

**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN**  
**2005 (FIRST) Regular Session**

Bill No. 14 <sup>LS</sup> (COR)

Introduced by:

R. Klitzkie *RK*

L.F. Kasperbauer *LFK*

2005 JUN -3 11 16 58

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**AN ACT TO ADD A NEW CHAPTER 2A TO 5 GCA; TO REPEAL 1 GCA §1800, CHAPTER 11 OF 5 GCA; TO ESTABLISH EDUCATION, HEALTH AND PUBLIC SAFETY AS THE TOP PRIORITIES OF THE GOVERNMENT, TO RECOGNIZE THE GOVERNOR'S AUTHORITY TO REORGANIZE THE EXECUTIVE BRANCH OF THE GOVERNMENT, TO REMOVE IMPEDIMENTS TO REORGANIZATION, TO PROVIDE THE GOVERNOR THE TOOLS NECESSARY FOR SUCH REORGANIZATION AND PRIORITIZATION AND TO ENACT THE GOVERNMENT PRIORITIES ACT OF 2005.**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Table of Contents**

Section 1. Short title. This act may be cited as the Government Priorities Act of 2005.

Section 2. Legislative intent. .

Section 3. Adds new Chapter 2A of 5 GCA, definition of reorganization.

Section 4. Repeals 1 GCA §1800, requirement for legislative approval for privatization.

Section 5. Repeals 4 GCA §4207, repeal of prohibition on reduction in force.

Section 6. Repeal 5 GCA chapter 11, repeals chapter on reorganization.

Section 7. General Repealer.

1 Section 8. Transition.

2  
3 **Section 1. Short title.** This act may be cited as the Government Priorities Act of 2005.

4  
5 **Section 2. Legislative intent.**

6  
7 Education of our youth, fostering the health of the people and ensuring public safety are the most  
8 important functions of the executive branch of the government of Guam. These functions must  
9 be accomplished even if, in these times of scarce resources, some other activities of government  
10 must be greatly reduced or eliminated all together. By enacting the Government Priorities Act of  
11 2005 the legislature intends to provide the means to accomplish this prioritization while giving  
12 full recognition to the Governor's Organic Act authority to reorganize the executive branch of  
13 the government of Guam.

14  
15 In order to accomplish this prioritization and reorganization the legislature intends to remove  
16 existing impediments to reorganizing while giving the Governor the necessary tools to  
17 accomplish that reorganization. To that end, in an effort to simplify the hodgepodge of statutes,  
18 rules, regulations and policies that have proliferated over the years, the primary effect of which is  
19 to make reorganization difficult, the Act authorizes the Governor to implement the Act by-  
20 means-of an executive order or orders. The executive order(s) must be consistent with the merit  
21 system, provide the public's and employees' right to be heard and recognize the employees'  
22 rights to due process of law and right of representation under PEMRA, where applicable.

23  
24 The Act recognizes education, health and public safety as the government's top priorities so that  
25 that the Governor may establish priorities among government agencies so that the top priorities  
26 are adequately funded.

27  
28 It is the intent of the legislature that the Governor use these tools, to include outsourcing,  
29 privatization, abolition of agencies, absorption of functions, reduction in force and transfer of  
30 personnel and appropriations, to provide a smaller, more affordable government which, if

1 nothing else, provides for education, health and public safety. While allowing transfer of  
2 appropriations when agencies are abolished or functions relocated, the legislature continues to  
3 reserve to itself inviolate its power of appropriation and its power to create agencies and  
4 departments.

5  
6 **Section 3. A new Chapter 2A of 5 GCA is added to read:**

7  
8 Chapter 2A Reorganization

9 Section 2200. Definitions. For the purposes of this act:

10 (a) *Reorganization* means:

11 (1) The transfer of the whole or any part of any agency, or of the whole or any  
12 part of the functions thereof, to the jurisdiction and control of any other agency;

13 (2) The *abolition* of all or any part of the functions of any agency;

14 (3) The consolidation or coordination of the whole or any part of any agency, or  
15 of the whole or any part of the functions thereof, with the whole or any part of any other  
16 agency or the functions thereof;

17 (4) The consolidation or coordination of any part of any agency or the functions  
18 thereof with any other part of the same agency or the functions thereof;

19 (5) The authorization of any non-elective officer to appoint any individual to  
20 perform any of his functions;

21 (6) The *abolition* of the whole or any part of any agency which agency or part  
22 does not have, or upon the taking effect of *reorganization* plan will not have, any  
23 function;

24 (7) The establishment of a new agency to perform the whole or any of the  
25 functions of an existing agency or agencies; or

26 (8) The use of a person under contract to perform functions which regularly are  
27 performed or budgeted to be performed by employees appointed under the merit system.

28 (b) *Abolition* means the *abolition* or disbanding of an agency of the government.

29 (c) *Absorption* means the transfer of one or more functions of an entity to another entity  
30 of the government.

1 (d) *Availability roster* means a roster of the designated *displaced employees* in an entity  
2 that will be absorbed, *outsourced* or *privatized*.

3 (e) *Displaced employee* means an employee who had been employed by an entity of the  
4 government that was outsourced or privatized or whose employment was terminated as a result  
5 of the *outsourcing* or *privatization*

6 (f) *Gaining entity* means an entity to which a function is transferred by *absorption*.

7 (g) *Outsource* mean contracting with a private company to accomplish a function or  
8 functions that have been or, were it not for the outsourcing, would be provided by an entity or  
9 entities of the government.

10 (h) *Privatization* means the alienation by sale or lease or otherwise of an entity or  
11 function of the government.

12  
13  
14 Section 2201. Internal reorganization. Internal *reorganization* of an entity, including  
15 reductions in force, shall be accomplished in accordance the executive order(s) authorized by  
16 section 2208.

17  
18 Section 2202. Reorganization of the executive branch. *Reorganization* of the executive  
19 branch, including reductions in force, shall be accomplished in accordance with the following  
20 sections.

21  
22 Section 2203. Executive order: reorganization of the executive branch. The Governor by  
23 executive order(s) may direct the *reorganization* of the various entities of the executive branch.

24  
25 Section 2204. Same: absorption of functions. The Governor by executive order(s) may  
26 direct the *absorption* of any or all of the functions of an entity listed in Table 1 with a Priority  
27 Number (PN) of 200 or higher by any entity(ies) with a lower priority number.

28  
29 Section 2205. Same: abolition of government entities. The Governor by executive  
30 order(s) may abolish any entity listed in Table 1 with a PN of 200 or higher.

1  
2 Section 2206. Transfer authority. The governor is authorized to transfer the appropriation  
3 of any entity which is abolished or any function which is absorbed to any other entity(ies) with a  
4 lower PN than the abolished agency or absorbed function.  
5

6 Section 2207. Same. Outsourcing and privatization. No more than ninety percent (90%) of  
7 the appropriation for personal services for a function that is *outsourced* or *privatized* may  
8 transferred by the Governor to the contractual category to fund the contract arising from the  
9 *outsourcing* or *privatization*.  
10

11 Section 2208. Executive order(s). (a) The executive order(s) authorized by section 2210  
12 shall issue not less than thirty (30) days prior to their effective date during which time a public  
13 hearing must be held in accordance with the public hearing requirements of 5 GCA §8107 to  
14 provide the public the right to be heard. The executive order(s) shall provide orderly procedures  
15 to accomplish the purposes of this chapter.  
16

17 (b) The executive order(s) shall recognize, where applicable, employees' rights to representation  
18 in accordance with 4 GCA 10106 (PEMRA)  
19

20 (c) Nothing contained herein shall be construed to prevent the Attorney General from approving  
21 such executive order(s) as to form, content and compliance with law.  
22

23 Section 2209. Same: availability roster. When executive orders authorized by section  
24 2208 issue, the person in charge of the entities to be abolished or the functions of which are to be  
25 absorbed, shall submit an *availability roster* to the *gaining entity*, if any. The person in charge of  
26 the *gaining entity* may, in accordance with the applicable executive order, employ those  
27 employees on the *availability roster* in such number, if any, as required to accomplish the  
28 function(s) of the gaining agency if necessary.  
29

1 Section 2210. Implementing executive order. The Governor shall provide by executive  
2 order(s) procedures to accomplish the following:

- 3 (a) reduction in force
- 4 (b) layoff
- 5 (c) furlough
- 6 (d) *privatization*
- 7 (e) *outsourcing*
- 8 (f) *absorption*
- 9 (g) *abolition*
- 10 (h) *reorganization*
- 11 (i) *availability rosters*
- 12 (j) the designation of functions to be absorbed.
- 13 (k) the designation of entities to be abolished

14  
15 Section 2211. Transition - Files and Equipment. (a) All files and reports held by an  
16 abolished entity shall be transmitted by the person in charge of such entity to such  
17 custodian as is designated by the governor within thirty (30) days following the designation  
18 of the entity as an abolished entity.

19 (b) All property of the abolished entity, or property leased by it, when the lease  
20 cannot be cancelled or will not expire upon the *abolition* of the entity, shall be turned over  
21 to the custodian designated by the governor within thirty (30) days following the  
22 designation of the entity as an abolished entity.

23  
24 Section 2212. Abolished entity.

25 An abolished entity shall be closed and all remaining personnel terminated within  
26 thirty (30) days of the day the entity was designated as an abolished entity.

27  
28 Section 2213. Table 1. Table 1 sets out three groups of various entities of the  
29 executive branch and assigns a priority number (PN) to each entity. Group I, PN 100 *et*  
30 *seq.*, is composed of entities that provide services that are the government's top priority:

1 education, health and public safety. Group II, PN 200 *et seq.* is composed of entities that  
2 provide services which are involved in support, enforcement, regulation, adjudication or  
3 administration. Group III is composed of other entities. Any entity of the executive branch  
4 not listed in Table 1 is deemed listed in Group III of Table I.

5  
6 Section 2214. Same: Boards and Commissions. Boards and Commissions listed in  
7 Group III. Boards and Commissions listed in Group III may be assigned for logistic  
8 support to entities in Groups I and II when the entity supporting or directed by the board or  
9 commission directs is abolished.

10  
11 Section 2215. Special provision for elected officials. The provisions of sections  
12 2201, 2203, 2204, 2205, 2211 or 2212 shall not apply to an office or department under the  
13 supervision of an elected official.

14  
15 Section 2215. Special provision for the University of Guam and the Guam Community  
16 College. The provisions of section 2201 shall not apply to University of Guam and the Guam  
17 Community College

18  
19 **Section 4. Repeal of requirement for legislative approval for privatization.** 1 GCA  
20 §1800 is repealed.

21  
22 **Section 5. Repeal of prohibition on reduction in force.** 4 GCA §4207 is repealed.

23  
24 **Section 6. Repeal of chapter on reorganization.** 5 GCA chapter 11 is repealed.

25  
26 **Section 7. General Repealer.**

27 All laws, rules, regulations and policies dealing with the subject matter of this Act which  
28 are inconsistent herewith are repealed effective the date of issue of the executive order(s)  
29 authorized by 5 GCA §2210 as enacted by §3 unless a different date is specified therein.

1 **Section 8. Transition.** Nothing contained herein shall be construed to affect proceedings  
2 begun or action taken prior to the effective date of this act, provided however that the executive  
3 order(s) promulgated pursuant to 5 GCA §2210 as enacted by §3 may be made applicable to  
4 pending proceedings if the executive order(s) so state.

5  
6 **Table 1**

7 **Group I**

8 **PN**

9 **100 Education:**

10 101 Dept of Education

11 102 University of Guam

12 102 Guam Community College

13 102 Guam Public Library

14  
15 **Health:**

16 101 Guam Memorial Hospital Authority

17 102 Public Health & Social Services, Dept of (public health)

18 102 Mental Health & Substance Abuse, Dept of

19  
20 **Public Safety:**

21 101 Guam Police Department

22 101 Guam Fire Department

23 101 Depart. of Corrections

24 102 Attorney General (prosecution)

25 103 Customs & Quarantine

26 103 Civil Defense

27 103 Youth Affairs (custodial; corrections related)

28  
29 **Group II**

30 **200**

31 201 Office of the Public Auditor

32 201 Attorney General



1	202	Revenue & Taxation, Dept. of (taxation)
2	202	Public Works, Dept. of
3	202	Labor, Dept of
4	202	Land Management, Dept of
5	202	Administration, Dept. of 205
6	202	Guam Environmental Protection Agency
7		
8		<b>Group III</b>
9	<b>300</b>	
10	300	Agency for Human Resources Development
11	300	Agriculture, Dept. of
12	300	Ancestral Land Trust Commission
13	300	Bureau of Budget & Mgmt Research
14	300	Bureau of Statistics & Plans
15	300	Civil Service Commission
16	300	Chamorro Affairs
17	300	Chamorro Land Trust Commission
18	300	Chief Medical Examiner
19	300	Commission on Decolonization
20	300	Contractors License Board
21	300	DISID
22	300	Guam Council on the Arts & Humanities
23	300	Guam Education Tele. Corp. (KGTF)
24	300	Guam Election Commission
25	300	Guam Energy Office
26	300	Guam Housing and Urban Renewal
27	300	Guam Housing Corp
28	300	Guam Museum
29	300	Guam Rental Corp
30	300	Military Affairs/Veterans Affairs
31	300	Parks & Recreation, Dept. of
32	300	PEALS Board
33	300	Public Defender Service Corp. (criminal defense)
34	300	Public Health & Social Services, Dept of (Social Services)

- 1 300 Public Transit (GMTA)
- 2 300 Revenue & Taxation, Dept. of
- 3 300 Youth Affairs (non-custodial; corrections related)

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3 reserve to itself inviolate its power of appropriation and its power to create agencies and  
4 departments.

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6 **Section 3. A new Chapter 2A of 5 GCA is added to read:**

7  
8 “Chapter 2A Reorganization

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10 (a) *Reorganization* means:

11 (1) The transfer of the whole or any part of any agency, or of the whole or any  
12 part of the functions thereof, to the jurisdiction and control of any other agency;

13 (2) The *abolition* of all or any part of the functions of any agency;

14 (3) The consolidation or coordination of the whole or any part of any agency, or  
15 of the whole or any part of the functions thereof, with the whole or any part of any other  
16 agency or the functions thereof;

17 (4) The consolidation or coordination of any part of any agency or the functions  
18 thereof with any other part of the same agency or the functions thereof;

19 (5) The authorization of any non-elective officer to appoint any individual to  
20 perform any of his functions;

21 (6) The *abolition* of the whole or any part of any agency which agency or part  
22 does not have, or upon the taking effect of *reorganization* plan will not have, any  
23 function;

24 (7) The use of a person under contract to perform functions which regularly are  
25 performed or budgeted to be performed by employees appointed under the merit system.

26 (b) *Abolition* means the *abolition* or disbanding of an agency of the government.

27 (c) *Absorption* means the transfer of one or more functions of an entity to another entity  
28 of the government.

29 (d) *Availability roster* means a roster of the designated *displaced employees* in an entity  
30 that will be absorbed, *outsourced* or *privatized*.

1 (e) *Displaced employee* means an employee who had been employed by an entity of the  
2 government that was outsourced or privatized or whose employment was terminated as a result  
3 of the *outsourcing* or *privatization*

4 (f) *Gaining entity* means an entity to which a function is transferred by *absorption*.

5 (g) *Outsource* mean contracting with a private company to accomplish a function or  
6 functions that have been or, were it not for the outsourcing, would be provided by an entity or  
7 entities of the government.

8 (h) *Privatization* means the alienation by sale or lease or otherwise of an entity or  
9 function of the government.

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11 Section 2201. Internal reorganization. Internal *reorganization* of an entity, including  
12 reductions in force, shall be accomplished in accordance the executive order(s) authorized by  
13 section 2208.

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15 Section 2202. Reorganization of the executive branch. *Reorganization* of the executive  
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19 Section 2203. Executive order: reorganization of the executive branch. The Governor by  
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22 Section 2204. Same: absorption of functions. The Governor by executive order(s) may  
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24 Number (PN) of 200 or higher by any entity(ies) with a lower priority number.

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1 Section 2206. Transfer authority. The governor is authorized to transfer the appropriation  
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3 lower PN than the abolished agency or absorbed function.  
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5 Section 2207. Same. Outsourcing and privatization. No more than ninety percent (90%) of  
6 the appropriation for personal services for a function that is *outsourced* or *privatized* may  
7 transferred by the Governor to the contractual category to fund the contract arising from the  
8 *outsourcing* or *privatization*.  
9

10 Section 2208. Executive order(s). (a) The reorganization(s) directed by executive order(s)  
11 authorized by §§ 2203, 2204 and 2205 shall be accomplished in accordance the procedures for  
12 promulgating rules set out in 5GCA §§9301 and 9303.

13 (b) The rules promulgated by executive order(s) authorized by § 2210 shall be  
14 promulgated in accordance with 5GCA §§ 9301, 9303 and 9304.

15 (c) The executive order(s) shall recognize, where applicable, employees' rights to  
16 representation in accordance with 4 GCA 10106 (PEMRA)

17 (d) Nothing contained herein shall be construed to prevent the Attorney General from  
18 approving such executive order(s) as to form, content and compliance with law.  
19

20 Section 2209. Same: availability roster. When executive orders authorized by section  
21 2208 issue, the person in charge of the entities to be abolished or the functions of which are to be  
22 absorbed, shall submit an *availability roster* to the *gaining entity*, if any. The person in charge of  
23 the *gaining entity* may, in accordance with the applicable executive order, employ those  
24 employees on the *availability roster* in such number, if any, as required to accomplish the  
25 function(s) of the gaining agency if necessary.  
26

27 Section 2210. Implementing executive order. The Governor shall by executive order(s)  
28 promulgate rules to accomplish the following:

29 (a) reduction in force

30 (b) layoff

- 1 (c) furlough
- 2 (d) *privatization*
- 3 (e) *outsourcing*
- 4 (f) *absorption*
- 5 (g) *abolition*
- 6 (h) *reorganization*
- 7 (i) *availability rosters*
- 8 (j) the designation of functions to be absorbed.
- 9 (k) the designation of entities to be abolished

10  
11 Section 2211. Transition - Files and Equipment. (a) All files and reports held by an  
12 abolished entity shall be transmitted by the person in charge of such entity to such  
13 custodian as is designated by the governor within thirty (30) days following the designation  
14 of the entity as an abolished entity.

15 (b) All property of the abolished entity, or property leased by it, when the lease  
16 cannot be cancelled or will not expire upon the *abolition* of the entity, shall be turned over  
17 to the custodian designated by the governor within thirty (30) days following the  
18 designation of the entity as an abolished entity.

19  
20 Section 2212. Abolished entity.

21 An abolished entity shall be closed and all remaining personnel terminated within  
22 thirty (30) days of the day the entity was designated as an abolished entity.

23  
24 Section 2213. Table 1. Table 1 sets out three groups of various entities of the  
25 executive branch and assigns a priority number (PN) to each entity. Group I, PN 100 *et*  
26 *seq.*, is composed of entities that provide services that are the government's top priority:  
27 education, health and public safety. Group II, PN 200 *et seq.* is composed of entities that  
28 provide services which are involved in support, enforcement, regulation, adjudication or  
29 administration. Group III is composed of other entities. Any entity of the executive branch  
30 not listed in Table 1 is deemed listed in Group III of Table I.



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Section 2214. Same: Boards and Commissions. Boards and Commissions listed in Group III. Boards and Commissions listed in Group III may be assigned for logistic support to entities in Groups I and II when the entity supporting or directed by the board or commission directs is abolished.

Section 2215. Special provision for elected officials. The provisions of sections 2201, 2203, 2204, 2205, 2211 or 2212 shall not apply to an office or department under the supervision of an elected official.

Section 2215. Special provision for the University of Guam and the Guam Community College. The provisions of section 2201 shall not apply to University of Guam and the Guam Community College.”

**Section 4. Repeal of requirement for legislative approval for privatization.** 1 GCA §1800 is repealed.

**Section 5. Repeal of prohibition on reduction in force.** 4 GCA §4207 is repealed.

**Section 6. Repeal of chapter on reorganization.** 5 GCA chapter 11 is repealed.

**Section 7. General Repealer.**

All laws, rules, regulations and policies dealing with the subject matter of this Act which are inconsistent herewith are repealed effective the date of issue of the executive order(s) authorized by 5 GCA §2210 as enacted by §3 unless a different date is specified therein.

1           **Section 8. Transition.** Nothing contained herein shall be construed to affect proceedings  
2 begun or action taken prior to the effective date of this act, provided however that the executive  
3 order(s) promulgated pursuant to 5 GCA §2210 as enacted by §3 may be made applicable to  
4 pending proceedings if the executive order(s) so state.

5

6

**Table 1**

7   Group I

8   **PN**

9   **100   Education:**

10  101   Dept of Education

11  102   University of Guam

12  102   Guam Community College

13  102   Guam Public Library

14

15           **Health:**

16  101   Guam Memorial Hospital Authority

17  102   Public Health & Social Services, Dept of (public health)

18  102   Mental Health & Substance Abuse, Dept of

19

20           **Public Safety:**

21  101   Guam Police Department

22  101   Guam Fire Department

23  101   Depart. of Corrections

24  102   Attorney General (prosecution)

25  103   Customs & Quarantine

26  103   Civil Defense

27  103   Youth Affairs (custodial; corrections related)

28

29           **Group II**

30   **200**

31  201   Office of the Public Auditor

32  201   Attorney General

1	202	Revenue & Taxation, Dept. of (taxation)
2	202	Public Works, Dept. of
3	202	Labor, Dept of
4	202	Land Management, Dept of
5	202	Administration, Dept. of205
6	202	Guam Environmental Protection Agency
7		
8		<b>Group III</b>
9	<b>300</b>	
10	300	Agency for Human Resources Development
11	300	Agriculture, Dept. of
12	300	Ancestral Land Trust Commission
13	300	Bureau of Budget & Mgmt Research
14	300	Bureau of Statistics & Plans
15	300	Civil Service Commission
16	300	Chamorro Affairs
17	300	Chamorro Land Trust Commission
18	300	Chief Medical Examiner
19	300	Commission on Decolonization
20	300	Contractors License Board
21	300	DISID
22	300	Guam Council on the Arts & Humanities
23	300	Guam Education Tele. Corp. (KGTF)
24	300	Guam Election Commission
25	300	Guam Energy Office
26	300	Guam Housing and Urban Renewal
27	300	Guam Housing Corp
28	300	Guam Museum
29	300	Guam Rental Corp
30	300	Military Affairs/Veterans Affairs
31	300	Parks & Recreation, Dept. of
32	300	PEALS Board
33	300	Public Defender Service Corp. (criminal defense)
34	300	Public Health & Social Services, Dept of (Social Services)

- 1 300 Public Transit (GMTA)
- 2 300 Revenue & Taxation, Dept. of
- 3 300 Youth Affairs (non-custodial; corrections related)