

I Mina'Trentai Kuåttro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
60-34 (COR)	Fernando Barcinas Esteves Tommy A. Morrison	AN ACT TO AMEND §§ 1105, 1106, 1112, 1118(a), and 1119 ALL OF CHAPTER 1 AND TO ADD A NEW CHAPTER 15, OF TITLE 2, GUAM CODE ANNOTATED; TO AMEND §§ 4102, 4105, 4403(g), AND 4702, ALL OF CHAPTER 4, TO AMEND § 5101(a) OF CHAPTER 5, TO AMEND §§ 6102, 6103, 6302, 6304, AND TO ADD A NEW (e) TO § 6303, ALL OF CHAPTER 6, TITLE 4, GUAM CODE ANNOTATED; AND TO REPEAL CHAPTER 20 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CITIZENS' LEGISLATURE ACT.	4/4/17 8:30 a.m.						

I MINA'TRENTAI KUATTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. 60-34 (COR)

Introduced by:

Fernando Barcinas Esteves *F.E.*
Tommy Morrison *T.M.*

AN ACT TO *AMEND* §§ 1105, 1106, 1112, 1118(a), and 1119 ALL OF CHAPTER 1 AND TO *ADD* A NEW CHAPTER 15, OF TITLE 2, GUAM CODE ANNOTATED; TO *AMEND* §§ 4102, 4105, 4403(g), AND 4702, ALL OF CHAPTER 4, TO *AMEND* § 5101(a) OF CHAPTER 5, TO *AMEND* §§ 6102, 6103, 6302, 6304, AND TO *ADD* A NEW (e) TO § 6303, ALL OF CHAPTER 6, TITLE 4, GUAM CODE ANNOTATED; AND TO *REPEAL* CHAPTER 20 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CITIZENS' LEGISLATURE ACT.

2017 APR -4 AM 8:30



BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. This Act *shall* be known and *may* be cited as the "Citizens' Legislature Act."

Section 2. § 1105 of Chapter 1 of Title 2, Guam Code Annotated is *amended* to read:

"§ 1105. Senators, ~~Terms of~~.

(a) Senators elected to the Guam Legislature shall hold office for a term of two (2) years and until their successors are elected and qualified. The term of

1 Senators elected to the Guam Legislature shall commence on the first Monday of
2 January following the date of election.

3 (b) Every senator shall, on the days of every session of the legislature at
4 which he or she is in attendance, be entitled to absent himself or herself from any
5 employment in which he or she is then engaged. The senator shall not, because of
6 so absenting himself or herself, be liable to loss of employment, demotion or loss
7 of seniority on account of such absence.

8 (c) An employer shall not deprive an employee of his or her employment, or
9 threaten or otherwise coerce him or her with respect thereto, because the employee
10 is a senator or candidate for senator. Any employer who violates this subsection is
11 guilty of a petty misdemeanor.

12 (1) If an employer discharges an employee in violation of this
13 subsection, the employee within ninety (90) days from the date of discharge
14 may bring a civil action for recovery of wages lost as a result of the violation
15 and for an order requiring the reinstatement of the employee. Damages
16 recoverable shall not exceed lost wages for six (6) weeks. If he prevails, the
17 employee shall be allowed a reasonable attorney's fee fixed by the court.

18 (d) No senator shall be a director or deputy director or member of any board
19 or commission of any government of Guam agency, department or instrumentality,
20 including semi-autonomous or autonomous agencies or branch of the government
21 of Guam or an unclassified employee thereof. The appointment or election of any
22 person to such agency, department, instrumentality, board, or commission or
23 branch of the government of Guam shall become void if he or she is duly elected
24 to I Liheslatura. No senator shall be a special or staff assistant, advisor, or
25 employee of the Governor or Lieutenant Governor. No senator shall be an
26 administrator or in a senior level management position of the Judiciary or be an
27 unclassified employee of any judge or justice."

1 **Section 3.** § 1106 of Chapter 1 of Title 2, Guam Code Annotated is
2 *amended* to read:

3 "**§ 1106. Legislative ~~Compensation and Allowances~~Stipends and Session Per**
4 **Diem Rates.**

5 Notwithstanding any other provision of law, legislative compensation and
6 allowances shall be:

7 (a) Each senator shall be compensated with a stipend at the rate of
8 One Thousand Dollars (\$1,000.00) per month and a session per diem at the
9 rate of One Hundred Forty Dollars (\$140.00) per session day. Such
10 compensation shall be paid out of funds to be appropriated to *I Liheslatura*
11 *Guåhan*. Senators shall be eligible for the same medical insurance as
12 legislative employees. Senators shall not be eligible for government of
13 Guam retirement benefits. Persons who are government of Guam retirees
14 may serve as senators in the Legislature without giving up their retirement
15 benefits.

16 ~~(b) From the date of enactment of this Subsection (b) and until the end~~
17 ~~of Fiscal Year 2003, the annual salary of Senators of *I Mina' Bente Siete Na*~~
18 ~~*Liheslaturan Guåhan* [the Legislature] shall be based on eighty percent~~
19 ~~(80%) of the amount as computed according to Subsection (a) of this~~
20 ~~Section, for a reduction of twenty percent (20%).~~

21 ~~(e)~~(b) In the event that the annual operating budget for the
22 government of Guam expires and no new annual operating budget has been
23 enacted into law in accordance with the Organic Act, or rolled over from the
24 previous year, then the ~~salaries~~stipends of Senators of *I Liheslaturan*
25 *Guåhan* shall be suspended and will resume prospectively only when a new
26 annual operating budget for the government of Guam is enacted into law.
27 ~~This subsection (c) shall be subject to the following:~~

1 (1) Such suspension of ~~salaries~~stipends shall not take place if
2 the failure to enact an annual budget is due to an emergency resulting
3 from a natural or other disaster, or hostile action.

4 ~~(2) The government of Guam's share of retirement, Social~~
5 ~~Security, and health and other insurance payments shall be the~~
6 ~~individual responsibility of the Senators of I Liheslaturan Guåhan for~~
7 ~~the suspension period."~~

8 **Section 4.** § 1112 of Chapter 1 of Title 2, Guam Code Annotated is
9 *amended* to read:

10 "(a) Upon the election of the Speaker, the Legislature shall proceed to
11 organize, adopting rules governing its procedure and with the election of a Vice-
12 Speaker, Legislative Secretary and Secretary General of the Guam delegation to
13 the Asian Pacific Parliamentarians Union, who shall be members of the
14 Legislature, and the following attaches: Sergeant-at-Arms, Chaplain, Recording
15 Secretary, and Legislative Counsel, none of whom shall be a member of the
16 Legislature. All such officers shall be elected for the entire term of the Legislature
17 and shall serve during all regular and special sessions thereof, unless otherwise
18 ordered by a majority vote of the Legislature.

19 (b) Upon the election of the Chairperson of the Committee on Rules, or its
20 equivalent, the Chairperson shall appoint an Executive Director, who shall be
21 responsible for the general supervision of classified personnel of the Legislature.
22 The salary of the Executive Director shall be fixed by the Committee on Rules
23 pursuant to general Personnel Rules and Regulations covering compensation. The
24 Executive Director may be assigned duties and responsibilities as necessary by the
25 Chairperson of the Committee on Rules, or its equivalent, and other duties
26 pursuant to the Standing Rules of the Legislature."

1 **Section 5.** § 1118(a) of Chapter 1 of Title 2, Guam Code Annotated is
2 *amended* to read:

3 **"§ 1118. Sessions of the Guam Legislature.**

4 (a) The Legislature shall convene in a new regular session at the seat of
5 Government at 10:00 a.m. on the first Monday in January of each year. The regular
6 session shall continue for such period as each Legislature may determine,
7 provided, however, that upon adoption of the Standing Rules, regular session be set
8 therein and in no event shall a session continue beyond midnight of the day
9 preceding the day upon which the next regular session of the Legislature is to
10 convene."

11 **Section 6.** § 1119 of Chapter 1 of Title 2, Guam Code Annotated is
12 *amended* to read:

13 **"§ 1119. Legislative Staff: Employment and Conditions Thereof.**

14 (a) The Legislature, ~~in addition to the attaches referred to in § 1112 of this~~
15 ~~Chapter,~~ may employ ~~such other~~ classified employees in accordance with the
16 Personnel Law and the Compensation Law ~~as it may from time to time require.~~
17 Notwithstanding the provisions of the Personnel Law and the Compensation Law,
18 the methods of appointment and promotion and the compensation, tenure, leave
19 and other conditions of employment of ~~such~~ unclassified employees of each
20 Senator, the Executive Director, and attaches shall be such as the Legislature may
21 from time to time fix by its Standing Rules or by resolution.

22 (b) The Committee on Rules shall certify the amount of compensation due
23 such classified employees in accordance with the Personnel Law and the
24 Compensation Law and unclassified employees, the Executive Director, attaches in
25 accordance with the said Standing Rules or resolution of the Legislature and the
26 disbursing officer of the Legislature shall thereupon pay the same in accordance
27 with said certification.

(c) Notwithstanding any provision of law to the contrary, and to provide for an orderly transition from one Legislature to another, it shall be the duty and obligation of all attaches and the Executive Director~~employees~~ of the Legislature, to remain at their posts and perform their duties until otherwise relieved or until their services are terminated by an outgoing Legislature, within ten (10) days following the declaration of results and issuance of certificates of election under the Election Law, shall account for and effect the orderly turn-over of legislative keys and other property, records and files to the Legislature designated for the purpose by the majority of the incoming Legislators."

Section 7. A new Chapter 15 is *added* to Title 2, Guam Code Annotated is *amended* to read:

"CHAPTER 15

OFFICE OF LEGISLATIVE RESEARCH

§ 15101. Office of Legislative Research, Established.

§ 15102. Duties.

§ 15103. Strict Confidentiality.

§ 15101. Office of Legislative Research, Established.

There is hereby created, within *I Liheslaturan Guåhan*, the Office of Legislative Research ("OLR") for the purpose of providing confidential and nonpartisan legislative drafting services to members of *I Liheslatura*. The Office of Legislative Research *shall* operate under the direction of the Legislative Counsel.

§ 15102. Duties.

The Office of Legislative Research *shall* assist the members of *I Liheslatura*, without partisan bias, in a research and analytical capacity as follows:

(a) Prepare and provide information and research on legislation;

(b) Prepare analyses and summaries of legislation;

(c) Draft or aid in drafting legislation and amendments thereto;

1 (d) Provide advice, including advice on form and procedure, on drafts of
2 legislation; and

3 (e) Perform such other research and analysis services upon request by
4 members of *I Liheslatura*.

5 **§ 15103. Strict Confidentiality.**

6 Neither the Legislative Counsel nor any employee of the Office of
7 Legislative Research nor any official assigned to work with the OLR *shall* reveal
8 to any person outside of the OLR the contents of any request or statement for
9 services, except upon request of the person making such request or statement."

10 **Section 8.** § 4102 of Chapter 4 of Title 4, Guam Code Annotated is
11 *amended* to read:

12 **"§ 4102. Classified and Unclassified Services.**

13 All offices and employment in the Government of Guam, except for
14 employment as Senators of *I Liheslaturan Guåhan* and academic personnel of the
15 Guam Community College (GCC) and the University of Guam (UOG), as the term
16 academic personnel is defined in enabling laws of GCC and UOG, shall be divided
17 into classified and unclassified services as follows:

18 (a) The unclassified service shall include the positions of:

19 (1) elective officials;

20 (2) judges;

21 (3) Superior Court marshal, chief clerk, chief probation officer
22 and court administrator of the Superior Court;

23 (4) heads of agencies and instrumentalities and not more than
24 one (1) secretary for each such officer;

25 (5) The first assistant, by whatever title denominated, to the
26 heads of agencies and instrumentalities stated in paragraph (4) of this
27 Subsection;

1 (6) persons employed on a temporary basis;

2 (7) members of boards and commission;

3 (8) executive director of the Commissioner's Council;

4 (9) all offices and employment in the Executive Branch whose
5 appointment are required to be confirmed by the Guam Legislature;

6 (10) all offices and employment made, by law, to be at the
7 pleasure of any board, commission or officer;

8 (11) all—legislative attaches, the Executive Director of I
9 Liheslatura, and employees of each Senator;

10 (12) members of the Guam Gaming Commission;

11 (13) physicians and health care administrators employed at the
12 Guam Memorial Hospital Authority;

13 (14) With the exception of civilian non-uniformed positions, all
14 positions in the Department of Military Affairs, including the
15 Executive Secretary and Executive Services Coordinator.

16 (14) employees of the office of the Governor and Lieutenant
17 Governor including off-island offices and Government House, as
18 authorized in the applicable appropriation law.

19 (16) Property Management Officer at the Department of
20 Corrections.

21 (17) persons employed on a seasonal basis.

22 (18) not more than one (1) Special Assistant each to the
23 Attorney General of Guam and the Public Auditor.

24 (b) The classified service shall include all other positions in the
25 government of Guam.

26 (c) Notwithstanding any law or rule to the contrary, employment as
27 academic personnel of the Guam Community College and the University of

Guam shall be governed by rule adopted by the Board of Trustees and the Board of Regents, respectively, in order to provide academic freedom and autonomy to the institutions, as intended by P.L. 14-77 as to GCC, and P.L. 19-40 as to UOG.

(d) Notwithstanding any other provision of law there shall be no other personnel classifications in the government of Guam, other than the classified and unclassified services as set forth in this Section. The Director of Administration shall not create any unclassified positions. The Civil Service Commission shall hear no appeal regarding the creation of a new position."

Section 9. § 4105 of Chapter 4 of Title 4, Guam Code Annotated is *amended* to read:

"§ 4105. ~~Departmental~~ Adoption of Personnel Rules.

(a) Rules subject to criteria established by this Chapter governing the selection, promotion, performance, evaluation, demotion, suspension and other disciplinary action of classified employees shall be adopted by the Board of Directors of the Antonio B. Won Pat International Airport Authority, Guam; the Board of Directors of the Guam Economic Development and Commerce Authority; the Board of Directors of the Guam Housing Corporation; the Board of Commissioners of the Guam Housing and Urban Renewal Authority; *I Liheslaturan Guåhan*, the Guam Judicial Council; the Board of Directors of the Jose D. Leon Guerrero Commercial Port; the Guam Education Policy Board; the Board of Regents of the University of Guam; the Guam Community College Board of Trustees; the Board of Trustees of the Guam Memorial Hospital Authority; the Board of Directors of the Guam Visitors Bureau; the Consolidated Commission on Utilities on behalf of the Guam Waterworks Authority and the Guam Power Authority, with respect to personnel matters within their respective Branches,

1 agencies, public corporations or departments, and by the Director of
2 Administration as to all other Executive Branch employment.

3 (b) Such rules shall, to the extent practicable, provide standard conditions for
4 entry into and the other matters concerning the government service. The personnel
5 rules adopted for the Guam Economic Development and Commerce Authority, the
6 Guam Housing Corporation, the Guam Housing and Urban Renewal Authority, the
7 University of Guam, the Guam Community College, the Antonio B. Won Pat
8 International Airport Authority, Guam, the Jose D. Leon Guerrero Commercial
9 Port, the Department of Education, the Guam Memorial Hospital Authority, and I
10 Liheslaturan Guåhan by the Director of Administration, by I Liheslatura, and by
11 the Consolidated Commission on Utilities shall require that all their classified
12 employee appeals, except academic personnel of the Guam Community College
13 and the University of Guam in conformance with Title 4 GCA § 4403(h), be heard
14 by the Civil Service Commission ('Commission').

15 (c) The personnel rules adopted for the Judicial Branch by the Judicial
16 Council shall require that the Council hear all classified employee appeals.
17 Personnel rules governing any other Executive Branch entities shall require that
18 their classified employee appeals be heard by the Commission. Rules concerning
19 the Executive Branch shall take effect upon their approval by the Director of
20 Administration, by Executive Order of *I Maga'lahaen Guåhan* and filing with the
21 Legislative Secretary. Rules concerning I Liheslatura and the Judicial Council
22 shall take effect upon adoption ~~by the Judicial Council of Guam~~ and filing with the
23 Legislative Secretary.

24 (d) Such rules shall include the following provisions:

25 (1) that the minimum rate of each pay range shall be the normal rate
26 for initial employment in the positions and classes assigned thereto;
27 provided, however, that the directors or other department heads may, in

1 accordance with § 6205 of this Title, authorize initial employment in a
2 position at a higher step in the position's pay range if such action is
3 warranted by recruitment difficulties or by the new employee's special or
4 unusual qualifications, including experience;

5 (2) that no spouse of any director, chief administrator or department
6 head within the government of Guam may be employed within the
7 department, agency or instrumentality so headed by such director, chief
8 administrator, department head or other officer;

9 (3) that overtime for these employees entitled hereto shall be
10 calculated at one and one-half (1 1/2) times their regular wage;

11 (4) that employees may work outside employment not in conflict with
12 their government service, nor such as would bring the government of Guam
13 or its employees into disrepute, but that any employee may undertake such
14 employment only if such is not in conflict with that person's duly scheduled
15 hours and only with the consent of that person's department or agency head,
16 which consent may not be unreasonably withheld; and

17 (5) that no person shall be required to work overtime, unless the
18 employee has received certification by the Director that funds for overtime
19 pay as provided in Subsection (3), above, are available.

20 (e) Adoption of such rules is subject to the Administrative Adjudication
21 Law."

22 **Section 10.** Subsection (g) of § 4403 of Chapter 4, Title 4, Guam Code
23 Annotated is *amended* to read:

24 "(g) The provisions of this Section shall not apply to the Judiciary of Guam
25 ~~or I Liheslaturan Guåhan (the Guam Legislature) in compliance with the doctrine~~
26 ~~of Separation of Powers, unless such separate Branch it opts to make them~~itself
27 applicable by submitting to the jurisdiction of the Commission; and all reference to

1 classified employees will be deemed to mean classified employees of the
2 Executive and Legislative Branches, including agencies and authorities;"

3 **Section 11.** § 4702 of Chapter 4 of Title 4, Guam Code Annotated is
4 *amended* to read:

5 "**§ 4702. Jurisdiction Over Sexual Harassment Complaints For All Employees.**

6 As specified in this Chapter, employees in the context of Equal Employment
7 Opportunity complaints involving sexual harassment as defined by Title VII of the
8 Civil Rights Act of 1964 and this Article shall include all classified and
9 unclassified employees of the Executive and Legislative Branches of the
10 government of Guam."

11 **Section 12.** Subsection (a) of § 5101 of Chapter 5 of Title 4, Guam Code
12 Annotated is *amended* to read:

13 "(a) *Employee* means a person employed in ~~the Executive Branch~~ of the
14 government of Guam, including autonomous and semi-autonomous agencies
15 thereof, ~~or in the Judicial Branch~~ with the following exceptions:

16 (1) A person holding elective office;

17 (2) A special or Staff Assistant to the Governor;

18 (3) A person appointed by the Governor with the consent of the
19 Legislature;

20 (4) A person retained from time to time to perform professional or
21 special services for a specific fee; ~~and~~

22 (5) A person working on a casual basis on the days he performs no
23 services; and

24 (6) An employee of a Senator.

25 Employees includes a person on administrative annual, or sick-leave
26 unless such person has resigned and has received a lump-sum payment for
27 such leave. Subject to (5) above, it includes persons not providing

1 professional services for a specific fee who are hired on a temporary, part-
2 time, emergency or casual basis;"

3 **Section 13.** § 6102 of Chapter 6 of Title 4, Guam Code Annotated is
4 *amended* to read:

5 "**§ 6102. Purpose.**

6 The purpose of this Chapter is to provide a uniform and unified system of
7 position classification and compensation ~~for the Executive and Judicial Branches~~
8 ~~of~~ within the Government of Guam. The only exception is for academic personnel
9 of the Guam Community College and the University of Guam which as institutions
10 of higher education, must adhere to accreditation standards established by the
11 appropriate accrediting bodies. The term academic personnel refers to the
12 definitions provided in 17 GCA § 31106 and § 16112, governing academic
13 personnel of Guam Community College and the University of Guam."

14 **Section 14.** § 6103 of Chapter 6 of Title 4, Guam Code Annotated is
15 *amended* to read:

16 "**§ 6103. Scope.**

17 Unless otherwise specified, this Chapter shall apply to all positions, officers,
18 and employees within the government of Guam, classified and unclassified, as the
19 case may be, inclusive of ~~the Executive and Judicial Branches~~, autonomous and
20 semi-autonomous agencies, public corporations, and other public instrumentalities
21 of the government of Guam. The provisions of this Chapter do not apply to
22 academic personnel of the Guam Community College and the University of Guam.
23 The employment and terms and conditions of employment of academic personnel
24 shall be exclusively governed by provisions of the enabling laws of Guam
25 Community College and the University of Guam pertaining to academic personnel,
26 as set forth in Title 17, Guam Code Annotated."

1 **Section 15.** § 6302 of Chapter 6 of Title 4, Guam Code Annotated is
2 *amended* to read:

3 **"§ 6302. Administration.**

4 (a) The Director of Administration shall adopt and apply the currently used
5 unified pay schedule based on the Hay methodology or any other classification
6 methods and salary administration to the extent he deems appropriate. The unified
7 pay schedule, either by the Hay Group or any other experts in classification and
8 pay, shall be administered by the Director of Administration, the Committee on
9 Rules, or its equivalent, for *I Liheslatura*, and by the Judicial Council for the
10 Judicial Branch.

11 (b) The Director of Administration, *I Liheslatura*, and the Judicial Council
12 may reassign pay grades as they deem necessary. Reassignment shall be based
13 upon the calculation of Hay points or points established by other experts and shall
14 be performed by technical staff trained in the classification and compensation
15 evaluation system for the sake of consistency and uniformity of results. The
16 technical staffs of the Human Resources Division in the Executive Branch, the
17 Human Resources Office of *I Liheslatura*, and the Judiciary Human Resources
18 Office, shall coordinate their efforts in implementing the Hay methodology or any
19 other classification and pay system.

20 (c) The Director of Administration, *I Liheslatura*, and the Judicial Council
21 shall establish appropriate policies and procedures for implementing the provisions
22 of this Article for their respective jurisdictions."

23 **Section 16.** A new subsection (e) is *added* to § 6303 of Chapter 6 of Title 4,
24 Guam Code Annotated to read:

25 "(e) Creation of Positions in the Legislature. New positions may be created
26 by the Executive Director of *I Liheslatura* for the Legislative Branch, when
27 necessary for the efficient performance of the duties and functions of *I Liheslatura*.

1 The Executive Director *shall* submit to the Committee on Rules, or its equivalent,
2 the position descriptions for the positions within thirty (30) calendar days after
3 creation and post the position descriptions on the Legislature's website. The
4 positions *shall* be terminated unless approved by the Committee on Rules, or its
5 equivalent, within ninety (90) days after submission. No newly created position
6 *shall* be filled in the absence of appropriations to pay the salary of the proposed
7 position."

8 **Section 17.** § 6304 of Chapter 6 of Title 4, Guam Code Annotated is
9 *amended* to read:

10 **"§ 6304. Differential Pay.**

11 The Director of Administration, *I Liheslatura*, and the Judicial Council shall
12 establish and implement uniform differential pay policies. All statutes, rules,
13 regulations, and policies which are not covered by or inconsistent with the policies
14 set forth herein, are hereby repealed upon establishment of uniform pay policies."

15 **Section 18.** Chapter 20 of Title 17, Guam Code Annotated is *repealed*.

16 **Section 19.** The Civil Service Commission, Department of Administration,
17 and Department of Labor *shall* provide technical assistance to *I Liheslatura*, as
18 may be necessary, to implement the provisions of this Act before the start of the
19 next legislative term.