

**I MINA' BENTE NUEBE NA LIHESLATURAN GUÅHAN
2007 (FIRST) Regular Session**

Bill No. 96 (S)

O. Gutierrez

Introduced by:

**AN ACT TO AMEND §1907(b) OF TITLE 1, and §4102(a) OF
TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE
OFFICE OF THE PUBLIC AUDITOR.**

2007 APR 19 PM 10:16

**BE IT ENACTED BY I MI'NA BENTE NUEBE NA
LIHESLATURAN GUAHAN:**

Section 1. Legislative Findings.

I Liheslatura finds that the Office of the Public Auditor was established in 1992 by Public Law 21-122 as an instrumentality of the government of Guam, independent of the executive, legislative, and judicial branches. That same law required the public auditor to submit to the Legislature a proposed staffing pattern and a salary schedule for the professional staff of the office. Thereafter, the first *elected* Public Auditor took office in 2001, pursuant to Public Law 25-42.

The duties and mandates of the Office of the Public Auditor require it to employ highly trained and experienced professional staff, including Certified Public Accountants, Certified Internal Auditors, Certified Fraud Examiners, Certified Government Financial Managers, lawyers, and investigators, with continuing education required to maintain national standards. Effectively meeting the numerous mandates within the elected term of a Public Auditor also requires that the employees adhere to stringent impartiality and confidentiality standards. Testing is unsuitable and impracticable to meet these requirements for elected officials.

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

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Section 2. Subsection (b) of Section 1907 of Title 1, Guam Code Annotated, is hereby amended to read:

~~(b) The salaries of the Public Auditor and her staff shall be fixed by the Director of Administration in accordance with the methodology recommended by the Hay Study adopted by the Legislature and effective October 1, 1991, and shall not be diminished during the Public Auditor's term of office. The Public Auditor shall be authorized to employ such employees to provide such professional, auditing, technical, and clerical assistance as may be necessary for the conduct of the business of the Office; to delegate to them such powers and to prescribe for them such duties as may be deemed appropriate by the Public Auditor; and to fix and pay such compensation to the employees for their services as the Public Auditor may determine without regard to the provisions of the classification and compensation laws. All other personnel laws of the government of Guam for unclassified employees shall apply to the employees of the Office of the Public Auditor.~~

Section 3. Subsection (a) of §4102(a) of Title 4, Guam Code Annotated, as amended by P.L. 28-112, is hereby amended to read:

“(a) The unclassified service shall include the positions of:

- (1) elective officials;
- (2) judges;
- (3) Superior Court marshal, chief clerk, chief probation officer and court administrator of the Superior Court;
- (4) heads of agencies and instrumentalities and not more than one
(1) secretary for each such officer;
- (5) The first assistant, by whatever title denominated, to the heads of agencies and instrumentalities stated in paragraph (4) of this Subsection;
- (6) persons employed on a temporary basis;
- (7) members of boards and commission;
- (8) executive director of the Commissioner's Council;
- (9) all offices and employment in the Executive Branch whose appointment are required to be confirmed by the Guam Legislature;
- (10) all offices and employment made, by law, to be at the pleasure of any board, commission or officer;
- (11) all legislative employees;

- (12) members of the Guam Gaming Commission;
- (13) physicians and health care administrators employed at the Guam Memorial Hospital Authority;
- (14) With the exception of civilian non-uniformed positions, all positions in the Department of Military Affairs, including the Executive Secretary and Executive Services Coordinator.
- (15) employees of the office of the Governor and Lieutenant Governor including off-island offices and Government House, as authorized in the applicable appropriation law.
- (16) Property Management Officer at the Department of Corrections.
- (17) persons employed on a seasonal basis.
- (18) employees of the Office of the Public Auditor.”