

THIRTEENTH GUAM LEGISLATURE
1975 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 1, "An Act to add a new Chapter IV to title IV of the Government Code relative to the Open Government Law", was on the 16th day of June, 1975, duly and regularly passed.

Joseph F. Ada
JOSEPH F. ADA
Speaker

ATTESTED:

Concepcion Cruz Barrett
CONCEPCION CRUZ BARRETT
Legislative Secretary

This Act was received by the Governor this 19th day of June, 1975 at 10:20 o'clock A.M.

/s/ Ruth E. Won-Pat
RUTH E. WON PAT
Assistant Staff Officer
Governor's Office

APPROVED:

/s/ RICARDO J. BORDALLO
RICARDO J. BORDALLO
Governor of Guam

DATED: JUN 26 1975

2:07 P.M.

P.L. 13-35

THIRTEENTH GUAM LEGISLATURE
1975 (FIRST) Regular Session

Bill No. 1
(Substitute Bill by
Committee on General
Governmental Operations)

Introduced by

J. P. Ada
B. V.D. Ada
C. C. Barrett
F. F. Blas
E. R. Duenas
E. M. Espaldon
B. M. Palomo
J. M. Rivera
G. R. Salas
T. V.C. Tanaka
J. H. Underwood
A. C. Ysrael

AN ACT TO ADD A NEW CHAPTER IV TO TITLE
IV OF THE GOVERNMENT CODE RELATIVE TO
THE OPEN GOVERNMENT LAW.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. A new Chapter IV is added to Title IV,
3 Government Code of Guam to read:

4 "Chapter IV

5 Open Government Law of Guam

6 Section 3225. Citation. This Chapter may be
7 cited as the 'Open Government Law of Guam'.

8 Section 3226. Policy. The Legislature declares it
9 is the policy of this territory that the formation of public
10 policy and decisions is public and shall not be conducted
11 in secret. The people of Guam do not yield their individual
12 rights to the public agencies which serve them. The people,
13 in delegating authority, do not give their public servants
14 the right to decide what is good for the people to know and
15 what is not good for them to know. The people insist on
16 remaining informed so that they may retain control over the
17 instruments they have created.

1 Section 3227. Open Meetings. (a) Every meeting of
2 a public agency shall be open and public, and any person
3 shall be permitted to attend any public agency meeting
4 except as otherwise provided in this Chapter. A member of
5 the public shall not be required, as a condition to atten-
6 dance at a meeting of public agency, to register his name and
7 other information, to complete a questionnaire, or otherwise
8 to fulfill any condition precedent to his attendance.

9 (b) This Chapter does not require that a person who
10 is admitted to a meeting of a public agency shall, because
11 of his mere presence, be accorded an opportunity to parti-
12 cipate in such a meeting. Each public agency retains the
13 right to reserve areas for the public and to exclude the
14 public from any area necessary for the orderly conduct of
15 its business.

16 Section 3228. Definitions:

17 (a) (1) 'Public agency' includes any board,
18 commission or comparable unit of government whose
19 members are appointed by the Governor or appointed
20 by the Legislature; any non-profit corporation created
21 by one or more public agencies or the Legislature and
22 whose board of directors is appointed by such
23 public agencies or by the Governor or Legislature
24 and which is formed to acquire, construct, reconstruct,
25 maintain or operate any public work project or any
26 board, commission, committee or other body on
27 which officers of a public agency serve in their
28 official capacity as members and which is supported
29 in whole or in part by funds provided by such
30 agency, whether such board, commission, committee

1 or other body is organized and operated by such local
2 agency or by a private corporation.

3 (2) 'Public agency' also includes
4 any advisory commission, advisory committee
5 or advisory body of a public agency, created
6 by law, resolution, or any similar formal
7 action of a public agency.

8 (3) The Legislature is a 'public agency'
9 when it is holding a daily session but meetings
10 of political caucuses composed of members of the
11 Legislature are not required to be conducted in
12 public.

13 (4) A Committee of a Legislature is a
14 'public agency' when it is holding a hearing but
15 committee meetings other than hearings are not
16 required to be conducted in public.

17 (b) 'Meeting' means the convening of a
18 governing body of a public agency for which a
19 quorum is required in order to make a decision or
20 to deliberate toward a decision on any matter.
21 Meeting does not include any onsite inspection of
22 any project or program.

23 (c) 'Action taken' means a collective deci-
24 sion made by a majority of the members of a public
25 agency, a collective commitment or promise by a
26 majority of the members of a public agency to make
27 a positive or a negative decision, or an actual
28 vote by a majority of the members of a public agency
29 when sitting as a body or entity, upon a motion,
30 proposal, resolution or order.

1 Section 3229. Exception. A chance meeting of two
2 or more members of a public agency shall not be considered
3 a public meeting. No chance meeting, informal assemblage,
4 or electronic communication shall be used to decide or
5 deliberate public business in circumvention of the spirit
6 or requirements of this Chapter.

7 Section 3230. Regular Meetings. A public agency
8 shall provide by appropriate administrative action rules
9 to govern the conduct of its business. Such rules shall
10 provide for the time for holding an agency's regular
11 meetings. If at any time a regular meeting falls on
12 a holiday, such regular meeting shall be held on the
13 next business day unless continued until some other
14 publicly announced date by action of the agency. If,
15 by reason of an emergency, it shall be unsafe to meet
16 at the time designated, the meetings may be held for
17 the duration of the emergency at such other time as
18 is designated by the presiding officer of the public
19 agency.

20 Section 3231. Notices:

21 (a) Notice of regular meetings. Any public
22 agency which holds a meeting required by statute,
23 regulation, or resolution, shall give adequate
24 public notice of such meeting.

25 (b) Notice of special meetings. Any public
26 agency which holds a meeting not previously sche-
27 duled by statute, regulation, or resolution, or
28 for which notice is not already provided by law,
29 shall give adequate public notice of such meeting
30 as required by this Chapter.

1 (c) The notice requirements of this Chapter
2 are in addition to, and not in substitution of
3 any other notice required by law.

4 Section 3232. Special meeting. A special meeting
5 may be called at any time by the presiding officer of
6 a public agency, or by a majority of the members of a
7 public agency, by delivering personally or by mail
8 written notice to each member of a public agency.
9 Notice shall also be given to each newspaper of general
10 circulation and broadcasting station within Guam.
11 Such notice must be delivered personally or by mail
12 at least 24 hours before the time of such meeting as
13 specified in the notice. The call and notice shall
14 specify the time and place of the special meeting and
15 the business to be transacted. No other business shall
16 be considered at such meetings by the public agency.
17 The 24-hour notice may be waived in the event of an
18 emergency certified to in writing by the presiding
19 officer or a majority of the members of a public
20 agency. A public agency may also consider all necessary
21 business in the event of an emergency. This section
22 shall not require a public agency to give notice of
23 its meetings by paid advertisements in any newspaper
24 or over any broadcasting station. Written notice may
25 be dispensed with as to any member who at, prior to
26 or subsequent to the time the meeting convenes files
27 with the clerk or secretary of the public agency
28 a written waiver of notice. Such written notice may
29 be dispensed with as to any member who is actually
30 present at a meeting at the time it convenes.

1 Section 3233. Adjournments. A public agency
2 may adjourn any regular, adjourned regular, special
3 or adjourned special meeting to a time and place
4 specified in the order of adjournment. Less than
5 a quorum may so adjourn from time to time. If all
6 members are absent from any regular or adjourned
7 regular meeting the clerk or secretary of the public
8 agency may declare the meeting adjourned to a stated
9 time and place and he shall cause a written notice
10 of the adjournment to be given in the same manner as
11 provided in Section 3232 for special meetings, unless
12 such notice is waived as provided for special meetings.
13 A copy of the order or notice of adjournment shall be
14 conspicuously posted on or near the door of the place
15 where the regular, adjourned regular, special or
16 adjourned special meeting was held within 24 hours
17 after the time of the adjournment. When a regular
18 or adjourned regular meeting is adjourned as provided
19 in this section, the resulting adjourned regular meet-
20 ing is a regular meeting for all purposes. When an
21 order of adjournment of any meeting fails to state
22 the hour at which the adjourned meeting is to be held
23 it shall be held at the hour specified for regular
24 meetings.

25 Section 3234. Adjournment: Same. Any hearing
26 being held or noticed or ordered to be held, by a
27 public agency at any meeting may by order or notice
28 of continuance be continued or recontinued by any
29 subsequent meeting of the public agency in the same
30 manner and to the same extent set forth in Section

1 3233 for the adjournment of meetings; provided, that
2 if the hearing is continued to a time less than 24
3 hours after the time specified in the order or,
4 notice of hearing, a copy of the order or notice of
5 continuance of hearing shall be posted immediately
6 following the meeting at which the order or declara-
7 tion of continuance was adopted or made.

8 Section 3235. Executive sessions. (a) No public
9 agency is prohibited because of this chapter from
10 holding executive sessions with the Attorney General,
11 Director of Public Safety or the respective designated
12 representatives of each on a matter which poses a
13 threat to the public health, safety or welfare or
14 from holding executive sessions during a regular
15 or special meeting to consider the appointment,
16 employment or dismissal of a public officer or employee
17 or to hear complaints or charges brought against such
18 officer or employee by another public officer, person
19 or employee unless such officer or employee requests
20 a public hearing. A public agency may exclude from
21 any public or private meeting, during the examination
22 of a witness, any or all other witnesses in the
23 matter being investigated by the public agency.

24 (b) Notwithstanding any other provision of
25 law, a public agency may hold executive sessions with
26 its staff to consider matters within the scope of the
27 Public Employee-Management Relations Act.

28 Section 3236. Disturbances. In any event that
29 any person wilfully interrupts a meeting of a public
30 agency so that a meeting may not be conducted in an

1 orderly fashion and order cannot be restored by the
2 removal of the person who is wilfully interrupting
3 the meeting, the members of the public agency con-
4 ducting the meeting may order the meeting room cleared
5 and continue in session. Only matters appearing on
6 the agenda may be considered in such session. Duly
7 accredited news reporters and photographers shall be
8 allowed to attend any session held pursuant to this
9 section, provided that any such person who wilfully
10 interrupts a meeting of a public agency may be removed,
11 in the same manner as any other person.

12 Section 3237. Minutes. The minutes of every
13 meeting of each public agency shall be promptly and
14 fairly recorded, shall be open to public inspection
15 and shall include but not be limited to a record of
16 all motions, proposals and resolutions offered, the
17 results of any votes taken and a record of individual
18 votes in event of roll call. Insofar as it may do so
19 without violating Section 3227 of this Chapter, an
20 agency may also maintain a record of persons present
21 at a meeting.

22 Section 3238. Action voided. Any action taken
23 at a meeting in violation of any section of this
24 Chapter shall be void and of no effect, provided that
25 this nullification of actions taken at such meetings
26 shall not apply to any commitment, otherwise legal,
27 affecting the public debt of the entity concerned.

28 Section 3239. Penalties and court jurisdiction:

29 (a) The Superior Court shall have jurisdic-
30 tion to enforce any action brought as a result

1 of a violation of this Chapter. Any person
2 shall have standing to sue for the enforcement
3 of this Chapter.

4 (b) Each member of a public agency who
5 attends a meeting of a public agency where action
6 is taken in violation of any provision of this
7 Chapter, with knowledge of the fact that the
8 meeting is in violation thereof, is guilty of
9 a misdemeanor.

10 (c) Any interested persons may commence an
11 action by mandamus, injunction or declaratory
12 relief for the purpose of stopping or preventing
13 a violation or threatened violation of this
14 Chapter by members of an agency or to determine
15 the applicability of this Chapter to actions or
16 threatened future action of an agency.

17 (d) In each suit brought under the Chapter,
18 the court shall file a written Findings of Fact
19 and Conclusions of Law and final judgment which
20 shall also be recorded in the minutes of body
21 involved.

22 (e) The court shall permanently enjoin any
23 person adjudged to have violated this Chapter
24 from further violating this Chapter. Each
25 separate action taken which is not in accordance
26 with this Chapter shall constitute a separate
27 violation.

28 (f) The final judgment or decree in each
29 suit shall state that the court shall retain
30 jurisdiction over the parties and subject matter

1 for a period of one year from date of entry and
2 the court shall order the defendants to report
3 in writing twice annually to the court of their
4 compliance with this Chapter.

5 Section 3240. Severability. If any provision of
6 this Chapter or the application of any section thereof,
7 to any person or circumstance is held invalid, the
8 validity of the remainder of said Chapter and the
9 application of such provisions to other persons or
10 circumstances shall not be affected thereby."

11 Section 2. In order to facilitate an orderly transition
12 to the procedures which each public agency shall be required
13 to follow because of the adoption of this Act, this Act
14 shall take effect 45 days after it has become law.