

MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

Bill No. 358-33 (COR)

Introduced by:

DENNIS G. RODRIGUEZ, Jr. *DR*

**AN ACT TO AMEND § 1909, § 1909(i), AND §1907(c), AND TO
ADD NEW § 1907(e), (f) AND (g), ALL OF CHAPTER 19 OF
TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO
GRANTING INCREASED AUTONOMY TO THE OFFICE OF
PUBLIC ACCOUNTABILITY ON PERSONNEL MATTERS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the People of Guam first elected a Public Auditor for the Government of Guam in 2000. The election of the position of the Public Auditor provides for more independence of that office from *I Maga'lahi* and *I Liheslaturan Guåhan*, which is appropriate for the wide-ranging duties of the Public Auditor and as the main, independent auditor of the Government of Guam.

I Liheslaturan Guåhan further finds that the Office of Public Accountability experiences difficulties with government bureaucracy, specifically concerning personnel recruitment. These problems have diminished the ability of the Office of Public Accountability to effectively and efficiently execute its duties and responsibilities.

I Liheslaturan Guåhan finds that the Attorney General of Guam, as provided for in Chapter 30, Division 3, Title 5, Guam Code Annotated, is authorized to administer matters pertaining to the personnel of the Office of the Attorney General of Guam. This level of autonomy allows the Attorney General of Guam to efficiently

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1 recruit in a timely manner and retain personnel critical to supporting the mandates of
2 the Office of the Attorney General of Guam.

3 *I Liheslaturan Guåhan* further finds that it is manifestly in the interests of the
4 people of Guam that the Public Auditor shall have more autonomy over the Office of
5 Public Accountability. It is only appropriate that the Public Auditor have more
6 control over the administration of the management of the Office of Public
7 Accountability’s personnel, including the recruitment, hiring, and retention process.
8 This will only enhance the independence of the Office of Accountability.

9 Therefore, it is the intent of *I Liheslaturan Guåhan* to amend and add
10 provisions in Title 1, Guam Code Annotated, which will grant the Office of Public
11 Accountability a level of autonomy similar to the Office of the Attorney General of
12 Guam relative to the recruitment, hiring, and retention of agency personnel.

13 **Section 2.** The first sentence of §1909, Duties of the Public Auditor, of Chapter
14 19, Title 1, Guam Code Annotated, without amending any subsections which shall
15 remain unchanged and in effect, is hereby *amended* to read:

16 **“§1909. Duties of Public Auditor.**

17 The Public Auditor, by herself or himself, or through a deputy or assistant, *shall*
18 have the following powers and duties:”

19 **Section 3.** Subsection (i) of § 1909 of Chapter 19 of Title 1, Guam Code
20 Annotated, is *amended* to read:

21 “(i) Subject to the availability of funds provided by annual appropriation by the
22 Legislature, to employ such necessary staff to carry out the functions and
23 responsibilities of the office,- and for such employment:

1 (1) The Public Auditor shall serve as the Office of Public Accountability’s
2 appointing authority for all personnel employed at the Office of Public
3 Accountability, hiring employees from an established list of qualified applicants
4 in accordance with established criteria and assigning, detailing, and transferring
5 employees as the Public Auditor deems necessary for the effective operation of
6 the Office of Public Accountability.”

7 **Section 4.** Subsection (c) of Section 1907 of Chapter 19 of Title 1, Guam Code
8 Annotated, is hereby *amended* to read:

9 “(c) Administration of General Personnel Matters. The Office of Public
10 Accountability shall be responsible for the conduct of operational matters addressing
11 its personnel activities, in accordance with and consistent with the provisions
12 contained herein.

13 ~~Subject to the availability of funds and notwithstanding any other law to the~~
14 ~~contrary, and consistent with Subsection (b) of this Section and as required by Title 1~~
15 ~~G.C.A., Chapter 19, §1909(i), the Public Auditor may appoint such full time or part-~~
16 ~~time employees in the Office of Public Accountability as are necessary to carry out the~~
17 ~~duties and responsibilities of the Public Auditor and the Office of Public~~
18 ~~Accountability. Upon appointment by the Public Auditor, such persons shall be~~
19 ~~probationary employees in the classified service until their qualifications have been~~
20 ~~verified and confirmed in writing by the Civil Service Commission in accordance with~~
21 ~~Title 4 GCA, Chapter 4, Article 4, §4403(e), or up to one hundred eighty (180) days~~
22 ~~upon employment, whichever comes first. Subsequent to the action of the~~
23 ~~Commission, the public Auditor may continue a person’s probation as provided by~~
24 ~~Title 4 GCA, Chapter 4, Article 1, §4106.”~~

1 **Section 5.** New Subsections (e), (f), (g), and (h) are hereby *added* to § 1907 of
2 Title 1, Guam Code Annotated, to read:

3 “(e) Administration of Personnel. The Public Auditor is authorized to hire and
4 appoint such personnel, and to fix their duties and responsibilities under and in
5 accordance with Title 4, Guam Code Annotated, as may be necessary for the purposes
6 of this Chapter. The Public Auditor is also authorized to procure, in accordance with
7 Guam’s Procurement Laws and Regulations, a private contractor to perform the
8 Human Resource operations for the Office of Public Accountability or enter into a
9 Memorandum of Understanding or Memorandum of Agreement with another agency,
10 public corporation, or instrumentality of the Government of Guam to perform such
11 operations for the Office of Public Accountability

12 (f) Regulations. Pursuant to the provisions of §4105 of Title 4, Guam Code
13 Annotated, the Public Auditor may establish rules and regulations governing
14 selection, promotion, performance evaluation, demotion, suspension, and other
15 disciplinary action for the employees of the Office of Public Accountability. Until
16 such time as the Office of Public Accountability adopts its own rules and regulations
17 as provided herein, the rules and regulations adopted by the Department of
18 Administration shall continue to apply to the Office of Public Accountability except
19 those regulations which conflict any of the statutory provisions herein.

20 (g) Contributions to the Government of Guam Retirement Fund and Workers
21 Compensation Fund. Employees of the Office of Public Accountability shall continue
22 to be members of the Government of Guam Retirement Fund, subject to the
23 provisions of §8105 of Title 4. The Office of Public Accountability shall contribute to
24 the Government of Guam Retirement Fund on the basis of annual billings as

1 determined by *I Liheslaturan Guahan* or the Government of Guam Retirement Fund,
2 for the government share of the cost of the retirement benefits applicable to the Office
3 of Public Accountability employees and their beneficiaries. The Office of Public
4 Accountability shall also contribute to the Workmen's Compensation Fund, on the
5 basis of annual billings as determined by the Workmen's Compensation
6 Commissioner, for the benefit payments made from the
7 Workmen's Compensation Fund on account of the Office of Public Accountability
8 employees.

9 (h) **Post Audit.** Persons appointed and employed by the Office of Public
10 Accountability in the classified service shall be subject to Post-Audit Review by the
11 Civil Service Commission and such review shall be discretionary.”

12 **Section 5. Effective Date.** The provisions contained herein shall be effective
13 on October 1, 2016.

14 **Section 6. Severability.** If any provisions of this Act or its application to any
15 person or circumstance is found to be invalid or contrary to law, such invalidity shall
16 *not* affect other provisions or applications of this Act which can be given effect
17 without the invalid provisions or applications, and to this end the provisions of this
18 Act are severable.