

I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 30-164(COR)

Introduced by:

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AN ACT TO *REPEAL* CHAPTER 45 OF ARTICLE 1 PART 2 OF TITLE 10 GUAM CODE ANNOTATED AND *REENACT* IT AS CHAPTER 2 OF DIVISION 1 OF TITLE 12 GUAM CODE ANNOTATED, TO PROVIDE FOR AN AUTONOMOUS GUAM ENVIRONMENTAL PROTECTION AUTHORITY AND TO INCLUDE THE GUAM ENERGY DIVISION WITHIN THE AUTHORITY, REPLACING THE GUAM ENERGY OFFICE, AND TO *AMEND* § 4105 (A) AND (B) OF CHAPTER 4 TITLE 4 GUAM CODE ANNOTATED.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Article 1 of Title 10, Part 2, Chapter 45 of the Guam Code
3 Annotated is repealed and reenacted as Division 1 of Title 12, Chapter 2 of
4 the Guam Code Annotated to read:

5 "Chapter 2

6 Guam Environmental Protection Authority

7 § 2100. Statement of Policy and Purpose.

8 § 2101. Short Title.

9 § 2102. Definitions.

10 § 2103. Continuation of Existence.

11 § 2104. Management and Administration.

1 **§ 2105. Powers and Duties.**

2 **§ 2106. Guam Energy Division.**

3 **§ 2107. Fiscal Authority.**

4 **§ 2108. Chief Financial Officer.**

5 **§ 2109. Transition.**

6 **§ 2100. Statement of Policy and Purpose.** It is hereby declared
7 to be the public policy of Guam that a high quality environment be
8 maintained at all times to guarantee an enjoyable and healthy life for
9 all people at present and in the future, and that environmental
10 degradation of the quality of land, water and air by any pollutants,
11 including all physical, chemical, biological and other identified
12 agents, should not be allowed. To these ends, it is the purpose of this
13 Article to provide a united, integrated and comprehensive island-
14 wide program of environmental protection and to provide a
15 framework to fulfill that task.

16 In addition to the protection of human enjoyment and health in
17 the context of environmental concerns, it is the purpose of this
18 Authority, through its Division of Energy, to assist in the reduction of
19 Guam's dependence on energy that is derived from non-renewable
20 sources, and to be the designated local entity to apply and receive

1 funds from the United States Department of Energy and to
2 implement federal energy programs.

3 **§ 2101. Short Title.** This Chapter shall be known as the *Guam*
4 *Environmental Protection Authority Act*.

5 **§ 2102. Definitions.** Except as provided in or where otherwise
6 clearly indicated by the content, the following definitions shall apply
7 throughout this Chapter:

8 (a) *Authority* means the Guam Environmental Protection
9 Authority (GEPA);

10 (b) *Administrator* means the Administrator of the Guam
11 Environmental Protection Authority;

12 (c) *Deputy Administrator* means the Deputy Administrator for
13 Energy; and

14 (d) *Secretary* means the Secretary of the Board of Directors of
15 the Guam Environmental Protection Authority.

16 **§ 2103. Continuation of Existence.** The Guam Environmental
17 Protection Agency created by Public Law No. 11-191, is continued in
18 existence as a public corporation to be known as the Guam
19 Environmental Protection Authority (GEPA).

20 **§ 2104. Management and Administration.**

1 (a) Management. The management of the Authority shall be
2 vested in a Board of Directors consisting of nine (9) members to be
3 appointed by the Governor with the advice and consent of the
4 Legislature. Members of the Board shall serve for a period of three (3)
5 years each, except that any member appointed to fill a vacancy prior
6 to the expiration of the term for which his predecessor was
7 appointed, shall be appointed for the remainder of such term. The
8 terms shall stagger so that three (3) members shall be appointed by
9 the Governor each year. The majority of the members of the Board
10 shall not be employees of the government of Guam. A Chairperson
11 and Vice Chairperson shall be elected from among the members. The
12 Board shall adopt personnel rules pursuant to Title 4 Guam Code
13 Annotated §§4105 and 4106.

14 Members of the Board shall be compensated at the rate of Fifty
15 Dollars (\$50) per meeting attended subject to a maximum of twenty
16 (20) meetings per member per year.

17 (b) Administrator. The Board shall appoint an Administrator to
18 administer matters of the Authority under the supervision of the
19 Board. The Administrator shall not be a member of the Board and
20 shall not have a right to vote. The Administrator shall be given the
21 necessary authority and be held responsible for the administration of

1 the Authority in all of its activities subject only to such policies as
2 may be adopted and such orders as may be issued by the Board. The
3 Administrator will serve at the pleasure of the Board.

4 (c) Deputy Administrator for Energy. The Board shall
5 appoint a Deputy Administrator who shall not be a member of the
6 Board and shall not have a right to vote. The Deputy Administrator
7 shall administer the Authority's Division of Energy and all programs
8 relative to the U.S. Department of Energy and its offices. The Deputy
9 Administrator shall also perform such functions as the Administrator
10 desires during the absence of the Administrator or in the event of a
11 vacancy in the Office of the Administrator until such time that
12 another Administrator is appointed. The Deputy Administrator will
13 serve at the pleasure of the Board.

14 (d) Secretary of the Board. The Secretary of the Board shall be
15 appointed by the Administrator and confirmed by the Board. The
16 Secretary shall be responsible for keeping records of meetings and
17 actions of the Board. The Secretary of the Board will serve at the
18 pleasure of the Board.

19 (e) Qualifications, Duties, Tenure, and Compensation. The
20 Board shall establish the qualifications, duties, tenure and
21 compensation of the Administrator, Deputy Administrator for

1 Energy, and Secretary, in accordance with the personnel laws of
2 Guam. The Civil Service Commission shall establish the
3 qualifications, duties, compensation and benefits of other personnel
4 within the Authority and its Division, in accordance with the
5 personnel laws of Guam.

6 **§ 2105. Powers and Duties.** The GEPA shall be responsible for
7 the administration and the carrying out the mission of GEPA in
8 enforcing laws and programs relative to the U.S. Environmental
9 Protection Agency and laws and programs designed by local law; for
10 administration and carrying out of the mission of the Guam Energy
11 Division in relation to programs relative to the U.S. Department of
12 Energy and its offices, and laws and programs designated by local
13 law, and for the implementation of the following related laws all
14 contained in Title 10 Guam Code Annotated Part 2: the Water
15 Resources Conservation Act, Chapter 46; the Water Pollution Control
16 Act, Chapter 47; Toilet Facilities and sewage Disposal Act, Chapter
17 48; the Air Pollution Control Act, Chapter 49; the Guam Pesticides
18 Act, Chapter 50; Solid Waste Management and Litter Control,
19 Chapter 51; Water and Wastewater Operator's Mandatory
20 Certification Act, Chapter 52; Safe Drinking Water Act, Chapter 53;
21 Guam Lead Ban Act, Chapter 53a; Environmental Pollution Control,

1 Chapter 54; and Guam Oil Spill Responders Act, Chapter 54a; for
2 administering any other program designed by law or executive order
3 to be administered by GEPA or the Guam Energy Division.

4 (a) The Authority *may*:

5 (1) Enter into contracts for personnel and services. It has
6 the power to sue and be sued in its own name and to hire or
7 contract for an attorney.

8 (2) Employ agents, enter into contracts, leases, concession
9 agreements and execute all instruments necessary or
10 convenient to assist the mission of the Authority and its
11 employees, all of which may be accomplished without regard
12 to the portion of the Personnel Laws relative to compensation,
13 adopt a seal and sue or be sued in its own corporate name.
14 Litigation shall be undertaken by the Attorney General of
15 Guam, or by the agency attorney as designated by the Attorney
16 General of Guam.

17 (3) Impose, prescribe, revise policies and collect fees
18 assessed in the provision of services pursuant to this statute.

19 (4) Issue permits consistent with its federal and local
20 mandates.

1 (5) Receive and disburse Federal and local funds, submit
2 project grant applications, program of projects to Federal
3 agencies, and enter into formal agreements concerning projects
4 with Federal agencies.

5 (6) Adopt such rules and regulations, pursuant to the
6 Administrative Adjudication Law, as may be necessary for the
7 exercise of powers and performance of the duties conferred or
8 imposed upon the Authority or the Board.

9 (7) Acquire personal and real property through
10 negotiation, grant, gift, lease, or permit in accordance with the
11 provisions and subject to the limitations of laws of Guam,
12 including Chapter 5, Title 5, GCA, and hold and use any real
13 and personal property necessary, convenient or useful for the
14 carrying out of any of its powers pursuant to the provisions of
15 this Chapter, and to dispose of the same.

16 **§ 2106. Guam Energy Division.** There is hereby created, within
17 GEPA, the Guam Energy Division. The Guam Energy Division is
18 responsible for the administration of all Guam's energy-related
19 federal programs and is designated as the single state agency for
20 applying for, receiving, and administering or determining the
21 administering entity of all federal energy related grants from the

1 United States Department of Energy or subsequent entity. The Guam
2 Energy Division of GEPA is the successor entity to the Guam Energy
3 Office created by Public Law No. 12-100, amended by Public Law No.
4 12-150, and extended through Executive Order Nos. 75-13, 83-04, and
5 combined with GEPA through Executive Order No. 2007-14.

6 **§ 2107. Fiscal Authority.**

7 (a) There is hereby established a fund to be known as the Guam
8 Environmental Protection Authority Fund which shall be maintained
9 by the Board separate and apart from other funds of the government
10 of Guam. Independent records and accounts shall be maintained in
11 connection therewith.

12 (b) All moneys received by the Authority however derived,
13 including Federal sources, fees, fines, and appropriations, shall be
14 deposited in the Guam Environmental Protection Authority Fund in
15 eligible banks as defined in § 21112, Chapter 21 of Title 5 Guam Code
16 Annotated.

17 (c) All expenditures of the Authority shall be made from the
18 Guam Environmental Protection Authority Fund.

19 **§ 2108. Chief Financial Officer.**

20 The Board shall appoint a chief financial officer who shall serve
21 at its pleasure. The chief financial officer shall be a Certified Public

1 Accountant. The Board shall fix the chief financial officer's
2 compensation. The chief financial officer shall have full charge and
3 control of the Guam Environmental Protection Authority Fund, and
4 to the fiscal, business and accounting operations of the Authority,
5 subject to the supervision of the Board.

6 § 2109. **Transition.** All personnel, assets, equipment, funds,
7 property, records and programs under the Guam Energy Office that
8 were previously transferred to the administration of the Guam
9 Environmental Protection Agency through Executive Order No. 2007-
10 14 are permanently transferred to the Guam Environmental
11 Protection Authority."

12 **Section 2. Transition to autonomous Guam Environmental**
13 **Protection Authority.** The current members of the Board of GEPA shall
14 continue in their current terms of office. Upon expiration of their current
15 terms, the vacancies shall be filled as provided in this legislation. The
16 current Administrator, Deputy Administrator, and Secretary of the GEPA
17 and the Guam Energy Office, shall continue in their current terms of
18 employment under this legislation, unless replaced by the Board. The
19 classified employees of GEPA shall continue in their current positions
20 pursuant to GEPA's personnel rules and regulations.

1 **Section 3. § 4105 (a) and (b) of Chapter 4 Title 4 Guam Code**

2 **Annotated are hereby *amended* to read:**

3 **“§ 4105. Departmental Rules.**

4 (a) Rules subject to criteria established by this Chapter
5 governing the selection, promotion, performance, evaluation,
6 demotion, suspension and other disciplinary action of classified
7 employees shall be adopted by the Board of Directors of the Guam
8 Environmental Protection Authority; the Board of Directors of the
9 Antonio B. Won Pat International Airport Authority, Guam; the
10 Board of Directors of the Guam Economic Development and
11 Commerce Authority; the Board of Directors of the Guam Housing
12 Corporation; the Board of Commissioners of the Guam Housing and
13 Urban Renewal Authority; the Guam Judicial Council; the Board of
14 Directors of the Jose D. Leon Guerrero Commercial Port; the Guam
15 Education Policy Board; the Board of Regents of the University of
16 Guam; the Guam Community College Board of Trustees; the Board of
17 Trustees of the Guam Memorial Hospital Authority; the Board of
18 Directors of the Guam Visitors Bureau; and the Consolidated
19 Commission on Utilities on behalf of the Guam Waterworks
20 Authority and the Guam Power Authority, with respect to personnel
21 matters within their respective Branches, agencies, public

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

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

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