

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

Bill No. 197  
Introduced by:

A. B. PALACIOS, SR. 

AN ACT RELATIVE TO GRANTING THE OFFICE OF  
THE PUBLIC AUDITOR GREATER FLEXIBILITY IN THE  
RECRUITMENT, COMPENSATION, AND RETENTION  
OF PROFESSIONAL AND TECHNICAL AUDITING  
PERSONNEL IN SUPPORT OF CARRYING OUT THE  
MANDATES OF THE OFFICE; THROUGH AMENDING  
§1907(b) OF TITLE 1, AND §4102(a) OF TITLE 4, GUAM  
CODE ANNOTATED.

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BE IT ENACTED BY THE PEOPLE OF GUAM:

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

2       *I Liheslaturan Guåhan* finds that the Office of the Public Auditor was  
3 established in 1992 by Public Law 21-122 as an instrumentality of the  
4 government of Guam, independent of the executive branch and judicial  
5 branches. That same law required the Public Auditor to submit to the  
6 Liheslaturan Guahan a proposed staffing pattern and a salary schedule for  
7 the professional staff of the office. Thereafter, the first elected Public  
8 Auditor took office in 2001, pursuant to Public Law No. 25-42.

9       The duties and mandates of the Office of the Public Auditor require it  
10 to employ highly trained and experienced professional staff, including  
11 Certified Public Accountants, Certified Internal Auditors, Certified Fraud  
12 Examiners, Certified Government Financial Managers, lawyers, and  
13 investigators, with continuing education required to maintain national

1 standards. Effectively meeting the numerous mandates within the elected  
2 term of the Public Auditor also requires that the employees adhere to  
3 stringent impartiality and confidentiality standards. Testing is unsuitable  
4 and impracticable to meet these requirements for elected officials.

5 I Liheslaturan Guahan finds that recruiting and retaining a sufficient  
6 number of technical and professional employees is a significant factor in  
7 the overall efficiency and effectiveness of the office in meeting its  
8 numerous mandates. I Liheslaturan Guahan finds that compensation is a  
9 significant obstacle to recruitment and retention, and that skilled and  
10 professional workers must be compensated at salary levels that are  
11 competitive locally and in the U. S. mainland, where the majority of state  
12 and regional auditors' offices are unclassified or exempt from the civil  
13 service requirements and compensation scheme.

14 Furthermore, I Liheslaturan Guahan over the past few years has  
15 enacted several legislation that provides greater personnel management  
16 flexibility to certain government of Guam entities, i.e. Guam Memorial  
17 Hospital, Guam Power Authority, Guam Waterworks Authority, etc. This  
18 personnel administrative tool was provided in order to address a serious  
19 concern expressed by a number of management representatives regarding  
20 the constant difficulty that the agency regularly experiences in retaining  
21 their technical and professional staff. In many cases, the agency would  
22 recruit and extensively train their personnel in these technical and  
23 professional positions, spending significant sums of agency funds for

1 training expenses, to eventually have these well-trained personnel pursue  
2 employment elsewhere due to higher pay. Providing management and the  
3 respective Boards of these agencies with flexibility in administering their  
4 personnel activities and establishing a competitive compensation schedule  
5 within their specialized service field of work should result in minimizing  
6 any future significant exodus in professional and technical staff who would  
7 otherwise seek employment elsewhere because of financial reasons. This  
8 management tool serves as a positive approach toward recognizing the  
9 need to work collectively with the management of government agencies  
10 and providing them with the support necessary to enhance the agency's  
11 ability to better serve the public, but this must be accomplished while  
12 maintaining public transparency and accountability.

13 Therefore, it is the intent of I Liheslaturan Guahan to provide the  
14 elected Office of the Public Auditor with similar management flexibility in  
15 the recruitment and retention of their technical and professional staff  
16 through administering a personnel compensation schedule which would  
17 be competitive and further allow for the long-term retention and  
18 development of a professional workforce. The advancement of a  
19 professional and technical workforce within the Office of the Public  
20 Auditor would ultimately benefit the people of Guam in the provision of  
21 comprehensive public auditing services.

22 **Section 2. Subsection (b) of Section §1907 of Title 1, Guam Code**  
23 **Annotated, is hereby amended to read as follows:**

1           ~~“(b) The salaries of the Public Auditor and her staff shall be fixed by~~  
2 ~~the Director of Administration in accordance with the methodology~~  
3 ~~recommended by the Hay Study adopted by the Legislature and effective~~  
4 ~~October 1, 1991, and shall not be diminished during the Public Auditor’s~~  
5 ~~term of office. The Public Auditor shall be authorized to employ such~~  
6 ~~employees to provide such professional, auditing, technical, and clerical~~  
7 ~~assistance as may be necessary for the conduct of business of the Office;~~  
8 ~~to delegate to them such powers and to prescribe for them such duties as~~  
9 ~~may be deemed appropriate by the Public Auditor; and to fix and pay~~  
10 ~~such compensation to the employees for their services as the Public~~  
11 ~~Auditor may determine notwithstanding the provisions of the~~  
12 ~~classification and compensation laws. All other personnel laws of the~~  
13 ~~government of Guam for unclassified employees shall apply to the~~  
14 ~~employees of the Office of the Public Auditor.”~~

15           Section 3. Subsection (a) of §4102(a) of Title 4, Guam Code  
16           Annotated,  
17 as amended by Public Law 28-112, is hereby amended to read as follows:

18           “(a) The unclassified service shall include the positions of:  
19           (1) elective officials;  
20           (2) judges;  
21           (3) Superior Court marshal, chief clerk, chief probation officer and  
22           court administrator of the Superior Court;

1 (4) heads of agencies and instrumentalities and not more than one (1)  
2 secretary for each such officer;

3 (5) The first assistant, by whatever title denominated, to the heads of  
4 agencies and instrumentalities stated in paragraph (4) of this  
5 Subsection;

6 (6) persons employed on a temporary basis;

7 (7) members of boards and commission;

8 (8) executive director of the Commissioner's Council;

9 (9) all offices and employment in the Executive Branch whose  
10 appointment are required to be confirmed by the Guam Legislature;

11 (10) all offices and employment made, by law, to be at the pleasure of  
12 any board, commission or officer;

13 (11) all legislative employees;

14 (12) members of the Guam Gaming Commission;

15 (13) physicians and health care administrators employed at the Guam  
16 Memorial Hospital Authority;

17 (14) With the exception of civilian non-uniformed positions, all  
18 positions in the Department of Military Affairs, including the  
19 Executive Secretary and Executive Services Coordinator.

20 (15) employees of the office of the Governor and Lieutenant  
21 Governor including off-island offices and Government House, as  
22 authorized in the applicable appropriation law.

23 (16) Property Management Officer at the Department of Corrections.

1 (17) persons employed on a seasonal basis.

2 **(18) employees of the Office of the Public Auditor.**

3 **Section 4. Severability.**

4 If any of the provisions of this Act or the application thereof to any  
5 person or circumstance is held invalid, such invalidity shall not affect any  
6 other provision or application of this Act which can be given effect without  
7 the invalid provision or application, and to this end the provisions of this  
8 Act are severable.