

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

Bill No. 68 (EC)

Introduced by:

Adolpho B. Palacios



AN ACT TO ADD §50.00 AND TO AMEND §50.46 OF TITLE 8
OF THE GUAM CODE ANNOTATED, RELATIVE TO
AUTHORIZING THE ATTORNEY GENERAL OF GUAM TO
CONVENE SPECIAL GRAND JURIES.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
3 numerous allegations have arisen regarding government corruption within the
4 Government of Guam. Recently, Guam elected its first elected Attorney General in order to
5 Protect the Public Interest and root out crime at all levels of government.

6 To assist the Attorney General of Guam in performing his duties, especially in these
7 times of dwindling economic resources causing government attorney and support
8 personnel shortages for the Attorney General, *I Liheslaturan Guåhan* wishes to substantially
9 mirror California's special grand jury language to permit the Office of the Attorney General
10 the ability to conduct efficient and timely investigations, as opposed to utilizing limited,
11 time consuming, public and potentially cumbersome production tools, such as the
12 Sunshine Reform Act of 1999.

13 The current grand jury laws require the prior preparation of a case, as opposed to a
14 special grand jury, which can take and receive testimony, information and documents to
15 investigate allegations of criminal wrongdoing under oath and the supervision of the
16 Courts without any specific defendant. As on the Mainland, the special grand jury will

1 also protect the confidentiality of sensitive investigations which the Office of the Attorney
2 General may need to conduct to uncover wrongdoing and effectively pursue complex
3 cases, such as conspiracies involving numerous government agencies, persons, and large
4 sums of money.

5 The Attorney General's special role in the Government of Guam to Protect the Public
6 Interest requires empowering his Office with discovery tools consistent with other State
7 Attorneys General and District Attorneys, and Guam's adoption of this well established
8 language will promote the protection of the Government of Guam and the Public.

9 **Section 2.** Section 50.00 is hereby *added* to Chapter 50 of Title 8 of the Guam Code
10 Annotated to read as follows:

11 **"Section 50.00. Inquiry Into Public Offenses.**

12 (a) **In General.** The grand jury may inquire into all public
13 offenses committed or triable within the jurisdiction of the
14 Government of Guam.

15 (b) **Role of the Attorney General of Guam.**

16 Whenever the Attorney General of Guam considers the public interest
17 requires, the Attorney General may direct the grand jury to convene
18 for the investigation and consideration of such matters of a criminal
19 nature as the Attorney General desires to submit to it. The Attorney
20 General may take full charge of the presentation of such matters to the
21 grand jury, issue subpoenas and subpoenas duces tecum, prepare
22 indictments, and do all other things incident thereto."

23 **Section 3.** Section 50.46 of Chapter 50 of Title 8 of the Guam Code Annotated is
24 hereby *amended* to read as follows:

25 **"Section 50.46. (a)** The grand jury is *not* required to hear evidence for the
26 defendant, but it shall weigh all the evidence submitted to it, and when it has
27 reason to believe that other evidence within its reach will explain away the

1 charge, it shall order the evidence to be produced, and for that purpose may
2 require the Attorney General of Guam to issue process for the witnesses.

3 (b) If the prosecutor is aware of exculpatory evidence, the prosecutor
4 shall inform the grand jury of its nature and existence. Once the prosecutor
5 has informed the grand jury of exculpatory evidence pursuant to this
6 Section, the prosecutor shall inform the grand jury of its duties under
7 Subsection (a) of this Section. If a failure to comply with the provisions of
8 this Section results in substantial prejudice, it shall be grounds for dismissal
9 of the portion of the indictment related to that evidence.

10 (c) It is the intent of the Legislature by enacting this Section to codify
11 the holding in *Johnson v. Superior Court*, 15 Cal. 3d 248, and to affirm the
12 duties of the grand jury pursuant to Subsection (a) of this Section."

13 **Section 4. Severability.** *If any provision of this Law or its application to any person*
14 *or circumstance is found to be invalid or contrary to law, such invalidity shall not affect*
15 *other provisions or applications of this Law which can be given effect without the invalid*
16 *provisions or application, and to this end the provisions of this Law are severable.*

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