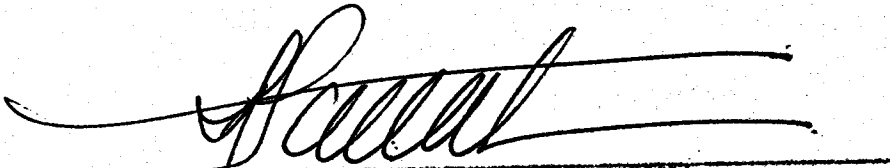


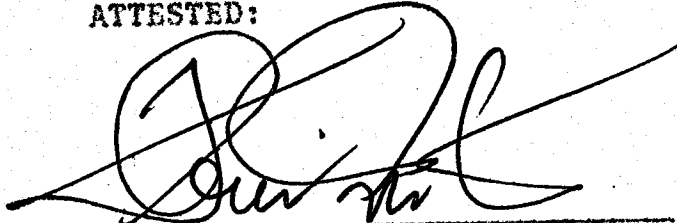
SIXTEENTH GUAM LEGISLATURE  
1981 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 42, "An Act to repeal Chapter 1 of Title V of the Government Code and to enact Chapter 4 of Title 4 of the Guam Code Annotated relative to the reform of personnel policies and the Civil Service Commission," returned to the Legislature without the approval of the Governor was, in accordance with the Organic Act of Guam, reconsidered by the Legislature and after such reconsideration, the Legislature did on the 11th day of August 1981, agree to pass said bill notwithstanding the objections of the Governor by a vote of two-thirds of all the members thereof, to wit: by a vote of 15 members.

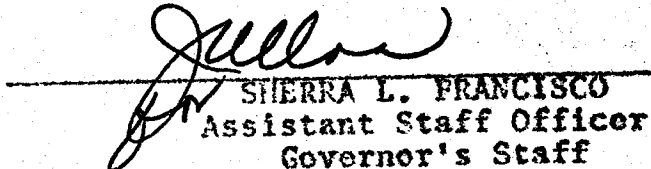
  
THOMAS V. C. TANAKA  
Speaker

ATTESTED:

  
THOMAS C. CRISOSTOMO  
Legislative Secretary

-----  
This Act was received by the Governor this 19<sup>th</sup> day of  
August 1981 at 2:15 o'clock P.M.

P.L. 16-23

  
SIERRA L. FRANCISCO  
Assistant Staff Officer  
Governor's Staff

SIXTEENTH GUAM LEGISLATURE  
1981 (FIRST) Regular Session

Bill No. 42  
(As Substituted by the Committee  
on Governmental Operations)

Introduced by: K. S. Moylan, F. R. Santos, J. T. San Agustin

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AN ACT TO REPEAL CHAPTER 1 OF TITLE V OF THE  
GOVERNMENT CODE AND TO ENACT CHAPTER 4 OF TITLE  
4 OF THE GUAM CODE ANNOTATED RELATIVE TO THE  
REFORM OF PERSONNEL POLICIES AND THE CIVIL  
SERVICE COMMISSION.

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

2 Section 1. A new Chapter 4 of Title 4 is added to the Guam  
3 Code Annotated to read:

4 "CHAPTER 4

5 Personnel Policy and the Civil  
6 Service Commission

7 Article 1 - Personnel Policy

8 Section 4101. Personnel Policy. (a) Employment in  
9 the service of the government of Guam shall be based upon  
10 merit, and selection of employees shall be free of personal  
11 or political consideration. No person shall be discriminated  
12 against in an application for employment or dismissed from  
13 employment on account of race, color, age, religion, sex,  
14 national origin, or physical or mental impairment. All  
15 personnel actions, including appointments and promotions,  
16 shall be based, insofar as practicable, on competitive  
17 practical tests and evaluations. Continuity of employment  
18 shall be dependent upon good behavior, satisfactory per-  
19 formance of work and availability of funds.

20 (b) The government shall initiate an affirmative  
21 action program to assure that physically and mentally  
22 handicapped persons shall have an opportunity to obtain

1 government employment. The affirmative action program shall  
2 include job training programs for the handicapped and a  
3 continuing review of job and work requirements by the per-  
4 sonnel agencies and the Civil Service Commission to assure no  
5 artificial impediments or discriminatory physical or mental  
6 requirements be established to thwart job applications  
7 submitted by handicapped persons.

8 Section 4102. Classified and Unclassified Services.

9 All offices and employment in the government of Guam shall  
10 be divided into classified and unclassified services as  
11 follows:

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

14 (1) elective officials;

15 (2) judges and one bailiff and one secretary for  
16 each judge;

17 (3) Superior Court marshal, deputy marshals,  
18 chief clerk and court administrator of the Superior  
19 Court;

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

22 (5) the first assistant, by whatever title  
23 denominated, to the heads of agencies and instrumenta-  
24 lities stated in paragraph (4) of this subsection;

25 (6) persons employed on a temporary basis but in  
26 no event longer than one (1) year for the purpose of  
27 furnishing professional or technical services to the  
28 government of Guam;

29 (7) members of boards and commissions;

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

32 (9) all offices and employment in the executive

1 branch whose appointments are required to be confirmed  
2 by the Guam Legislature;

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

5 (11) legislative attaches, the executive director  
6 and staff of an individual senator or standing committee  
7 of the Legislature;

8 (12) members of the Guam Gaming Commission;

9 (13) physicians employed at Guam Memorial Hospital  
10 Authority;

11 (14) all positions in the Department of Military  
12 Affairs; and

13 (15) not more than ten (10) employees of the Office  
14 of the Governor and Lieutenant Governor.

15 (b) The classified service shall include all other  
16 positions in the government of Guam except for any position  
17 authorized but for which no position description has yet been  
18 developed. Such a position shall be filled through a  
19 contract, which contract shall be valid only until the  
20 position description has been developed and approved by the  
21 Civil Service Commission, at which time, the position shall  
22 be filled as required for positions in the classified service.  
23 An agency shall have three (3) months during which to develop  
24 the job description and present it to the Civil Service  
25 Commission for approval. The employment under a contract in  
26 a position without a description shall not continue after  
27 three (3) months from the commencement of the contract.

28 Section 4103. Preferences. (a) No preference shall be  
29 given in the government service, except that residents of  
30 Guam who are physically or mentally impaired, but are physi-  
31 cally and mentally able to perform efficiently and safely the  
32 duties of the job being applied for as certified by the

1 Director of Public Health and Social Services, or who are  
2 veterans of the Armed Forces of the United States, or who  
3 are former members of the Guam Police Combat Patrol, as  
4 certified by the Director of Public Safety, shall receive a  
5 preferential credit of five (5) points which shall be added  
6 to their passing score, and such veterans or former members  
7 who are disabled as a result of their service in the Armed  
8 Forces or Combat Patrol, shall receive a preferential credit  
9 of ten (10) points which shall be added to their passing  
10 score. In addition, if two (2) applicants for government  
11 service are equally qualified for the position to be filled,  
12 and one is a beneficiary of a preference pursuant to this  
13 subsection, while the other is not, the former shall be given  
14 the first offer of position.

15 (b) The points added to an applicant's passing score  
16 shall be added only if the applicant receives a minimum  
17 passing score and upon initial employment only.

18 Section 4104. Departmental Personnel Rules. Rules  
19 subject to criteria established by this Chapter governing  
20 the selection, promotion, performance evaluation, demotion,  
21 suspension and other disciplinary action, shall be adopted  
22 by the Board of Directors for the Guam Airport Authority,  
23 Board of Directors for Guam Economic Development Authority,  
24 Board of Directors for Guam Housing Corporation, Board of  
25 Commissioners for Guam Housing and Urban Renewal Authority,  
26 Legislature, Judicial Council, the Board of Directors of the  
27 Guam Telephone Authority, the Board of Directors of the Guam  
28 Port Authority, the Board of Directors of the Guam Power  
29 Authority, the Board of Education, the Board of Regents of  
30 the University of Guam, the Guam Community College Board of  
31 Trustees and by the Board of Trustees of the Guam Memorial  
32 Hospital Authority with respect to personnel matters within

1 their respective branches, agencies or departments, and by  
2 the Director of Administration as to all other executive  
3 branch employment. Such rules shall, to the extent  
4 practicable, provide standard conditions for entry into and  
5 other matters concerning the government service. The  
6 personnel rules adopted for Guam Airport Authority, Guam  
7 Telephone Authority, Guam Port Authority, Guam Power  
8 Authority, Board of Education, Guam Memorial Hospital  
9 Authority, the Judiciary and by the Director of Administra-  
10 tion shall require that all their classified employee  
11 appeals be heard by the Civil Service Commission. Personnel  
12 rules governing the Legislature and other executive branch  
13 entities may require that their classified employee appeals  
14 be heard by the Civil Service Commission. Rules concerning  
15 the executive branch shall take effect upon their approval  
16 by the Civil Service Commission, by Executive Order of the  
17 Governor and filing with Legislative Secretary. Rules  
18 concerning the legislative and judicial branches shall  
19 take effect upon filing with the Civil Service Commission.

20 Such rules shall include the following provisions:

21 (a) That the minimum rate of each pay range shall  
22 be the normal rate for initial employment in the positions  
23 and classes assigned thereto; provided, however, that  
24 directors or other departmental heads may, with the  
25 approval of the Civil Service Commission, authorize initial  
26 employment in a position at a higher step in the position's  
27 pay range if such action is warranted by recruitment  
28 difficulties or by the new employee's special or unusual  
29 qualifications, including experience.

30 (b) That no spouse of any director, chief administrator  
31 or other department head within the government of Guam  
32 may be employed within the department, agency or instrumenta-

1 lity so headed by such director, chief administrator, or  
2 other officer.

3 (c) That overtime for those employees entitled thereto  
4 shall be calculated at one and one-half (1 1/2) times their  
5 regular wage; and

6 (d) That employees may work at outside employment not  
7 in conflict with their government service nor such as would  
8 bring the government of Guam or its employees into disrepute,  
9 but that any employee may undertake such employment only if  
10 such is not in conflict with his duly scheduled hours of  
11 government employment and only with the consent in writing  
12 of his department or agency head, which consent may not be  
13 unreasonably withheld.

14 Adoption of such rules are not subject to the Adminis-  
15 trative Adjudication Act.

16 Section 4105. Personnel Rules. The personnel rules  
17 provided for in Section 4104 of this Chapter shall provide  
18 procedures for the employment of persons on the basis of  
19 merit, and shall include an orderly and systematic method  
20 of recruitment and the establishment of qualified lists for  
21 employment purposes. They shall provide for a probationary  
22 period of not less than three (3) nor more than twelve (12)  
23 months for all original appointments, except for original  
24 academic appointments at the University of Guam or the Guam  
25 Community College, during which time the employee may be  
26 dismissed at any time without right of appeal and without  
27 right of being given reasons or charges in writing. Specific  
28 procedures and policies shall be included, governing the  
29 following:

30 (1) the announcement of vacancies and acceptance of  
31 applications for employment;

32 (2) preparation and conduct of examinations;

1 (3) establishment and use of employment lists containing  
2 names of persons eligible for employment;

3 (4) establishment of promotional policies;

4 (5) certification of employment of persons from  
5 employment lists to fill vacancies and the making of temporary  
6 and emergency appointments;

7 (6) evaluation of the work of employees, including those  
8 serving a probationary period;

9 (7) transfer, promotion and reinstatement of employees  
10 in the competitive service;

11 (8) separation from the service of employees by  
12 resignation, layoff, suspension, dismissal, and for  
13 incapacity to perform required duties, provided that the  
14 rules shall provide a system for the employee to seek  
15 reconsideration of suspension, dismissal and removal for  
16 incapacity to perform by answering any charges within ten  
17 (10) days and having a conference with the administrative  
18 head;

19 (9) establishment of hours of work, attendance and  
20 leave regulations, and working conditions;

21 (10) development of employee morale, welfare, and  
22 training;

23 (11) rules governing the outside employment of  
24 employees;

25 (12) maintenance and use of necessary records and  
26 forms;

27 (13) a uniform system of handling all grievances,  
28 except where a different grievance system has been negotiated  
29 between a recognized employee organization and the  
30 appropriate management officials;

31 (14) appeal of an adverse action not inconsistent with  
32 Sections 4175 and 4176 of this Chapter;



1 (15) in the case of academic employees of the  
2 University of Guam or the Guam Community College, and their  
3 successor agencies, a system of tenure appropriate to the  
4 academic nature of the respective institutions; and

5 (16) such other matters as may be necessary to properly  
6 carry out the intent and purposes of this Chapter.

7 Notwithstanding any provisions of law to the contrary,  
8 all contracts for the hiring of non-resident, off-island  
9 employees shall conform to the provisions of Section 4110.3  
10 of the Government Code.

11 Section 4106. Maternity Leave. Maternity leave shall  
12 be granted to a female employee occupying a permanent  
13 position who is absent from work as a result of childbirth.  
14 Such maternity leave shall not exceed ten (10) days, shall  
15 be in addition to sick leave and shall be paid leave. Such  
16 maternity leave shall be any ten (10) days encompassing the  
17 date of childbirth, and any additional leave taken for such  
18 childbirth purposes shall be charged against accumulated sick  
19 leave.

20 Section 4107. Sick Leave. (a) Defined. Employees  
21 occupying permanent positions shall accrue sick leave at the  
22 rate of one-half day (4 hours) for each biweekly pay period  
23 in which they are in pay status for the entire ten (10) days;  
24 otherwise, there shall be no accrual for such period. For the  
25 purposes of this Section, all full-time employees of the  
26 Department of Education, University of Guam and the Guam  
27 Community College shall be deemed to be employed on the same  
28 two thousand eighty (2,080) hour year divided into twenty-six  
29 (26) biweekly pay periods as other permanent positions within  
30 the government, even though such employees may be paid in  
31 accordance with a different payroll system. Therefore, they  
32 shall accrue thirteen (13) days sick leave per duty year.

1 (b) Accumulation. Unused sick leave may be accumulated  
2 and carried over to succeeding leave years without limitation.

3 (c) When Allowed. Sick leave with pay shall be allowed  
4 whenever the employee is compelled to be absent from duty on  
5 account of illness, injury, medical condition, or because of  
6 quarantine due to his own or another's illness.

7 (d) Certification. If an employee is absent because of  
8 illness, injury, medical condition or quarantine in excess of  
9 three (3) consecutive days, he may be required to furnish a  
10 certification as to the incapacity from a regularly licensed  
11 physician or other evidence administratively acceptable. The  
12 department head may require certification for such other  
13 period as is appropriate.

14 (e) Administration. If the certification required by  
15 subsection (d) is not furnished, all absence which would have  
16 been covered by such certification shall be indicated on the  
17 payroll as leave of absence without pay.

18 (f) Special Provisions. The generality of Subsections  
19 (a) through (f) is subject to the following special  
20 provisions:

21 (1) Additional sick leave with pay may be allowed  
22 an employee on the recommendation of the Director of  
23 Administration, or the appropriate branch, department,  
24 agency or authority head and approval of the depart-  
25 ment, agency or authority board or commission, where  
26 such exists, or the Governor for employees of the  
27 executive branch, the Rules Committee of the Legislature  
28 for employees within the legislative branch, and the  
29 Judicial Council for employees of the Judiciary.

30 (2) Falsification of an illness or medical  
31 condition report shall be considered sufficient cause  
32 for disciplinary action, including dismissal from the

1 government service for repeated offenses.

2 (3) Sick leave with pay shall be allowed during  
3 leaves of absence or vacation, provided, however, that  
4 any sick leave taken while on vacation must be supported  
5 by a certificate issued by a licensed physician. No  
6 employee shall be allowed to undertake gainful  
7 employment while on sick leave status.

8 (4) The minimum charge for sick leave shall be one  
9 hour and additional charges in multiples thereof.

10 (5) Sick leave with pay, up to a maximum of  
11 thirteen (13) days, may be granted in advance of earning  
12 such leave under the conditions described in subsections  
13 (a), (b), (d), (f)(3) and (f)(4) of this Section. If  
14 an employee is separated from the service without having  
15 earned all of the sick leave allowed and taken, there  
16 shall be deducted from any money due him at the time of  
17 separation an amount equal to his salary for the period  
18 of unearned sick leave allowed and taken.

19 (6) Responsibility for administration of this  
20 Section shall remain with the appointing authorities,  
21 subject to such audit as may be ordered by the Civil  
22 Service Commission.

23 (g) Vesting. Sick leave accrued for service with the  
24 government of Guam or any of its instrumentalities, branches,  
25 authorities or any entity, corporation, or agency, shall vest  
26 in the employee upon accrual and shall remain vested in such  
27 employee so long as he is employed by the government  
28 notwithstanding the fact that from time to time, he may be  
29 transferred from one branch to another or to an autonomous  
30 agency, authority or other entity within the government of  
31 Guam, provided, that if such employee is separated from  
32 government service for a period longer than three (3) years,

1 he shall be divested of all accumulated sick leave.

2 Section 4108. Annual Leave. (a) Annual leave shall  
3 be granted employees occupying permanent positions, except  
4 personnel of the Department of Education, Guam Community  
5 College or the University of Guam who are employed on a  
6 school year basis, in accordance with the following schedule:

7 (1) One-half day (4 hours) for each full biweekly  
8 pay period in the case of employees with less than  
9 three (3) years of service.

10 (2) Three-fourths day (6 hours) for each biweekly  
11 pay period except that the accrual for the last full  
12 biweekly pay period in the year shall be one and  
13 one-fourth day (10 hours) in the case of employees with  
14 three (3) but less than fifteen (15) years of service.

15 (3) One (1) day for each full biweekly pay period  
16 in the case of employees with fifteen (15) years or more  
17 service.

18 For purposes of this Section, all elective officials  
19 except members of the Board of Education shall be deemed  
20 employees occupying permanent positions.

21 (b) The terms 'years of service' shall be deemed to  
22 include service with the Naval Government of Guam or with  
23 other federal instrumentalities or agencies within Guam  
24 prior to August 1, 1950, and to include honorable service  
25 with the Armed Forces of the United States if such former  
26 member of the Armed Forces is not receiving a retirement  
27 annuity or pension as a result of such military service.  
28 'Years of service' shall include one year for each year  
29 served as a school year employee.

30 (c) Employees entitled to annual leave hereunder may  
31 accumulate up to four hundred eighty (480) hours thereof.  
32 Any annual leave earned by eligible employees in excess of

1 four hundred eighty (480) hours shall be automatically  
2 credited to such employee's accumulated sick leave, provided,  
3 that not more than one hundred (100) hours shall be credited  
4 to said sick leave.

5 (d) Nothing in this Section shall be construed to  
6 preclude provision, by appropriate personnel rules and  
7 regulations, for annual leave for employees occupying perma-  
8 nent positions excepted from the application of this Section,  
9 and such other matters as are essential or incidental to the  
10 administration of the leave system not otherwise prescribed  
11 herein, including but not limited to accumulation and  
12 carry-over of leave to succeeding fiscal years.

13 (e) Any employee who transfers from one branch of the  
14 government of Guam to another, or from one department, agency,  
15 instrumentality or corporation of the government of Guam to  
16 another department, agency, instrumentality or corporation at  
17 his option may accept the cash value of his earned leave at  
18 the time of transfer or transfer his accumulated leave to his  
19 new government position, notwithstanding the fact that such  
20 transfer may appear on the employee's personnel records as a  
21 resignation and re-employment.

22 Section 4109. Sabbatical Leave. All consultants,  
23 teachers, vice principals, assistant principals and principals  
24 of the Department of Education and academic employees of the  
25 University of Guam and of the Guam Community College, all of  
26 whom are permanent residents of Guam, may be given a  
27 sabbatical leave of absence upon completion of seven (7)  
28 consecutive years of satisfactory teaching service. To be  
29 eligible for such sabbatical leave, an employee must have  
30 obtained a baccalaureate degree or its equivalent, or  
31 otherwise be deemed of sufficient skill and experience to  
32 deserve such a leave. The Board of Education, the Guam

1 Community College Board of Trustees, or the Board of Regents,  
2 as the case may be, shall determine eligibility for such  
3 leave and shall schedule the same in such a way as not to  
4 unduly interfere with or disrupt the operations of the  
5 Department of Education, Guam Community College or the  
6 University of Guam, respectively. As a condition for the  
7 granting of sabbatical leave, the employee must, during the  
8 period of such leave, be engaged in endeavors related to his  
9 field of employment, and agree to return to his employment  
10 following such leave for a period of not less than two (2)  
11 years. 'Sabbatical leave' for the purposes of this section,  
12 means twelve (12) calendar months of fully paid leave, and  
13 any accumulated regular annual leave must be included within  
14 and taken at the same time as the sabbatical leave.

15 Section 4110. Lump Sum Payment for Annual Leave.

16 Notwithstanding any other provision of law, an employee of the  
17 government entitled to annual vacation leave may, prior to his  
18 taking of any such leave, receive a lump sum payment in cash  
19 equivalent to the amount of leave authorized to be taken.

20 Section 4111. Vacation Employment for Students.

21 Notwithstanding any other provision of this Title, or of  
22 Title V of the Government Code, the administrative heads of  
23 executive departments, agencies, or instrumentalities of the  
24 government, and of the judicial and legislative branches of  
25 the government, may employ during the vacation period between  
26 school years, at a rate not exceeding the minimum wage  
27 specified by any applicable federal or Guam law, students of  
28 the various public and private schools in Guam who are at  
29 least sixteen (16) years of age, provided, that such employ-  
30 ment may not exceed eight (8) hours in one day and five (5)  
31 days in one week and that such employment may not be of a  
32 hazardous nature or in any way injurious to or endangering

1 the student. Students employed under the authority of this  
2 Section shall not be eligible for retirement, sick or annual  
3 leave benefits, and, except as may be specifically provided  
4 therein, the personnel rules shall not apply to such employ-  
5 ment, provided, however, that such employment shall be  
6 considered as employment for purposes of the Worker's  
7 Compensation Act.

8 Section 4112. Employment on Loan Basis. The Governor  
9 may request the services, on a loan basis, of employees of  
10 the United States, or the government of any state, territory,  
11 or possession of the United States, or political subdivision  
12 thereof, and agree to comply with conditions imposed pursuant  
13 to law with respect to such employee's continued membership  
14 in employee's retirement system of the lending government and  
15 any requirements of the lending government as to salary and  
16 transportation expenses.

17 Section 4113. Any employee in the classified service  
18 may be appointed or transferred to a position in a different  
19 branch, department, agency, instrumentality, authority or  
20 corporation requiring equivalent qualification for the one  
21 held or to a higher position. Qualification and standards as  
22 established by the Civil Service Commission in cooperation  
23 with any branch, department, agency, or instrumentality  
24 authorized by law to administer the personnel law and deter-  
25 mine its own personnel rules shall be honored and accepted.  
26 Any employee affected by this Section shall not have affected  
27 adversely his governmental service, retirement credits, sick  
28 or annual leave, and other fringe benefits normally granted  
29 to an employee of the government.

30 Section 4114. Right of Petition. The right of persons  
31 employed by the government, either individually or collec-  
32 tively, to petition the Legislature, or any committee or

1 member thereof, or the Governor, shall not be denied or  
2 interfered with.

3 Article 2

4 Removal, Prohibitions, Penalties

5 Section 4130. Removal Generally. No person in the  
6 classified service shall be removed except for such cause as  
7 will promote the efficiency of the service and for the  
8 reasons given in writing. The person whose removal is sought  
9 shall have notice of the same and of any charges preferred  
10 against him, and be furnished with a copy thereof, except as  
11 provided in Section 4105 of this Chapter, and also be allowed  
12 a reasonable time for personally answering the same in  
13 writing with affidavits in support thereof; provided, however,  
14 that this section shall not apply to persons whose employment  
15 is purely temporary, seasonal, intermittent, part-time, or  
16 only for a specific project.

17 Nothing in this Section shall permit an employee to have  
18 redetermined by the Commission any matter which, having been  
19 finally judicially determined, is grounds, in law or  
20 personnel rule, for removal from the government service.

21 Section 4131. (a) Termination of employment. As used  
22 in this Section: 'termination of employment' means the ending  
23 of an employee's status as an employee with the government  
24 when the act is initiated by the government.

25 (b) Notwithstanding any other provision of law, rule or  
26 regulation to the contrary, any employee, including a casual  
27 employee, who is within the classified service, shall be  
28 given written notice of at least sixty (60) days prior to  
29 termination of employment for any reason. In situations  
30 where for the convenience of the government it is necessary  
31 to terminate an employment without the giving of sixty (60)  
32 days notice, the employee shall be retained in pay status



1 until the notice period shall have run.

2 (c) Subsection (b) of this Section shall not apply to a  
3 person whose employment is terminated for cause, provided,  
4 however, that this exclusion shall not impair an employee's  
5 right to challenge such termination under applicable personnel  
6 rules.

7 (d) In instances where an employee has been continued  
8 in pay status but been relieved of duties, the employee shall  
9 not be given a lump sum payment for the period of notice to  
10 which entitled but shall, instead, be paid on a bi-weekly  
11 basis and such payment shall continue only so long as the  
12 employee certifies under oath that he has not obtained new  
13 employment. The obtaining of new employment during the  
14 notice period shall constitute a waiver by the employee to  
15 any further claim for the pay to which he would otherwise be  
16 entitled.

17 Section 4132. Prohibition - Habitual Intoxicant. No  
18 person habitually using intoxicating beverages in excess, or  
19 narcotic or other mind-altering drugs which are being used  
20 unlawfully, shall be appointed to or retained in any office,  
21 appointment, or employment in the government.

22 Section 4133. Prohibition - Several members of family.  
23 Whenever there are already two or more members of an  
24 immediate family in the public service under the same  
25 department of any branch of the government, no other members  
26 of such family shall be eligible to appointment to any such  
27 department; provided, however, that such prohibition shall  
28 not apply to employees in the medical, para-medical or  
29 teaching professions. As used in this Section, 'immediate  
30 family' means a collective body of persons living together  
31 in one home under one head.

1           Section 4134. Miscellaneous Prohibitions. (a) Pre-  
2           ferences, conditions, and prohibitions concerning employment  
3           in the government shall conform with the provisions of the  
4           Organic Act of Guam. No person shall be discriminated  
5           against in connection with any of the processes provided for  
6           by this Chapter or in the rules adopted thereunder because  
7           of race, color, political opinions or religious opinions or  
8           affiliations.

9           (b) Any person who uses or attempts to use political  
10          influence or promises any advantage in connection with the  
11          selection or promotion of any employee in the classified  
12          services, solicits contributions for political purposes, or  
13          solicits during office hours or at any time makes demands  
14          upon employees in the classified services for such contribu-  
15          tion shall be guilty of a petty misdemeanor.

16          (c) Any person who wilfully makes a false or misleading  
17          statement in order to secure employment, advancement, or other  
18          benefits under this Chapter or under the rules adopted there-  
19          under shall be guilty of a petty misdemeanor and, in addition,  
20          shall forfeit the position, employment, benefit, or advance-  
21          ment sought through the false or misleading statement or  
22          statements.

23          (d) No person who advocates, or who aids or belongs to  
24          any party, organization, or association which advocates the  
25          overthrow by force or violence of the government of Guam or  
26          of the United States shall be qualified to hold a government  
27          position.

28          (e) No officer or employee of the government shall  
29          conduct or engage in any business or trade outside the  
30          government service without the prior approval of his  
31          department head as provided in Section 4104 of this Chapter.

1 In addition to the limitations contained in Section 4104(d)  
2 of this Chapter:

3 (1) No approval shall be granted if such business  
4 or trade may be prejudicial to the best interests of the  
5 people or if there may be a conflict of interest between  
6 the officer's or employee's government position and the  
7 outside trade or business.

8 (2) Every officer or employee who has a direct or  
9 indirect interest in any firm, partnership, business or  
10 corporation which contracts with the government, at the  
11 time of submission of bids or commencement of negotia-  
12 tions as the case may be, shall file a statement under  
13 oath with the Director of Administration for executive  
14 branch employees, the Court Administrator for Judiciary  
15 employees, and the Executive Director of the Legislature  
16 for legislative branch employees describing such  
17 interest. Any such statement shall also be given to the  
18 department head of such employee and shall be a public  
19 record for all purposes.

20 As used in this Section, 'interest' includes ownership  
21 of not less than five percent (5%) of the firm, corporation  
22 or partnership or the employee having a position with the  
23 said firm, corporation or partnership equivalent to that of  
24 officer, manager, or other decision-making position.

25 (f) Failure by an officer or employee to comply with  
26 any of the provisions of subsection (e) of this Section  
27 shall be grounds for dismissal from government service and  
28 the Director of Administration, Court Administrator or  
29 Executive Director of the Legislature, as the case may be,  
30 shall order the compensation stopped of any officer or  
31 employee found to be in violation.

1 (g) Any contract entered into involving a violation of  
2 subsection (e) of this Section may be declared null and void  
3 at the discretion of the government.

4 (h) No contract may be entered into whereby any  
5 officer or employee shall have any administrative, super-  
6 visory, or directory power over the execution thereof if  
7 such officer or employee has any direct or indirect interest  
8 in the contractor or in the contract. All contracts entered  
9 into in violation of this subsection are void.

10 Section 4135. Penalties. In addition to appropriate  
11 administrative actions, any violation of the provisions of  
12 this Chapter is a petty misdemeanor.

### 13 Article 3

#### 14 Group Benefits

15 Section 4155. False Arrest Insurance. (a) The Governor  
16 or his designee shall obtain, on behalf of the employees of  
17 the government, false arrest insurance on a competitive basis  
18 for the employees for any false arrest, assault and battery,  
19 false imprisonment, or malicious prosecution in the course of  
20 the employee's duties as a peace officer of the territory.

21 (b) The Director of Public Safety shall determine which  
22 employees of the government require such protection and their  
23 participation therein shall be mandatory and all premiums for  
24 any such policies shall be paid in full by the government.

25 (c) As used in this Section, 'peace officer' shall mean  
26 all persons designated as such by 8 GCA §5.55 (Criminal  
27 Procedure).

28 Section 4156. Payroll Deductions Authorized. The  
29 government, with the consent of the employee which consent  
30 may be withdrawn at any time, may provide payroll deductions  
31 for the making of any payments authorized by this Article

1 and the making of mortgage payments by government employees  
2 on home or appliance loans obtained by said employees wherein  
3 the Small Business Administration of the United States is  
4 mortgagee.

5 In addition, the Director of Administration or any  
6 appropriate authority may establish, by appropriate rule,  
7 subject to the Administrative Adjudication Act, any other  
8 payments which may be paid by employees, with their consent  
9 which may be withdrawn at any time thereafter, through  
10 payroll deductions.

11 The provisions of this Section shall not apply to  
12 payroll deductions authorized by Section 4415(e) of the  
13 Government Code.

#### 14 Article 4

#### 15 Civil Service Commission

16 Section 4170. Civil Service Commission. (a) There is  
17 established, in and for the government of Guam, a Civil  
18 Service Commission composed of seven (7) members appointed by  
19 the Governor with the consent of the Legislature. The members  
20 shall serve for a term of six (6) years and until their  
21 successors are appointed and qualified, provided that of the  
22 initial members appointed under this Chapter, appointments  
23 shall be made so that two (2) members of the Commission,  
24 sitting or newly appointed shall serve for two (2) years,  
25 two (2) members, sitting or newly appointed shall serve for  
26 a term of four (4) years and three (3) members, sitting or  
27 newly appointed shall serve for a term of six (6) years.

28 (b) No member shall be an employee of the government,  
29 a member of any board or commission of the government, a  
30 recipient of any annuity from the government, nor a member of  
31 the immediate family of an employee of the Government. As  
32 used in this Section, 'immediate family' means a collective

1 body of persons living together in one house under one head.

2 (c) The appointment of any person to the Commission  
3 shall become void if at any time during his term of office,  
4 he shall become an employee of the government, accept  
5 appointment to any other board or commission or accept an  
6 annuity from the government.

7 (d) When a vacancy occurs, the Governor shall appoint  
8 a new member within sixty (60) days of the commencement of  
9 the vacancy.

10 (e) The Governor may remove members of the Civil Service  
11 Commission but only for conviction of a crime constituting a  
12 felony or a misdemeanor involving moral turpitude, willful  
13 misconduct in office, willful and persistent failure to  
14 perform the duties of office, or any conduct which is  
15 prejudicial to the administration of the merit system of  
16 the government of Guam. Nothing in this Section shall require  
17 the reappointment of any member. A person sought to be  
18 removed may challenge the decision by an action for declara-  
19 tory judgment in the Superior Court.

20 (f) The members of the Civil Service Commission sitting  
21 at the date of enactment of this Chapter who meet the  
22 requirements and limitations placed upon membership by this  
23 Chapter shall remain in office until the expiration of  
24 their respective terms.

25 Section 4171. The quorum of the Commission shall be  
26 four (4) members. The vote of four members shall be  
27 required for any action of the Commission. The Commission  
28 may adopt rules to govern its procedures.

29 Section 4172. Duties of the Commission. The Commission  
30 has the following duties, powers and responsibilities:

31 (a) It shall provide by rule standards relating to  
32 position classification, creation of new positions or classes

1 of positions, as provided in Section 4107 of the Government  
2 Code, and as required for positions in the other branches of  
3 the government as such positions are placed within the  
4 jurisdiction of the Commission.

5 (b) It shall hear appeals from the adverse actions  
6 taken to suspend, demote, or dismiss an employee from the  
7 classified service if such right of appeal to the Commission  
8 is established in the personnel rules governing the employee.

9 (c) It shall investigate conditions of government  
10 employment as it deems necessary and report findings and  
11 recommendations to the Governor and Legislature annually.

12 (d) It may set aside and declare null and void any  
13 personnel action taken by any entity of the government under  
14 its jurisdiction when it has found that such action was taken  
15 without compliance with personnel laws or rules, provided,  
16 however, that this section shall not be deemed to permit  
17 appeals by employees from adverse actions not covered by  
18 subsection (b), above.

19 (e) It shall review the salaries of positions in the  
20 unclassified service, including judges and elected officials  
21 and recommend adjustments to the Legislature on an annual  
22 basis.

23 (f) Administer, as provided in law and in Executive  
24 Orders, the Equal Employment Opportunity Programs of the  
25 government.

26 (g) It shall prepare and submit to the Governor and  
27 the Legislature on or before July 1 of each year, an analysis  
28 of changes needed to adjust the pay schedules to reflect  
29 changes in the cost of living in the previous year. If the  
30 Governor for reasons of emergency or economic condition  
31 affecting the general welfare finds it inappropriate to  
32 implement the adjustment, he shall submit an alternate

1 proposal to the Legislature no later than August 1. Unless  
2 the Legislature reduces, raises or nullifies the adjustments  
3 made by the Civil Service Commission, the adjustment shall  
4 go into effect on October 1 of that year.

5 Section 4173. Subpoena Powers. The Chairperson of the  
6 Civil Service Commission or the Executive Director, upon his  
7 own initiative, upon the request of any member of the  
8 Commission, or upon the request of any party before the  
9 Commission, may summon in writing any person to attend before  
10 a meeting of the Commission as a witness and in a proper case,  
11 to bring with him any book, record or paper which may be  
12 deemed material as evidence in the case. The fees for such  
13 attendance shall be the same as the fees of witnesses before  
14 the Superior Court, except that if the witness is a  
15 government employee no witness fees shall be given. The  
16 subpoena shall issue in the name of the Civil Service  
17 Commission, and shall be directed to the person and shall be  
18 served in the same manner as subpoenas to appear and testify  
19 before the court. If any person or persons summoned to  
20 testify shall refuse or neglect to obey said subpoena, upon  
21 petition, the court may compel the attendance of such person  
22 or persons before the Commission, or punish said person or  
23 persons for contempt in the same manner provided by law for  
24 securing the attendance of witnesses or their punishment for  
25 neglect or refusal to attend in the Superior Court.

26 Section 4174. Commission Staff. The Civil Service  
27 Commission may employ its own staff and shall employ its own  
28 legal counsel to serve at the pleasure of the Commission,  
29 either on a full-time basis, or may employ on retainer an  
30 attorney in private practice in Guam. An attorney employed  
31 by the Commission, and who is not in private practice, may  
32 be treated as an attorney of the government for purposes of



1 admission to the practice of law in Guam.

2 Section 4175. Adverse Action Procedure and Appeals. An  
3 employee who is to be dismissed, demoted, or suspended shall  
4 be given immediate notice of the proposed action, together  
5 with a specific statement of the charges upon which such  
6 action is based, in the manner required by Article I of  
7 this Chapter. Copies thereof shall be filed with the Civil  
8 Service Commission and, if applicable, with the government  
9 entity charged with hearing his appeal under the personnel  
10 rules governing his employment not later than the working  
11 day next following the effective date of the action.

12 While an employee's appeal is pending, he may be  
13 suspended by the department, instrumentality or agency. The  
14 Civil Service Commission or appropriate entity may order the  
15 employee reinstated to active duty during pendency of the  
16 appeal.

17 The employee within twenty (20) days of the effective  
18 date of the action, may appeal to the Commission or  
19 appropriate entity by filing his written answer to the  
20 charges against him. The Commission or appropriate entity  
21 shall then set the matter for hearing as expeditiously as  
22 possible. The employee or his representative shall be given  
23 the opportunity to inspect any documents relevant to the  
24 action which would be admissible in evidence at the hearing,  
25 and to depose, interview or direct written interrogatories to  
26 other employees having knowledge of the acts or omissions  
27 upon which the dismissal, demotion or suspension is based.  
28 The Commission or appropriate entity may sustain, modify or  
29 revoke the action taken. The decision of the Commission or  
30 appropriate entity shall be final but subject to judicial  
31 review.

1 Section 4176. Standards for Making Decisions on Appeal.

2 (a) Upon the hearing of any adverse action appeal, the  
3 burden of proof shall be upon the government to show that the  
4 action of the branch, department, agency or instrumentality  
5 was correct.

6 (b) Upon the hearing of a grievance, discrimination  
7 complaint or other appeal, the burden of proof shall be  
8 upon the employee to show that the action of the government  
9 was improper.

10 (c) In cases involving charges which could be a crime  
11 if the person was charged in a criminal action, the Commission  
12 shall determine the matter based upon substantial evidence  
13 that the employee committed the acts charged.

14 Section 4177. Enforcement of Orders. The Civil Service  
15 Commission may seek enforcement of its decisions and orders  
16 in all matters by application to the Superior Court for the  
17 appropriate remedy. In seeking enforcement of its decisions  
18 and orders, the application for enforcement shall be entitled  
19 'The Civil Service Commission v. (department, agency,  
20 instrumentality or officer)'. No enforcement shall be  
21 commenced against any department head or other employee or  
22 officer of the government in his personal capacity.

23 Section 4178. Administrative Adjudication Act Not  
24 Applicable. Neither the rules of the Civil Service  
25 Commission, nor any procedures prescribed thereunder are  
26 subject to the Administrative Adjudication Law, unless the  
27 contrary is expressly required by a law other than the  
28 Administrative Adjudication Law."

29 Section 2. Section 4026 of the Government Code, as enacted  
30 by Section 18 of Public Law 15-135, is renumbered Section 3104 of  
31 the Government Code.

1 Section 3. A new Section 11966.1 is added to the Government  
2 Code to read:

3 "Section 11966.1. Personnel Rules: Academic Personnel  
4 and Administrative Officers. Rules and regulations governing  
5 selection, compensation, promotion, performance evaluation,  
6 and disciplinary action affecting academic personnel and  
7 administrative officers shall be adopted by the Board in  
8 accordance with Sections 4 GCA 4104 and 4105. Such rules  
9 and regulations shall provide for the employment of persons  
10 on the basis of merit, and shall include an orderly and  
11 systematic method of recruitment and the establishment of  
12 qualified lists for employment purposes. For the purpose  
13 of this Section, an 'administrative officer' is defined as  
14 one who holds any of the following positions: Associate  
15 or Assistant Dean; Associate or Assistant Director; Dean  
16 or Director; Assistant to the Provost or Vice-President;  
17 provided, however, that nothing in this Chapter shall be  
18 construed as preventing the Board from establishing other  
19 administrative officer positions or abolishing any of the  
20 existing positions indicated herein."

21 Section 4. Section 11841 of the Government Code is amended  
22 to read:

23 "Section 11841. Personnel Rules: Academic Personnel  
24 and Administrative Officers. Rules and regulations governing  
25 selection, compensation, promotion, performance evaluation,  
26 and disciplinary action affecting academic personnel and  
27 administrative officers shall be adopted by the Board in  
28 accordance with Sections 4 GCA 4104 and 4105. Such rules  
29 and regulations shall provide for the employment of persons  
30 on the basis of merit, and shall include an orderly and  
31 systematic method of recruitment and the establishment of  
32 qualified lists for employment purposes. For the purpose

1 of this Section, an 'administrative officer' is defined as  
2 one who holds any of the following positions: Associate or  
3 Assistant Dean; Associate or Assistant Director; Dean or  
4 Director; Assistant to the President or Vice-President;  
5 provided, however, that nothing in this Chapter shall be  
6 construed as preventing the Board from establishing other  
7 administrative officer positions or abolishing any of the  
8 existing positions indicated herein and further provided,  
9 however, that nothing in this Section nor in any other  
10 section of this Chapter involving the outlay of public funds  
11 shall become effective unless funds, therefore, shall have  
12 been provided in the University's annual budget."

13 Section 5. Section 53553(1) of the Government Code is  
14 amended to read:

15 "(1) To employ such employees to provide such  
16 clerical and technical assistance as may be necessary for  
17 the conduct of the business of the Corporation; to delegate  
18 to them such powers and to prescribe for them such duties  
19 as may be deemed appropriate by the Corporation; to fix and  
20 pay such compensation to them for their services as the  
21 Corporation may determine without regard to the provisions  
22 of the personnel and compensation law; to require bonds from  
23 such of them as the Corporation may designate, the premiums  
24 therefor to be paid by the Corporation, and to remove and  
25 discharge such employees and other clerical and technical  
26 assistants, pursuant to the provisions of the personnel  
27 regulations adopted pursuant to the provisions of Sections  
28 4 GCA 4104 and 4105."

29 Section 6. Section 13902(g) of the Government Code is  
30 amended to read:

31 "(g) The Governor shall designate a Chairman and Vice-  
32 Chairman from among the Commissioners. The Commissioners

1 shall constitute the Board of Commissioners of the Authority.  
2 The Board may employ an Executive Director of the Authority  
3 who shall serve at the pleasure of the Board, technical  
4 experts, such other officers, agents, and employees, permanent  
5 and temporary, as it may deem necessary, and shall determine  
6 their qualifications, duties, tenure, and compensation. For  
7 such legal service as it may require, the Authority may  
8 employ or retain its own counsel and legal staff. The  
9 Authority may delegate to one or more of its officers,  
10 agents, or employees, such powers and duties as it may deem  
11 proper. The Board shall adopt personnel rules pursuant to  
12 Sections 4 GCA 4104 and 4105."

13 Section 7. Section 20003(1) of the Government Code is  
14 amended to read:

15 "(1) To appoint, pursuant to the provisions of the  
16 personnel rules adopted pursuant to Sections 4 GCA 4104  
17 and 4105, such officers, agents, attorneys and employees,  
18 as may be necessary for the conduct of the business of the  
19 Housing Corporation; to delegate to them such powers and to  
20 prescribe for them such duties as may be deemed appropriate  
21 by the Housing Corporation; to fix and pay such compensation  
22 to them for their services as the Housing Corporation may  
23 determine, without regard to the compensation laws and to  
24 require bonds from such of them as the Housing Corporation  
25 may designate, the premiums, therefore, to be paid by the  
26 Housing Corporation. Any member of said board who is found  
27 by the Governor or his representative to be guilty of a  
28 violation of this Section shall be removed from office by  
29 the Governor and any appointee of said board who is found  
30 by the board to be guilty of a violation of this Section  
31 shall be removed from office by said board. The Housing  
32 Corporation shall give due consideration to residents of

1 Guam in the selection and promotion of its officers and  
2 employees."

3 Section 8. Section 21512(a) of the Government Code is  
4 amended to read:

5 "(a) Employment. Pursuant to the provisions of  
6 Sections 4 GCA 4104 and 4105, the Board shall establish  
7 rules and regulations regarding selection, promotion,  
8 performance evaluation, demotion, suspension, and other  
9 disciplinary action for the employees of the Authority;  
10 provided, however, that all contracts for the hiring of  
11 off-island employees shall conform to the provisions of  
12 Section 4110.3 of the Government Code."

13 Section 9. Section 21612(a) of the Government Code is  
14 amended to read:

15 "(a) Pursuant to the provisions of Sections 4 GCA  
16 4104 and 4105, the Board shall establish rules and regulations  
17 governing selection, promotion, performance evaluation,  
18 demotion, suspension and other disciplinary action for the  
19 employees of the Authority; provided, however, that all  
20 contracts for the hiring of off-island employees shall  
21 conform to the provisions of Section 4110.3 of the Government  
22 Code."

23 Section 10. Section 62011(a) of the Government Code is  
24 amended to read:

25 "(a) The Board, pursuant to Sections 4 GCA 4104 and  
26 4105, shall establish rules and regulations governing the  
27 selection, promotion, performance evaluation, demotion,  
28 suspension, dismissal and other disciplinary action for  
29 employees of the Authority."

1 Section 11. Section 14010(a) of the Government Code is  
2 amended to read:

3 "(a) Pursuant to the provisions of Sections 4 GCA 4104  
4 and 4105, the Board shall establish rules and regulations  
5 governing selection, promotion, performance evaluation,  
6 demotion, suspension and other disciplinary action for the  
7 employees of the Authority."

8 Section 12. Section 1016 of the Government Code is repealed  
9 and reenacted to read:

10 "(a) The Legislature, in addition to the attaches  
11 referred to in Section 1010 of this Code, and any classified  
12 employees, may employ as the staff of a senator or committee  
13 of the Legislature other employees, to be known as 'staff  
14 employees', as it may from time to time require. Notwith-  
15 standing the provisions of the personnel law and of the  
16 compensation law, the methods of appointment and promotion  
17 and the compensation, tenure, leave and other condition of  
18 employment of such staff employees and attaches shall be  
19 such as the Legislature may from time to time fix by its  
20 Standing Rules or by resolution.

21 (b) The Committee on Rules shall certify the amount of  
22 compensation due such employees and attaches in accordance  
23 with the Standing Rules or resolution of the Legislature  
24 and the disbursing officer of the Legislature shall thereupon  
25 pay the same in accordance with said certification.

26 (c) The respective term of employment for all staff  
27 employees and attaches of the legislative branch shall  
28 automatically expire upon the termination of the term of  
29 that Legislature. The Chairman of the Rules Committee of  
30 an outgoing Legislature, within ten (10) days following  
31 the declaration of results and issuance of certificates

1 of election under the election law, shall account for and  
2 effect the orderly turn-over of legislative keys and other  
3 property, records, and files to the legislator designated  
4 for that purpose by the majority of the incoming  
5 legislators."

6 Section 13. Subsection (b) of Section 49007 of the Govern-  
7 ment Code is amended to read:

8 "(b) All employees of the hospital, except physicians,  
9 shall be members of the classified service of the govern-  
10 ment."

11 Section 14. Sections 4019, 4019.1, 4020, 4020.1 (enacted  
12 by Public Law 12-213, as amended) and 4020.2 are renumbered  
13 Sections 4 GCA 4150, 4151, 4152, 4153 and 4154; and the remaining  
14 Sections of Chapter I of Title V of the Government Code, relative  
15 to the "Personnel Board", are repealed.

16 Section 15. Section 4103.1 of the Government Code is  
17 repealed.

18 Section 16. The provisions of this Act shall take effect  
19 on October 1, 1981.