

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

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Bill No. 88-31 (LS)

Introduced by:

R. J. RESPICIO
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AN ACT TO DIRECT THE GUAM ELECTION COMMISSION TO REVIEW AND UPDATE PROCEDURES AND POLICIES CONTAINED IN TITLE 6 ("ELECTIONS") OF THE GUAM ADMINISTRATIVE RULES AND REGULATIONS (GAR); AND TO RECOMMEND TO *I LIHESLATURA* ANY NECESSARY CHANGES TO TITLE 3 ("ELECTIONS") OF THE GUAM CODE ANNOTATED (GCA); ALL IN ADVANCE OF THE 2012 ELECTIONS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslaturan*
3 *Guåhan* finds that voter confidence is the cornerstone of free and fair
4 elections, and that a lack of confidence in the voting process is likely
5 to lead to voter apathy, eventually causing our democracy to suffer.

6 While much has already been said and written regarding the
7 problems in Guam's 2010 elections, and such problems have been
8 documented in media reports and listed in court filings challenging

1 the election results, action must be taken to correct these problems to
2 avoid the further erosion of public confidence in our democratic
3 election processes.

4 Each identified problem should and must be addressed in such
5 a way that (a) similar problems do not recur in future elections, or (b)
6 procedures are established to address and solve these problems if
7 they should ever recur.

8 Additionally, *I Liheslatura* finds that a number of complaints
9 lodged during and after the 2010 election process may indicate that
10 insufficient staffing, lack of knowledgeable staff members, lack of
11 uniformity in training, unclear guidelines, or ambiguous/incomplete
12 procedures may have caused or led to some of the errors that took
13 place. Avoiding and preventing these kinds of errors are matters that
14 can and must be addressed.

15 It is therefore the intent of *I Liheslatura* to task the Guam
16 Election Commission (GEC) to review and update election
17 procedures and policies contained in the Guam Administrative Rules

1 and Regulations (GAR) and submit such revisions pursuant to the
2 Administrative Adjudication Act. It is additionally the intent of *I*
3 *Liheslatura* to task the GEC to review and propose to *I Liheslatura*
4 specific changes to Title 3 of the Guam Code Annotated (GCA).

5 It is additionally the intent of *I Liheslatura* that the revisions and
6 submissions will be implemented in the GAR and GCA prior to the
7 2012 elections.

8 **Section 2. Guam Election Commission (GEC) to review and**
9 **update Guam Administrative Rules and Regulations (GAR).** The
10 Guam Election Commission *shall* systematically review and update
11 the procedures and policies contained in Chapters 1 through 4 of
12 Title 6: "Elections," of the Guam Administrative Rules and
13 Regulations (GAR) and *shall* submit such revisions pursuant to the
14 Administrative Adjudication Act. In doing such, the GEC *shall*
15 include the following matters:

16 **a. Written checklists to be utilized during elections.** The
17 GEC must address a lack of uniformity in knowledge and

1 training of GEC board members, staff, temporary workers and
2 volunteers, relative to providing instructions to voters;
3 treatment of absentee ballots and voters; treatment of
4 provisional voters; handling of ballots; dealing with challenges;
5 absentee voting and handling of absentee ballots; setting up the
6 polling place; and any other training needs. Such checklists
7 should be devised to ensure that workers:

8 i. have the supplies needed to perform their duties
9 on election days;

10 ii. follow standardized procedures to inform voters
11 and handle ballots;

12 iii. have contact information for all critical personnel
13 needed to answer questions and make decisions;

14 iv. know how to assist disabled voters;

15 v. know what constitutes proper voter
16 identification;

17 vi. know the process for provisional voting;

1 vii. follow a staffing schedule set in such a way that
2 those who are temporary workers, stationed at polling
3 sites on an election day, do not work more than four
4 (4) consecutive hours per shift; and may not work
5 consecutive shifts;

6 viii. have a specific checklist including a step-by-step
7 process to close precincts following the conclusion of
8 voting. Closing procedures in polling places shall not
9 be initiated until after the polling place has ended
10 operations and all voters have departed.

11 **b. Early voting checklist.** Should Guam statutes permit
12 early voting, an early voting checklist must be prepared and
13 utilized during a legally authorized early voting period prior to
14 election day. The checklist shall include:

15 i. Ensuring accessibility for voters, including
16 disabled voters, to a secure voting area;

17 ii. Guidelines for provisional voting during early

1 voting;

2 iii. Guidelines for what constitutes proper voter
3 identification;

4 iv. Guidelines for correct handling of all ballots;

5 v. Security of ballots.

6 c. **Provisional ballot guidelines** must be posted at each
7 polling site and at the Guam Election Commission office. These
8 guidelines should include an explanation of what a voter
9 should do before casting a provisional ballot in order to
10 increase the chances of the provisional vote being counted. An
11 explanation sheet should be provided to provisional voters that
12 defines their status, the criteria used to qualify their ballot, how
13 the provisional voter will be contacted regarding the final
14 disposition of the ballot, and the fact that a provisional voter
15 may appeal the disqualification of their ballot.

16 d. **Ballot reconciliation procedures** must be developed
17 for implementation at the end of each election day. Judges and

1 poll workers must receive training on ballot reconciliation
2 procedures.

3 **e. Other procedural needs as determined by GEC.**

4 **Section 3. GEC to review and propose changes to Title 3**

5 **Guam Code Annotated: "Elections."** The GEC *shall* systematically
6 review and propose to *I Liheslatura* specific amendments and changes
7 to Title 3, "Elections," of the Guam Code Annotated. In doing such,
8 the GEC *shall* address the following matters:

9 **a. Voter information.** Posters and signage concerning
10 voting rights, provisional ballots, voter identification laws, and
11 assistance for the disabled, shall be placed in a conspicuous
12 location at each polling site on election day.

13 **b. Ballots.** GEC shall develop guidelines and
14 documentation for the handling of ballots, and must account
15 for every ballot printed for each election.

16 **i.** The exact number of ballots of each kind that are
17 sent to each precinct must be recorded, and the number of

1 ballots of each kind returned by each precinct should
2 match the number sent, including those used for voting,
3 those that were spoiled, and those that are considered
4 provisional. Spoiled or misprinted ballots must not be
5 disposed of, or destroyed by the printer, or destroyed at
6 the precincts, they must be returned to GEC with the
7 word "spoiled" or "misprinted" plainly marked across
8 the ballot.

9 **ii.** Blank ballots must be stored in a secure, locked
10 area until distribution for election purposes. When ballots
11 are distributed, both the individual releasing the ballots
12 and the individual receiving the ballots must sign off a
13 release form.

14 **iii.** Absentee ballots sent to requesting voters must be
15 individually logged out. Absentee ballots received from
16 voters must be individually logged in and cross-tabulated
17 with the list of ballots logged out. Absentee ballots must

1 be stored in a secure, locked area until needed for
2 tabulation. After tabulation, ballots must be returned to
3 the secure, locked area until final disposition.

4 **iv.** Ballots shall not be destroyed or disposed of in
5 any manner, to include spoiled ballots, but instead shall
6 be stored in a secure, locked area until certification of the
7 election for which the ballots were used; or until all court
8 challenges have been completed and decisions rendered
9 for the election in question, whichever occurs later.

10 **c. Hand counts.** Counting of ballots by hand should be
11 observable by the public. Counting teams must neither be
12 provided with the original machine count nor the total number
13 of ballots in each box. However, the individual, or individuals,
14 overseeing the counting team should be provided with both
15 these counts.

16 **d. Audits.** Results of audits must be made public and
17 must include: the date, time and location where any post-

1 election audit was performed, the total number of ballots
2 recorded by each machine, the total number of votes cast for
3 each candidate by machine, the parallel data from the hand
4 count, and the percentage difference between the machine and
5 hand count.

6 **Section 4. Detailed Budget Requests.** GEC's annual budget
7 submission for election years must provide a detailed breakdown of
8 the funding level necessary to meet all of their statutory requirements
9 and abide by all policies and procedures set forth in their rules and
10 regulations.

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