

MINA'BENTE OCHO NA LIHESLATURAN GUAHAN

2006 (SECOND) Regular Session

254
Bill No. ___ (LS)

Introduced by:


R. Klitzkie

AN ACT TO AMEND 4 G.C.A. § 4101 RELATIVE TO THE PROMOTION OF GOVERNMENT EMPLOYEES BASED UPON MERIT; TO AMEND 4 G.C.A. § 4101.1 RELATIVE TO DELINEATING THE PERSONNEL MANAGEMENT RESPONSIBILITIES OF THE DIRECTOR OF ADMINISTRATION; TO AMEND 4 G.C.A § 4105 RELATIVE TO THE RULES ENABLING AUTHORITY OF DEPARTMENTS, AGENCIES, AND PUBLIC CORPORATIONS; TO AMEND 4 G.C.A., CHAPTER 6, § 6205 RELATIVE TO RECRUITMENT ABOVE-STEP BY BOARDS AND COMMISSIONS; AN ACT TO AMEND 4 G.C.A., CHAPTER 6, § 6303(a) RELATIVE TO ALLOWING THE ADMINISTRATOR OF COURTS TO CREATE NEW POSITIONS IN THE JUDICIARY; TO ADD A NEW § 6303(b) TO 4 G.C.A., CHAPTER 6 RELATIVE TO AUTHORIZING DEPARTMENT HEADS TO CREATE NEW POSITIONS IN LINE AGENCIES; TO ADD A NEW § 6303(C) TO 4 G.C.A., CHAPTER 6 RELATIVE TO AUTHORIZING AUTONOMOUS AGENCY AND PUBLIC CORPORATION HEADS TO CREATE NEW POSITIONS IN AUTONOMOUS AGENCIES & PUBLIC CORPORATIONS; TO ADD A NEW §6303.1 TO 4 G.C.A., CHAPTER 6 RELATIVE TO PROVIDING FOR TRANSPARENCY & DISCLOSURE IN THE CREATION OF NEW POSITIONS AND ABOVE-STEP RECRUITMENT; AND TO ENACT THE PERSONNEL MANAGEMENT MODERNIZATION ACT OF 2006.

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

2 **Section 1. Short Title.** This act may be cited as the Personnel Management
3 Modernization Act of 2006.

1 **Section 2. Personnel Policy. 4 G.C.A., Chapter 4, § 4101 is amended to read:**
2 **“§ 4101. Personnel Policy.**

3 (a) Employment in the service of the government of Guam shall be
4 based upon merit, and selection and promotion of employees shall be free of personal or
5 political consideration. No person shall be discriminated against in an application for
6 employment or promotion or dismissed from employment on account of race, color, age,
7 religion, sex, national origin or physical or mental impairment. All personnel actions,
8 including appointments and promotions, shall be based, insofar as practicable, on
9 competitive practical tests and evaluations. Continuity of employment shall be dependent
10 upon good behavior, satisfactory performance of work and availability of funds.”

11 **Section 3. Duties of the Director of Administration. 4 G.C.A., Chapter 4, §**
12 **4101.1 is amended to read:**

13 **“§ 4101.1 Responsibilities of the Director of Administration regarding**
14 **Personnel Policy of the Government.** The Director of Administration shall perform the
15 following functions:

16 (a) Maintain and from time to time modify a general personnel policy for all
17 government of Guam line agencies through the adoption of rules and regulations pursuant
18 to the Administrative Adjudication Law;

19 (b) Investigate conditions of government employment as he deems necessary,
20 and report his findings thereon to *I Maga’lahen Guåhan* and *I Liheslaturan Guåhan*
21 annually;

22 (c) Administer the Equal Employment Opportunity Program for the Executive
23 Branch of the government of Guam.

24 (d) Maintain, post and keep current on the Department’s website a list of all
25 classified and unclassified positions in the executive branch, including autonomous
26 agencies and public corporations showing the job description and pay range assigned to
27 each position.

28 (e) Make an annual report on July 1 on the status of the unified pay schedule
29 required by §6302 of this title to the Governor and Speaker and post the report on the
30 department’s website.

1 (f) Establish and maintain, in coordination with the Attorney General, a panel
2 of hearing officers.

3 (g) Take cognizance of compliance with the provisions of §4101 of this title.”

4 **Section 4. Department Rules. 4 GCA § 4105 is amended:**

5 **“§ 4105. Departmental Rules.** Rules subject to criteria established by this
6 Chapter governing the selection, promotion, performance, evaluation, demotion,
7 suspension and other disciplinary action of classified employees shall be adopted by
8 the Board of Directors of the Antonio B. Won Pat Guam International Airport Authority;
9 the Board of Directors for the Guam Economic Development Authority, the Board of
10 Directors of the Guam Housing Corporation; the Board of Commissioners for the Guam
11 Housing and Urban Renewal Authority; ~~the Guam Judicial Council; the Board of~~
12 ~~Directors of the Guam Telephone Authority; the Board of Directors of the Port~~
13 ~~Authority of Guam; the Board of Directors of the Guam Power Authority; the Guam~~
14 Education Policy Board ~~the Board of Education~~; the Board of Regents of the University
15 of Guam; the Guam Community College Board of Trustees; the Board of Trustees of the
16 Guam Memorial Hospital Authority; the Board of Directors of the Guam Visitors Bureau;
17 ~~and by the Board of Directors of the Guam Waterworks Authority~~ the Consolidated
18 Commission on Utilities with respect to personnel matters within their respective
19 ~~Branches~~, agencies, public corporations or departments, and by the Director ~~of the~~
20 ~~Department~~ of Administration as to all other Executive Branch employment.”

21 **Section 5. Recruitment Above-step. 4 G.C.A., Chapter 6, § 6205 is hereby**
22 **amended to read:**

23 **“§ 6205. Recruitment Above-Step.** Step 1 of the Pay Grade assigned to a
24 classified position shall be the regular rate for initial employment in any department or
25 agency. The appointing authority, or the head of an agency, department or public
26 corporation listed in the first paragraph of 4 GCA §4105 may petition the Director of
27 ~~Department~~ of Administration, ~~or~~ the Judicial Council (as to Judicial Branch
28 employment) or the agency department or public corporation’s governing board or
29 commission (as to an agency, department or public corporation listed in the first
30 paragraph of 4 GCA §4105), for recruitment at a higher step not to exceed Step 10,
31 because of documented recruitment difficulty or exceptional qualifications. The petition

1 shall be posted on the agency's website for ten (10) days (Saturdays, Sundays and
2 government of Guam holidays excepted). This petition shall be made before an applicant
3 is hired. Every petition shall be scrutinized and amply justified before being approved.
4 The Department of Administration, the Judicial Council,and governing board or
5 commission (as to an agency, department or public corporation listed in the first
6 paragraph of 4 GCA §4105) may establish policies to administer this section. Increment
7 schedule consisting of Steps 11 through 20 shall not be used for recruitment above step.”

8 **Section 6. Creation of Positions in the Judiciary. 4 G.C.A., Chapter 6,**
9 **§ 6303(a) is amended to read:**

10 **“§ 6303(a). Creation of positions in the Judiciary.** New positions may be
11 created by ~~I Maga'lahaen Guahan, the Administrator of the Courts or the Presiding Judge~~
12 ~~of the Superior Court of Guam~~ for the Judicial Branch, when necessary for the efficient
13 performance of the duties and functions of the government Judiciary. ~~I Maga'lahaen~~
14 ~~Guahan shall submit to the Civil Service Commission, and the Presiding Judge~~
15 Administrator of the Courts shall submit to the Judicial Council; the position descriptions
16 for the positions within thirty (30) calendar days after creation and post the position
17 descriptions on the judiciary website. The positions shall be terminated unless approved
18 by ~~the Commission or the Judicial Council, as the case may be,~~ within ninety (90) days
19 after submission. No newly created position shall be filled in the absence of
20 appropriations to pay the salary of the proposed position.”

21 **Section 7. Creation of Positions in Line Agencies. A new § 6303(b) is added**
22 **to Chapter 6, 4 G.C.A. to read:**

23 **“§ 6303(b). Creation of Positions in the Line Agencies.** (1) The petition of the
24 head (Department Head) of a line agency or department to create a position shall include:

- 25 A. the justification for the new position,
26 B. the essential details concerning the creation of the position,
27 C. an analysis of the similarities and differences between the position to be
28 created and positions listed pursuant to Title 4 G.C.A. § 4101.1(d),
29 D. the position description,
30 E. the proposed pay range and demonstration of compliance with §6301 of
31 this title,

1 F. a fiscal note as that term is described in 2 GCA § 9101 *et seq.*; and
2 any other pertinent information.

3 (2) The Department Head and the Director of Administration shall post the
4 petition on their respective websites for ten (10) days (Saturdays, Sundays and
5 government of Guam holidays excepted). After the posting, the Director of
6 Administration shall forward the petition with his recommendation to I Maga'lahi
7 Guahan who, if he approves the same, shall so indicate and file it for record with
8 the Director of Administration and the Legislative Secretary.

9 (3) No new position may be filled until after compliance with the
10 provisions of section 6303.1 of this code and this section and thirty (30) days have
11 elapsed from the date of filing with the Legislative Secretary.”

12 **Section 8. Creation of positions in the Autonomous Agencies & Public**
13 **Corporations. A new § 6303(c) is added to Chapter 6, Title 4 G.C.A. to read:**

14 **“§ 6303(c). Creation of Positions in the Autonomous Agencies and Public**
15 **Corporations .**

16 (1) The petition of the head of an agency, department or public corporation listed
17 in the first paragraph of 4 GCA §4105 to create a position shall include:

- 18 A. the justification for the new position,
- 19 B. the essential details concerning the creation of the position,
- 20 C. an analysis of the similarities and differences between the position to be
21 created and positions listed pursuant to Title 4 G.C.A. § 4101.1.(d),
- 22 D. the position description,
- 23 E. the proposed pay range and demonstration of compliance with §6301 of
24 this title,
- 25 F. a fiscal note as that term is described in 2 GCA § 9101 *et seq.*; and
26 any other pertinent information.

27 (2) The petition shall be posted on the agency, department or public corporation's
28 website for ten (10) days (Saturdays, Sundays and government of Guam holidays
29 excepted). After the posting, the head shall forward the petition to the governing board
30 or commission who, if they approve the same, shall approve the petition by resolution

1 and file the petition and resolution for record with the Director of Administration and the
2 Legislative Secretary.

3 (3)No new position may be filled until after compliance with the provision of this
4 section and thirty (30) days have elapsed from the date of filing with the Legislative
5 Secretary.”

6 **Section 9. Transparency and Disclosure. A new §6303.1 is added to Chapter**
7 **6, Title 4 G.C.A. to read:**

8 **“6303.1 Transparency and Disclosure.**

9 (a)Prompt notice of the postings required by §§6303 and 6305of this title shall be
10 provided to each newspaper of general circulation and broadcasting station which airs a
11 regular local news program within Guam.

12 (b) The petitions required by §§6303 and 6305 are public documents for the
13 purposes of 4GCA Ch.10 Art 1. (The Sunshine Law.)

14 (c) Any attempted creation of a position or above-step recruitment not in
15 compliance with the provisions of §§ 6303 and 6303.1(a) of this title is void *ab*
16 *initio.*”