

1 **MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN**
2 **2006 (SECOND) Regular Session**

Bill No. 261 (EC)

Introduced by:

Edward J.B. Calvo 

A.R. Unpingco 

Mark Forbes 

"GUAM REGISTERED APPRENTICESHIP PROGRAM," AN ACT TO ADD A NEW CHAPTER 44 TO DIVISION 3 OF TITLE 22, GUAM CODE ANNOTATED RELATIVE TO THE CREATION OF A GUAM REGISTERED APPRENTICESHIP PROGRAM AND FOR THE DEPARTMENT OF LABOR TO ENTER INTO AGREEMENTS WITH BUSINESSES FOLLOWING U.S. DEPARTMENT OF LABOR, BUREAU OF APPRENTICESHIP AND TRAINING PROGRAM STANDARDS PROVIDING EMPLOYER INCENTIVES FOR THE TRAINING AND DEVELOPMENT OF A SKILLED AND TRAINED WORKFORCE.

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

4 **Section 1. Legislative Findings and Intent.** *I Liheslaturan*
5 *Guåhan* finds that apprenticeship training serves as an important
6 pillar of education, alongside our colleges and universities.

1 Since the closing of the Ship Repair Facility (SRF) by the Base
2 Realignment and Closure Commission (BRAC-95) and the
3 subsequent privatization of various operations of the Naval Base
4 due to the A-76 process, the apprentice program provided by the
5 Navy ceased to exist. Today, the lack of a viable training program
6 providing skilled workers is a major deficiency in providing a
7 reliable source of a locally trained and skilled labor force.

8 Therefore, *I Liheslaturan Guåhan* finds that in order to have a
9 healthy economy, there must be an adequate source of skilled
10 workers in order to attract investors to the island. One of the first
11 things that an investor looks for is the availability of an educated
12 and trained workforce. A key ingredient in our effort to develop and
13 sustain a healthy economy is our ability to supply a work force that
14 is educated and trained. At present, there is an urgent need to
15 replace the thousands of skilled workers who have left the island or
16 have retired from the workforce.

17 The demand for all classifications of skilled journey workers is
18 increasing more rapidly than the supply; the need for the skills of
19 these workers is becoming critical. The best possible method for
20 developing employee skills is the formalized apprenticeship system
21 of training that is proven to be cost effective, goal oriented, and
22 designed to meet the specific skill needs of the employer.



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Agreements.

- §44106. Eligibility of Apprentices.
- §44107. Administration of the Guam Registered Apprenticeship Program.
- §44108. Tax Credit for Apprenticeship Program Providers.
- §44109. Implementation by Tax Commissioner.
- §44110. Participation Requirements for Apprentices.
- §44111. Cooperative Programs Authorized.
- §44112. Effective Date.

§44101. **Short Title.** This Chapter may be cited as the “*Guam Registered Apprenticeship Program*”.

§44102. **Definitions.** The definitions set forth herein shall govern the construction and interpretation of this Chapter:

‘*Apprentice*’ means an employee of a business participating in the Guam Registered Apprenticeship Program and who is at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade.

‘*Apprenticeship Program*’ or ‘*Apprenticeship Training Program*’ shall mean a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, including such matters as the requirement for a written apprenticeship agreement.

‘*BAT*’ means the Bureau of Apprenticeship and Training of the U.S. Department of Labor;

1 *'Business'* means professional groups, associations,
2 corporation, partnership, any sole proprietorship, any trust or
3 foundation, or any other individual or organization carrying on any
4 business whether or not operated for profit;

5 *'DOL'* means the Department of Labor of the government of
6 Guam;

7 *'Director'* means the Director of the Department of Labor;

8 *'Employer'* shall mean a business employing an apprentice
9 whether or not such business is a party to an apprenticeship
10 agreement with the apprentice;

11 *'Institution of Higher Education'* means the Guam Community
12 College, University of Guam, licensed post secondary institutions or
13 post secondary training programs;

14 *'Program'* means the *Guam Registered Apprenticeship Program* as
15 created within this Chapter;

16 *'Program Provider'* means a business with an approved Guam
17 Registered Apprenticeship Program Agreement;

18 *'Tax Commissioner'* means the Tax Commissioner of Guam or
19 the Director of the Department of Revenue and Taxation;

20 *'Tax Credit'* means an offset to taxes owed on Gross Receipt
21 Taxes derived from seventy-five percent (75%) of all eligible costs
22 paid or incurred by a program provider to train an apprentice;

1 ‘USDOL’ means the U.S. Department of Labor (USDOL);
2 Bureau of Apprenticeship and Training (BAT).

3 **§44103. Guam Registered Apprenticeship Program Creation.**

4 There is hereby established a Guam Registered Apprenticeship
5 Program (hereinafter referred to as the “Program”) administered by
6 the Department of Labor (DOL). The purpose of the Program is to
7 resolve the systemic shortages of highly skilled workers; to
8 encourage employers to hire and train apprentices in high skilled
9 trades and occupations; to allow tax credits for certain long term
10 apprenticeship training expenses; and, to allow participants in
11 formal apprenticeship training to continue to contribute income
12 taxes not relying on financial assistance in completing this form of
13 post-secondary education.

14 **§44104. Apprenticeship Program Occupations Approved for**
15 **the Guam Registered Apprenticeship Program.** On or before
16 December 1st of each and every year, DOL shall conduct a public
17 hearing to receive the opinion and recommendation from
18 professional groups, associations and the business community to
19 determine those areas in which additional professional and technical
20 trades are needed. From those hearings, DOL shall establish a list of
21 occupational priorities that are recognized U.S. Department of Labor
22 (USDOL), Bureau of Apprenticeship and Training (BAT)
23 apprenticeship programs prior to considering any applications or

1 agreements for the Program. DOL shall focus on industrial,
2 construction, technical trades and occupations and shall submit such
3 listing to *I Maga'lahren Guåhan* for approval in order for program
4 providers to qualify for gross receipt tax credits. The approved
5 listing shall be submitted to *I Liheslaturan Guåhan* no later than
6 January 1st of each year.

7 **§44105. Authorization to Enter into Apprenticeship**
8 **Agreements.** The Director of the Department of Labor (DOL), with
9 the approval of *I Maga'lahren Guåhan*, is hereby authorized to enter
10 into agreements with businesses prescribing the manner, terms and
11 conditions of cooperation with such business in carrying out the
12 objectives of the Program. The agreement shall be with businesses
13 having a registered and approved apprenticeship training program
14 in accordance with Title 29, Code of Federal Regulations, Parts 29
15 and 30, following the apprenticeship training standards of the U.S.
16 Department of Labor (USDOL), Bureau of Apprenticeship and
17 Training (BAT).

18 **§44106. Eligibility of Apprentices.** An applicant must be a
19 bona fide resident of Guam for a continuous period of not less than
20 three (3) years prior to being an apprentice, a United States citizen or
21 a permanent resident alien, and must agree to the terms and
22 conditions of the Program and §44110 of this Chapter.

1 **§44107. Administration of the Guam Registered**
2 **Apprenticeship Program.**

3 (a) The Department of Labor shall administer the Guam
4 Registered Apprenticeship Program and shall establish
5 such rules and regulations necessary to implement the
6 provisions of this Chapter.

7 (b) DOL shall be responsible to ensure proper educational
8 accreditation standards are met and maintained either
9 through educational classes provided by the Guam
10 Community College, an institution of higher education,
11 or employer provided USDOL BAT approved
12 educational learning resources.

13 (c) Program providers having five (5) or more apprentices
14 shall adopt a written Affirmative Action Plan and
15 Selection Procedure available under Title 29, CFR Part 30
16 and must register such plan with DOL. Program
17 providers are allowed to set their own minimum
18 requirements, qualifications and credentials for
19 apprentices, but must be fair, nondiscriminatory, and
20 comply with all applicable Program requirements.

21 **§44108. Tax Credit for Apprenticeship Program Providers.**

22 Any business who employs an apprentice duly enrolled and
23 registered under the terms of the Program is entitled to a tax credit

1 on Gross Receipt Taxes for each eligible apprentice equal to seventy-
2 five percent (75%) of the eligible training costs paid or incurred by
3 the business provided that the following requirements are met:

- 4 a. The tax credit is limited to apprenticeship training programs
5 of the Guam Registered Apprenticeship Program in
6 accordance with Title 29, Code of Federal Regulations, Parts
7 29 and 30, following the apprenticeship training standards of
8 the U.S. Department of Labor (USDOL), Bureau of
9 Apprenticeship and Training (BAT);
- 10 b. The program provider may apply tax credits to offset gross
11 receipts taxes only after an apprentice has completed the
12 Program. No portion of any eligible training cost shall be
13 applied towards a tax credit for an apprentice not
14 completing the Program;
- 15 c. Tax credit is restricted to eligible training costs incurred
16 during an apprentice's participation term in the Program;
- 17 d. No business or program provider with a Qualifying
18 Certificate (QC) shall be eligible to claim tax credits for cost
19 incurred to train an apprentice when such training is an
20 obligation conditioned within the terms of the QC. The
21 Guam Economic Development and Commerce Authority
22 (GEDCA) shall assist the Program in the eligibility

1 determination of a business or program provider to
2 participate in the Program;

3 e. The apprentice must be employed on a full time basis which
4 is defined for the purpose of this Chapter as working a
5 minimum of one hundred twenty (120) hours per month at
6 the trade;

7 f. Apprentices must be paid the prevailing wages required by
8 the Program;

9 g. Pre-apprentices are not counted as apprenticeships begun
10 and wages earned by pre-apprentices and are not eligible for
11 tax credits under this Program; and

12 h. Apprenticeship training costs paid by Work Incentive Act
13 (WIA) funds, Department of Labor Manpower Development
14 Fund (MDF) funds, Hotel/Restaurant Industry Training
15 Program funds, or any training costs paid by government of
16 Guam or federal funds shall not be eligible Program costs
17 that could be applied towards a tax credit.

18 A business or apprenticeship provider may carry forward the
19 tax credit when the tax credit exceeds the total amount of gross
20 receipts taxes owed within the applied tax period. Tax credits shall
21 correspondingly be carried forward until depletion.

22 **§44109. Implementation by Tax Commissioner.** The Tax
23 Commissioner of Guam shall, *no later than* ninety (90) days after the

1 effective date hereof in cooperation with DOL, develop necessary
2 procedures to implement this Chapter, and to that end shall:

3 (a) Issue such requirements as may be deem necessary to
4 implement this Chapter;

5 (b) Promulgate such forms and publications as are necessary
6 to assist eligible businesses to take advantage of this
7 Chapter;

8 (c) Develop a procedure to allow the off-set of tax credits
9 against current Gross Receipt Tax liabilities; and

10 (d) Coordinate with the Department of Labor upon receipt of
11 appropriate documentation relative to verifying eligible
12 Gross Receipt Tax Credits. DOL shall certify eligible
13 training costs paid or incurred by the business associated
14 with the Guam Registered Apprenticeship Program.

15 **§44110. Participation Requirements for Apprentices.** An
16 applicant for the Guam Registered Apprenticeship Program shall be
17 required to sign an agreement with their employer and the
18 government of Guam that, in return for the training, he or she
19 remains and works on Guam for a period equivalent to one (1) year
20 of work service for each one (1) year of participation in the Program.

21 **§44111. Cooperative Programs Authorized.** (a) The Director
22 is authorized to enter into memorandum of understanding (MOU) or
23 contracts with government agencies, departments and

1 instrumentalities; public or private organizations, firms, companies
2 or individuals to provide technical or skilled training programs.
3 Such MOUs or contracts shall be utilized to provide for specialized
4 training in particular fields not otherwise available to the Program
5 which are designed to train apprentices in needed skills. Where
6 specialized training is not a part of an accessory government of
7 Guam or federally funded program, the program provider shall incur
8 such training cost. (b) Government of Guam agencies, departments,
9 and instrumentalities including autonomous entities, shall make
10 available to the Program on a timely basis technical support or
11 training as is necessary for DOL to perform its duties as provided in
12 this Chapter.

13 **§44112. Effective Date.** The provisions of this Chapter shall be
14 effective immediately upon enactment.”

15 **Section 3. Severability.** *If* any provision of this Act or its
16 application to any person or circumstances is held invalid, the
17 invalidity shall *not* affect other provisions or applications of this Act
18 which can be given effect without the invalid provision or
19 application, and to this end the provisions of this Act are severable.