise reveal the substance of such report to anyone not included in the report's distribution list, unless necessary for agency comments. A violation of this subsection shall be punished by imprisonment for not more than six months, or a fine of not more than \$1,000.00 or both.”

Section 7. 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 8. 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 9. Effective Date. This Act shall take effect upon its approval by the Governor, or its becoming law without such approval.

CERTIFIED BY:

ATTESTED TO BY:

/s/ _____

BENIGNO R. FITIAL
SPEAKER OF THE HOUSE

/s/ _____

EVELYN C. FLEMING
HOUSE CLERK

Approved this 27th day of September, 2001

/s/ _____

PEDRO P. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS