

FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIFTH SPECIAL SESSION, 2006 SENATE BILL NO. 15-51, SD2, HS2, HD3, SS1, HS3

AN ACT

To implement a reduced-hour government pay period, establish government austerity holidays within the Commonwealth; and for other purposes.

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

1 **Section 1. Findings and Purpose.** The Commonwealth Legislature finds that the
2 CNMI government must immediately implement austerity measures to alleviate the current
3 financial crisis. The Legislature further finds that a bi-weekly government shutdown would
4 save the CNMI millions of dollars in both personnel and operational costs, and equitably
5 reduce government employee work hours. This action would serve a compelling
6 government interest in furthering the financial integrity of the Commonwealth. Therefore, it
7 is the purpose of this Act to declare an unpaid government austerity holiday once per pay
8 period for the remainder of Fiscal Year 2006 and for Fiscal Year 2007.

9 It is the intent of the Legislature that these austerity measures apply to all
10 government employees, both civil and excepted service, and employees of autonomous
11 agencies, municipal employees, and federally funded employees. It is the intent of the
12 Legislature that the government's normal pay period be reduced to 72 hours every two
13 weeks. The Legislature also finds that because the terms of certain employment contracts
14 will take some time to alter through termination and renegotiation, excepted service contract
15 employees shall be subject to one additional government austerity holiday after the
16 expiration of this Act for non-contract employees.

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1 Notwithstanding the above findings, the Legislature finds that due to the particular
2 nature and purpose of the Public School System, certain exemptions may be necessary to
3 ensure the adequate delivery of services to students of the Commonwealth. The Legislature
4 further finds that certain salaries in the CNMI government are constitutionally protected and
5 would require a constitutional amendment to reduce. To this end, the Legislature has
6 provided for specific exemptions from the coverage of this Act.

7 The Legislature finds that this Act should supersede contrary provisions of law for
8 the time it is in effect. The Legislature further finds that, if this law is enacted, the Governor
9 is requested to rescind notices of furlough issued to employees of the executive branch on
10 July 20, 2006, or thereafter.

11 **Section 2. “Reduced Work Hours.”**

- 12 (a) As provided herein, the work schedule of all full-time government employees
13 shall be 72 hours per pay period. All full-time government employees,
14 including employees of autonomous agencies and municipal entities, and
15 employees funded by federal grants, indirect cost funds, or any federal
16 funding source, unless expressly exempted, shall be subject to the terms of
17 this Act.
- 18 (b) Government Employees of the Civil and Excepted Service Without
19 Contracts. Effective for the pay period ending September 8, 2006, the work
20 hours of all government employees of the civil and excepted service without
21 contracts, including employees of autonomous agencies and municipal
22 employees, shall be 72 hours per pay period. This Act shall not alter the
23 hourly rate of affected employees. Except as provided by this Act, employees
24 falling under this subsection shall not be required to work on government
25 austerity holidays listed in Section 3.
- 26 (c) Contract Employees. Effective immediately upon the enactment of this law,
27 all persons with hiring authority for contract government employees,
28 including employees of autonomous agencies and municipal employees, and
29 employees funded by federal grants, indirect cost funds, or any federal

1 funding source, shall begin to take the necessary actions to reduce the
2 working hours of said employees subject to the terms of their employment
3 contracts, if any. Said negotiations shall take into account a mandated 72
4 hour pay period. This Act shall not alter the hourly rate of affected
5 employees. For the purposes of this subsection, “Contract Employees” shall
6 be defined as all government employees employed by contract, including
7 Civil Service Employees and employees excepted from the Civil Service.
8 Except as provided by this Act, employees falling under this subsection shall
9 not be required to work on government austerity holidays listed in Section 3.

10 (d) All new contracts for government employees entered into after the enactment
11 of this legislation shall be consistent with this Act.

12 (e) All employment contracts entered into by any entity, including departments,
13 divisions, or agencies of the CNMI government, including autonomous
14 agencies and municipalities, after the effective date of this Act shall contain
15 the following provision:

16 “WORK REDUCTION, SHUTDOWN, FURLOUGH, OR OTHER FISCAL
17 AUSTERITY MEASURES: THE TERMS OF THIS CONTRACT SHALL BE
18 SUPERSEDED BY ANY LEGISLATION ENACTED TO REDUCE GOVERNMENT
19 PAYROLL OBLIGATIONS BY WAY OF WORK HOUR REDUCTION,
20 GOVERNMENT SHUTDOWN, FURLOUGH, OR OTHER MEASURES ADOPTED
21 FOR THE EXPRESS PURPOSE OF FISCAL AUSTERITY. THE PARTIES TO THIS
22 CONTRACT AGREE THAT THE (HIRING AUTHORITY) SHALL NOT BE
23 LIABLE FOR ANY DEDUCTIONS IN PAY OR BENEFITS DUE TO SUCH
24 LEGISLATION.”

25 (f) In the event that the pay period is restored to a full 80 hours, the contracts of
26 contract government employees shall be renegotiated accordingly.

27 (g) For the purpose of this section, “hourly rate” shall mean the hourly rate
28 provided by law or contract, or the salary per annum prior to the enactment of
29 this Act divided by 2,080.

1 **Section 3. “Government Austerity Holidays.**

- 2 (a) The following days are hereby declared as government austerity holidays in
3 the Commonwealth:
4 September 8, 2006;
5 September 22, 2006;
6 October 6, 2006;
7 October 20, 2006;
8 November 2, 2006;
9 November 17, 2006;
10 December 1, 2006;
11 December 15, 2006;
12 December 29, 2006;
13 January 12, 2007;
14 January 26, 2007;
15 February 9, 2007;
16 February 23, 2007;
17 March 9, 2007;
18 March 22, 2007;
19 April 5, 2007;
20 April 20, 2007;
21 May 4, 2007;
22 May 18, 2007;
23 June 1, 2007;
24 June 15, 2007;
25 June 29, 2007;
26 July 13, 2007;
27 July 27, 2007;
28 August 10, 2007;
29 August 24, 2007;

1 September 7, 2007;
2 September 21, 2007.

3 (b) All government employees, including employees of autonomous agencies
4 and municipal employees, and employees funded by federal grants, indirect
5 cost funds, or any federal funding source, unless otherwise provided by law,
6 shall not be required to work and shall not, except to the extent required by
7 the terms of an employment contract, be compensated on a government
8 austerity holiday. No annual, sick, or other leave shall be approved for any
9 government employee for all or any part of a government austerity holiday.

10 (c) All government offices and buildings, subject to subsection (d) of this
11 section, shall be closed for all business on government austerity holidays in
12 the same manner as holidays established pursuant to 1 CMC § 311.

13 (d) (1) Government departments, divisions, and agencies, including
14 autonomous agencies and municipal entities, normally required to
15 open on a legal holiday established pursuant to 1 CMC § 311 may
16 open on a government austerity holiday. Departments, divisions, and
17 agencies, including autonomous agencies and municipal entities,
18 required to maintain a 24-hour schedule may remain open on
19 government austerity holidays. Buildings necessary for the
20 instruction of students enrolled in the Public School System may
21 remain open on government austerity holidays, consistent with
22 Section 4(c) of this Act.

23 (2) Employees of departments, divisions, and agencies, including
24 autonomous agencies and municipalities falling under this subsection
25 (d), shall be employed for 72 regular hours per pay period and paid at
26 a rate based on their normal hourly wage prior to the enactment of this
27 Act and a 72-hour pay period. In the case of work in excess of 72
28 hours per pay period, employees of entities falling under this
29 subsection (d) shall be paid at their normal hourly rate up to 40 hours

1 per week. Premium or overtime pay shall only be authorized for work
2 in excess of 40 hours per week.

3 (e) Reservation: Government employee benefits shall not be diminished by an
4 austerity holiday and shall be accrued as if the employee had worked a full
5 eighty (80) hour per pay period.”

6 **Section 4. “Exemptions.”**

7 (a) Constitutionally Protected Salaries. This Act shall not apply to the salaries of
8 the Members of the Legislature, the Governor or Lieutenant Governor, or the
9 Justices or Judges of the Commonwealth Supreme and Superior Courts
10 protected by the CNMI Constitution. Notwithstanding this exemption, these
11 officials are encouraged to waive 10% of their salaries or 8 hours per pay
12 period for the effective period of this Act. Any portion of a salary waived
13 under this subsection shall remain in the General Fund.”

14 (b) The Governor shall have discretion to exempt critical positions within the
15 Executive Branch from this Act. Any exemption shall be transmitted to the
16 Legislature.

17 (c) Public School System. The Public School System shall be exempt from
18 Section 3 of this Act if the Commissioner determines that compliance with
19 Section 3 will conflict with the Commonwealth Education Act (3 CMC
20 § 1101 et seq.), school accreditation requirements, federal funding
21 requirments, or student welfare. In the event of conflict, the Commissioner
22 of Education may elect to continue the currently scheduled 2006-2007
23 academic year and implement a schedule for 26 consecutive government
24 austerity holidays following the close of the school year in the Summer of
25 2007. Any period of consecutive government austerity holidays scheduled in
26 this manner shall not include weekends or holidays defined in 1 CMC § 311.
27 Savings realized as a result of any government austerity holidays shall remain
28 with PSS for the procurement of textbooks and classroom supplies. Extended
29 Year Programs are exempt from all provisions of this Act.

1 **Section 5. Sunset Provision.** This Act shall expire on September 30, 2007, or
2 earlier as provided by law, except that if not superseded the terms of this Act shall remain in
3 effect for one additional pay period following September 21, 2007, for contract employees
4 falling under Section 2(c) of this Act, whether civil or excepted service. Employees subject
5 to Section 2(c) of this Act shall receive one additional government austerity holiday on
6 October 5, 2007.

7 **Section 6. Reporting.** The Secretary of Finance shall report any savings realized as
8 a result of this Act to the Legislature on a quarterly basis.

9 **Section 7. Preemption.** In the case of conflict with current law, this Act shall
10 supersede any statute, regulation, rule, or common law provision for the period it remains in
11 effect.

12 **Section 8. Cancellation of Furlough.** The Legislature requests that, upon
13 enactment of this bill into law, the Governor rescind all notices of furlough issued by
14 departments of the executive branch on July 20, 2006, or thereafter.

15 **Section 9. Severability.** If any provision of this Act or the application of any such
16 provision to any person or circumstance should be held invalid by a court of competent
17 jurisdiction, the remainder of this Act or the application of its provisions to persons or
18 circumstances other than those to which it is held invalid shall not be affected thereby.

19 **Section 10. Savings Clause.** This Act and any repealer contained herein shall not be
20 construed as affecting any existing right acquired under contract or acquired under statutes
21 repealed or under any rule, regulation or order adopted under the statutes. Repealers
22 contained in this Act shall not affect any proceeding instituted under or pursuant to prior
23 law. The enactment of this Act shall not have the effect of terminating, or in any way
24 modifying, any liability, civil or criminal, which shall already be in existence on the date
25 this Act becomes effective.

26 **Section 11. Effective Date.** This Act shall take effect upon its approval by the
27 Governor or its becoming law without such approval.

CERTIFIED BY:

ATTESTED BY:

/S/

JOSEPH M. MENDIOLA
President of the Senate

/S/

PETE P. REYES
Chairman, Rules and Procedures

Approved this 18th day of August, 2006

/S/

BENIGNO R. FITIAL
Governor
Commonwealth of the Northern Mariana Islands