

**MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
TWENTY-NINTH GUAM LEGISLATURE
2007 (FIRST) REGULAR SESSION**

Bill No. 145 (EC)
Introduced by:

A. B. PALACIOS, SR. 

AN ACT RELATIVE TO PROVIDING THE GOVERNMENT OF GUAM RETIRMENT FUND, OFFICE OF THE ATTORNEY GENERAL, AND THE OFFICE OF THE PUBLIC AUDITOR WITH GREATER FLEXIBILITY IN THE PROCUREMENT OF NECESSARY SERVICES AND SUPPLIES THROUGH GRANTING AN EXEMPTION FROM THE APPLICATION AND USE OF THE CENTRALIZED PROCUREMENT PROCESS, WHILE STILL MAINTAINING AND ENSURING FUND MEMBERS AND THE PEOPLE OF GUAM OF TRANSPARENCY AND ACCOUNTABILITY OF THEIR RESPECTIVE PROCUREMENT ACTIVITIES; THROUGH AMENDING SECTIONS §5030(K), §5121(E), AND §5125 ALL OF CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED.

2007 JUN 27 M. G. W. L. G. H. L. S.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.**

2 *I Liheslaturan Guåhan* finds that in recent years the focus of the
3 Government of Guam Retirement Fund has been to empower the Board of
4 Trustees and the management of the Fund to properly administer its
5 programs with minimal involvement or interference from external influences.
6 This empowerment was partially accomplished through enabling Retirement
7 Fund members to select the majority of its Board members through an election
8 process. Although it may be still early to evaluate the real value of this

1 empowerment, it has been proven that this system has been valuable in
2 extending greater authority and independence to the Retirement Fund. As
3 this level of autonomy has proven useful for the Fund, it has been suggested
4 that the Retirement Fund be provided with additional flexibility in the
5 administration of its procurement activities, similar to other autonomous
6 government of Guam entities or corporations wherein accountability and
7 public transparency must continue to be maintained throughout the
8 procurement process. The direct administration of the procurement process
9 would further assist the Government of Guam Retirement Fund in its ability
10 to best manage and operate its procurement activities within established
11 guidelines and timelines.

12 In addition, with the recent changes in the selection of the Attorney
13 General and the Public Auditor through requiring that they be elected into
14 their offices, it would further be beneficial if these two respective offices be
15 provided similar flexibilities in the administration of their offices and grant
16 them the opportunity to independently manage the procurement of supplies
17 and services for these elected offices. Although this measure proposes to
18 provide procurement flexibility, it should be noted that existing procurement
19 requirements for open government and accountability will continue to be the
20 foundation of the independent application and use of the government
21 procurement process separate from the centralized system.

22 Therefore, this provision would grant the Government of Guam
23 Retirement Fund, along with the Offices of the Attorney General and the

1 Public Auditor, with greater autonomy in their procurement activities by
2 providing these entities with an exemption from the centralized procurement
3 process, but still ensuring its members and the general community that the
4 Retirement Fund, Office of the Attorney General, and the Office of the Public
5 Auditor, are in compliance with the requirements of the government's open
6 and transparent procurement process.

7 **Section 2. Exemption of the Government of Guam Retirement Fund, Office**
8 **of the Attorney General, and the Office of the Public Auditor from the**
9 **Centralized Procurement Process.**

10 A.) §5030(k) of Part C, Article 1, Chapter 5, Title 5, Guam Code Annotated,
11 is hereby amended to read as follows:

12 “(k) *Governmental Body* means any department, commission,
13 council, board, bureau, committee, institution, agency, government
14 corporation, authority or other establishment or establishment or official
15 of the executive branch of the government of Guam, except for **the**
16 **Government of Guam Retirement Fund, Office of the Attorney**
17 **General, Office of the Public Auditor,** Guam Community College, the
18 University of Guam, the Guam Public School System, and the Guam
19 Memorial Hospital Authority.

20 B.) §5121(e) of Part C, Article 2, Chapter 5, Title 5, Guam Code Annotated,
21 is hereby amended to read as follows:

22 **“(e) Approval of contracts by Government of Guam Retirement Fund.**

1 Notwithstanding any other provision of law, the Board of Trustees
2 of the Government of Guam Retirement Fund shall have exclusive
3 authority to approve and execute all contracts for the procurement of
4 ~~professional services~~ personnel, services, supplies, and other items
5 associated with the operation of the Fund.”

6 C.) §5125 of Part C, Article 2, Chapter 5, Title 5, Guam Code Annotated, is
7 hereby amended to read as follows:

8 **“§5125. Application of this Chapter to Executive Branch.**

9 Every governmental body which is in the purview of the
10 Executive Branch, and including the Government of Guam Retirement
11 Fund, Office of the Attorney General, Office of the Public Auditor,
12 Guam Community College, the University of Guam, the Guam Public
13 School System, the Guam Memorial Hospital Authority, Guam
14 Economic Development and Commerce Authority, and the Guam
15 Visitor’s Bureau, shall be governed by Articles 1, 3, 6, 7, 10, 11 and 12 of
16 this Chapter, except to the extent that any such governmental body or
17 other above-named body may be exempted from the centralized
18 procurement regime of Article 2 of this Chapter, in which event the
19 Director of each such governmental body or other above named body
20 shall be substituted wherever there is reference to the Public Policy
21 Office, Chief Procurement Officer or Director of Public Works in Articles
22 4, 5, 8 and 9 of Chapter 5 of Title 5 of the Guam Code Annotated.

1 It is the intent of *I Liheslaturan Guahan* (the Legislature) to require
2 all Executive Branch governmental bodies, including autonomous
3 agencies, and other above-named bodies, to be governed to the
4 maximum extent practicable by Chapter 5 of Title 5 of the Guam Code
5 Annotated. This provision requires any governmental body, and each
6 above-named body, to conduct their procurement activities pursuant to
7 Chapter 5 of Title 5 of the Guam Code Annotated, except insofar as said
8 Chapter establishes and affects a system of centralized procurement.

9 **Section 3. Establishment of Rules, Regulations, Policies and Procedures for**
10 **Implementation of Procurement Provisions.**

11 The Government of Guam Retirement Fund Board of Trustees, Office of
12 the Attorney General, and the Office of the Public Auditor shall formulate and
13 adopt necessary directives, policies or rules and regulations that will provide
14 for the uninterrupted and smooth implementation of the provisions contained
15 herein. Any rules and regulations formulated and adopted applicable to the
16 administration of their respective procurement processes shall adhere to the
17 provisions of the Administrative Adjudication Act process.

18 **Section 4. Effective Date.**

19 The provisions contained herein shall be effective no later than Sixty (60)
20 days upon the enactment of this Act.

21 **Section 5. Severability.**

22 If any of the provisions of this Act or the application thereof to any
23 person or circumstance is held invalid, such invalidity shall not affect any

1 other provision or application of this Act which can be given effect without
2 the invalid provision or application, and to this end the provisions of this Act
3 are severable.