

Public Law 26-76

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session**

Bill No. 241 (LS)

As substituted on the Floor and amended.

Introduced by: Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal,Foreign and General Affairs

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AN ACT TO CREATE THE CONSOLIDATED COMMISSION ON UTILITIES, TO REORGANIZE AND CONSOLIDATE SEVERAL GOVERNMENT OF GUAM AGENCIES AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings. *I Liheslaturan Guåhan* finds that it is in the public interest to create an elected Consolidated Commission on Utilities to exercise authority over the Guam Waterworks Authority (“GWA”) and the Guam Power Authority (“GPA”) and to vest said commission with such powers as have heretofore been exercised by the respective boards of directors of said authorities.

It is the intent of *I Liheslaturan Guåhan* that this Act shall *not* relieve said authorities of or modify in any way other than as expressly set forth herein any of the respective existing rights, duties or obligations of the authorities and that such respective rights, duties and obligations shall continue uninterrupted, inclusive of, but *not* limited to, any financial obligations of said authorities, including payment of debt service on and conditions imposed by bonds. It is the further intent of *I Liheslaturan Guåhan* that such respective rights, duties and obligations of each authority shall remain the rights, duties and obligations only of such authority and shall *not* in any way become rights, duties or obligations of the other.

Section 2. Section 14102 of Article 1, Chapter 14 of Title 12 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“Section 14102. Definitions. As used in this Chapter, *unless* otherwise indicated:

- (a) ‘*Authority*’ means the Guam Waterworks Authority.
- (b) ‘*Board*’ means the Consolidated Commission on Utilities established in Chapter 79 of Title 12 of the Guam Code Annotated.
- (c) ‘*Director*’ means a Commissioner of the Consolidated Commission on Utilities.”

Section 3. Section 14103 of Article 1, Chapter 14 of Title 12 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“Section 14103. Continuation of Existence. Guam Waterworks Authority is continued in existence as a public corporation.”

Section 4. Section 14105 of Chapter 14 of Title 12 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“Section 14105. Governance of Authority. All powers vested in the Authority, except as provided herein, shall be exercised by the Consolidated Commission on Utilities, as established in Chapter 79 of Title 12 of the Guam Code Annotated.”

Section 5. Section 8102 of Article 1, Chapter 8 of Title 12 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“Section 8102. Definitions. As used in this Chapter, *unless* otherwise indicated:

- (a) ‘*Authority*’ means the Guam Power Authority.
- (b) ‘*Board*’ means the Consolidated Commission on Utilities established in Chapter 79 of Title 12 of the Guam Code Annotated.
- (c) ‘*Director*’ means a Commissioner of the Consolidated Commission on Utilities.”

Section 6. Section 8103 of Article 1, Chapter 8 of Title 12 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“Section 8103. Continuation of Existence. Guam Power Authority is continued in existence as a public corporation.”

Section 7. Section 8107 of Article 1, Chapter 8 of Title 12 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“Section 8107. Governance of Authority. All powers vested in the Authority, *except* as provided herein, shall be exercised by the Consolidated Commission on Utilities, as established in Chapter 79 of Title 12 of the Guam Code Annotated.”

Section 8. Chapter 79 is hereby *added* to Division 2 of Title 12 of the Guam Code Annotated to read as follows:

“CHAPTER 79.

Consolidated Commission on Utilities.

Section 79100.	Creation of Commission.
Section 79101.	Commissioners.
Section 79102.	Non-partisan Office.
Section 79103.	Terms of Office.
Section 79104.	Reporting Requirements.
Section 79105.	Vacancies.
Section 79106.	Compensation.

Section 79100. Creation of Commission. There is established an elected Consolidated Commission on Utilities whose purpose is to exercise powers vested in them by the laws establishing the Guam Power Authority (‘GPA’) and the Guam Waterworks Authority (‘GWA’). The Consolidated Commission on Utilities, hereinafter referred to as ‘*Commission*’ shall be elected by the registered voters of Guam.

Section 79101. Commissioners. The Commission shall be comprised of five (5) Commissioners elected at-large by the voters of Guam in a General

Election. To be eligible to be a Commissioner, a person must be a registered voter of Guam and a *minimum* of twenty-five (25) years of age, and shall have been a resident of Guam for *at least* five (5) years *prior* to the date of the Commissioner's election. A person may *not* simultaneously serve as a Commissioner and an employee of the government of Guam.

Persons retired from the government of Guam may serve as Commissioners. At their first official meeting, the Commissioners shall elect from among the Commissioners a chairperson, who shall preside over meetings of the Commission. A majority of the Commissioners holding office shall constitute a quorum. The affirmative vote of the Commissioners holding office shall constitute the decision of the Commission. The Commission may adopt rules and regulations governing the conduct of its affairs.

Section 79102. Non-partisan Office. The Office of Commissioner is a non-partisan office. Candidates for the Office of Commissioner shall *not* identify themselves as members of any political party on Guam for the purpose of their campaign, nor shall they receive any endorsement or material support from any political party on Guam during the course of their campaigns. No Primary Election is required for candidates for this office. No nominating petitions shall be required of any candidate for this Office. Any qualified person applying to the Guam Election Commission, or its successor, for candidacy to this office shall be placed on the General Election ballot. In each election, the candidates receiving the highest numbers of votes shall be the elected Commissioners, without regard to the actual number of votes cast or received, and no runoff elections shall be required.

Section 79103. Terms of Office.

(a) *Except* as provided in § 79105 and in Subsection (b) of this Section, each Commissioner shall be elected to serve a term of four (4) years, commencing on the First (1st) day of January following their election.

(b) The first election for members of the Commission shall occur during the General Election in November, 2002. The three (3) candidates receiving the highest numbers of votes shall each be elected to serve a four (4)

year term, and the two (2) candidates receiving the next highest numbers of votes shall each be elected to serve a two (2) year term.

Section 79104. Reporting Requirements. Commissioners and candidates for the Office of Commissioner shall be *subject* to the same reporting requirements pertaining to their campaigns and to their personal finances as apply to candidates and members of *I Liheslaturan Guåhan*.

Section 79105. Vacancies. A permanent vacancy in the Office of a Commissioner shall result in a Special Election to fill that vacancy, to be held on the date of the next General Election following the date that the permanent vacancy occurred, or at a Special Election called by *I Liheslaturan Guåhan*. The person elected to fill a permanent vacancy shall serve for the balance of the term of the member whose position is being filled.

Section 79106. Compensation. Commissioners shall be compensated at the rate of One Thousand Dollars (\$1,000.00) per month for their services. All funds required for the operation of the Commission shall be obtained by subscription from the Authorities administered by the Commission, pursuant to such formula as the Commission shall devise. Commissioners shall *not* be eligible for government of Guam retirement or insurance benefits, or other benefits associated with government of Guam employment. Commissioners who are government of Guam retirees may serve on the Commission without giving up their retirement benefits.”

Section 9. Guam Waterworks Authority General Manager. Section 14106(a) of Article 1, Chapter 14 of Title 12 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“(a) The Board shall appoint a general manager who shall be its chief executive officer and shall serve at its pleasure. The general manager shall, at a *minimum*, possess the following qualifications:

a combined *minimum* of ten (10) years of documented experience successfully managing a public or private utility, or business activity similar to or greater in scope and size to the Authority; and either:

(1) graduation from an accredited institution of higher education with a bachelor's degree in business or public sector management or closely related field or discipline, *or*

(2) graduation from an accredited institution of higher education with a bachelor's degree in engineering or engineering technology.

The Board shall fix the general manager's compensation, notwithstanding any other provision of law. The general manager shall have full charge and control of the construction of the works of the Authority and their maintenance and operation, and also of the administration of the business affairs of the Authority.

The Board may contract with a corporation to perform any or all of the duties, and to exercise any or all of the powers of the general manager as provided in this Section, and the general manager, *subject* to the approval of the Board, may contract with a corporation to perform some of the duties or to render expert and technical assistance in the operation of the Authority. Such a management contract shall be for *no longer than* three (3) years duration. A corporation contracted pursuant to this Section must have a *minimum* of seven (7) years experience in the operation of a water or wastewater utility of similar or greater scope than the Authority."

Section 10. Guam Waterworks Authority Chief Financial Officer.

Section 14108 of Article 1, Chapter 14 of Title 12 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

"Section 14108. Chief Financial Officer. The Board shall appoint a chief financial officer who shall serve at its pleasure. The chief financial officer shall be a Certified Public Accountant.

The Board shall fix the chief financial officer's compensation. The chief financial officer shall have full charge and control of the fiscal, business and accounting operations of the Authority, *subject* to the supervision of the Board."

Section 11. Guam Waterworks Authority Employees. Section 14109.5 is hereby *added* to Article 1, Chapter 14 of Title 12 of the Guam Code Annotated to read as follows:

“**Section 14109.5. Employees.** All employees of the Authority shall be eligible for all insurance, retirement, workmen’s compensation and other benefits as extended to employees of the government of Guam, and shall be employees of the government of Guam for the purposes of the application of all civil service laws and personnel rules and regulations that apply to government of Guam employees, inclusive of all scales, tables and schedules for compensation.

With respect to compensation, this Section shall *not* apply to the compensation of the general manager or the chief financial officer.”

Section 12. Guam Power Authority General Manager. Section 8108(a) of Article 1, Chapter 8 of Title 12 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“(a) The Board shall appoint a general manager who shall be its chief executive officer and shall serve at its pleasure. The general manager shall, at a *minimum*, possess the following qualifications:

a combined *minimum* of ten (10) years of documented experience successfully managing a public or private utility or business activity similar, or greater, in scope and size to the Authority, and *either*:

(1) graduation from an accredited institution of higher education with a bachelor’s degree in business or public sector management, or closely related field or discipline, *or*

(2) graduation from an accredited institution of higher learning with a bachelor’s degree in engineering or engineering technology.

The Board shall fix the general manager’s compensation, notwithstanding any other provision of law. The general manager shall have full charge and control of the construction of the works of the Authority and their maintenance and operation, and also of the administration of the business affairs of the Authority.

The Board may contract with a corporation to perform any or all of the duties, and to exercise any or all of the powers of the general manager as provided in this Section;

and the general manager, *subject* to the approval of the Board, may contract with a corporation to perform some of the duties, or to render expert and technical assistance, in the operation of the Authority. Such a management contract shall be for *no longer than* three (3) years duration. A corporation contracted pursuant to this Section must have a *minimum* of seven (7) years experience in the operation of an electrical power utility of similar, or greater, scope than the Authority.”

Section 13. Guam Power Authority Chief Financial Officer. Section 8110 of Article 1, Chapter 8 of Title 12 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“**Section 8110. Chief Financial Officer.** The Board shall appoint a chief financial officer who shall serve at its pleasure. The chief financial officer shall be a Certified Public Accountant and should have Federal Energy Regulatory Commission (‘FERC’) knowledge and experience.

The Board shall fix the chief financial officer’s compensation. The chief financial officer shall have full charge and control of the fiscal, business and accounting operations of the Authority, *subject* to the supervision of the Board.”

Section 14. Guam Power Authority Employees. Section 8110.5 is hereby *added* to Article 1, Chapter 8 of Title 12 of the Guam Code Annotated to read as follows:

“**Section 8110.5. Employees.** All employees of the Authority shall be eligible for all insurance, retirement, workmen’s compensation and other benefits as extended to employees of the government of Guam, and shall be employees of the government of Guam for the purposes of the application of all civil service laws and personnel rules and regulations that apply to government of Guam employees, inclusive of all scales, tables and schedules for compensation.

With respect to compensation, this Section shall *not* apply to the compensation of the general manager or the chief financial officer.”

Section 15. Guam Waterworks Authority Contracts. Section 14104.1 is hereby *added* to Article 1, Chapter 14 of Title 12 of the Guam Code Annotated to read as follows:

“Section 14104.1. Contractual Restrictions. Any contract by the Authority to contract maintenance services relative to sewage pumps, booster pumps, and all pumps and other facilities directly associated with water wells shall be *subject* to the following provisions:

(a) any procurement of service or goods, shall be *entirely* subject to the Procurement Laws of Guam, and all related rules and regulations;

(b) all successful bidders must have a *minimum* of three (3) years of demonstrated expertise in the maintenance of electro-mechanical pump devices; *and*

(c) no contract for service awarded shall be for a duration of *more than* two (2) years, and must include provisions for periodic and timely inspections of all facilities whose maintenance is contracted, with provisions for the revocation of contracts, without penalty to the Authority, for any breach of contract or failure to provide adequate service, as contracted.

No other contract, beyond the maintenance contracts specifically detailed in this Section, may be entered into by the Authority for a duration in excess of one (1) year, *except* as permitted under the terms of the build, operate and transfer program (‘BOT’) *specifically* authorized in Guam law or as otherwise permitted herein.”

Section 16. Section 8109 of Article 1, Chapter 8 of Title 12 of the Guam Code Annotated is hereby *repealed*.

Section 17. Section 14107 of Article 1, Chapter 14 of Title 12 of the Guam Code Annotated is hereby *repealed*.

Section 18. Transition. The appointed Boards of Directors for the Guam Waterworks Authority (“GWA”) and the Guam Power Authority (“GPA”) shall continue to exercise authority over their respective Authorities *until* January 1, 2003 at which time the elected Consolidated Commission on Utilities established by this Act shall take office. At such time the appointed Boards of Directors for GWA and GPA shall cease to exist.

The qualifications for the respective general managers and chief financial officers of the Authorities detailed herein are effective upon the date of enactment of this Act, *except* that the incumbent general managers and chief financial officers may continue to perform their duties *until* their successors, *if any* are required, are appointed; *provided*, that *if* qualified successors have *not* yet been appointed by January 1, 2003, the Consolidated Commission on Utilities must appoint new general managers and chief financial officers for the respective Authorities within thirty (30) days thereof *if* the incumbent general managers and chief financial officers do *not* meet their respective qualifications detailed in this Act. The contractual restrictions detailed herein in § 15 of this Act are effective upon the date of enactment of this Act.

Section 19. Liberal Interpretation. Should any section of this Act be seen as conflicting with any portion of the enabling laws establishing the Guam Power Authority (“GPA”) or the Guam Waterworks Authority (“GWA”) that are *not* amended by this Act, or any law of Guam previously enacted, the conflict is to be interpreted in favor of this Act.

Section 20. As-built Requirement. The Guam Waterworks Authority (“GWA”) shall submit to *I Liheslaturan Guåhan* within sixty (60) days of the effective date of this Act, a report detailing the location and working condition of every portion of the water and wastewater infrastructure under the purview of the Authority, including, but *not* limited to, all sewage lines, sewage treatment plants, sewage pumps and stations, all water lines, booster pumps, wells, reservoirs and all related facilities.

If the Authority is unable to comply with this request, the Authority shall contract at the soonest possible moment with a contractor experientially competent to analyze and study the existing water and wastewater infrastructure, and complete the report mandated by this Section. Any contract entered into pursuant to this Section shall *only* be awarded in full compliance with the procurement laws and regulations of the government of Guam.

Section 21. PUC to Continue to Regulate Rates. The Public Utilities Commission (“PUC”) shall continue to have jurisdiction in regulating and setting rates for *both* the Guam Waterworks Authority (“GWA”) and the Guam Power Authority (“GPA”). Nothing in this Act

shall be construed as impairing the powers, duties or effectiveness of the PUC in relation to GWA or GPA.

Section 22. Repeal of GPC. All the powers, duties, responsibilities and jurisdiction of the former Guam Planning Council (“GPC”) are hereby transferred to the Bureau of Statistics and Plans. All records, equipment, documents and otherwise any physical property in the possession of the GPC shall be transferred to the custody of the Bureau of Statistics and Plans. Any funds of any nature under the control of the GPC shall be transferred to the control of the Bureau of Statistics and Plans.

Section 23. DOA and GMTA Consolidation.

(a) **Legislative Findings.** *I Liheslaturan Guåhan* finds that in reality, the Guam Mass Transit Authority (“GMTA”) has outsourced all of its duties, including the bus operations, bus washing and dispatch services. As such, GMTA simply administers contracts. The function of contract administration can easily be performed by an alternative government agency.

(b) **GMTA Abolished.** The Guam Mass Transit Authority (“GMTA”) is hereby abolished. Chapter 6 of Title 12 of the Guam Code Annotated is hereby *repealed*. All the powers, duties, responsibilities and jurisdiction of the former GMTA are hereby transferred to the Department of Administration (“DOA”).

Section 24. Section 3101 of Article 1, Chapter 3 of Division 1 of Title 5 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“Section 3101. Department of Administration. There is within the Executive Branch of the government of Guam a Department of Administration (‘DOA’). The Director of DOA is the head of DOA. The Director of DOA is appointed by *I Maga’lahen Guåhan* with the advice and consent of *I Liheslaturan Guåhan*.

DOA shall have the *exclusive* franchise for the furnishing of public transportation within Guam and on its roads and highways. *Except* for private parking facilities, and for parking facilities maintained and operated by the A. B. Won Pat Guam International

Airport Authority, DOA shall have the *exclusive* franchise within the government of Guam for the collection of fees for the furnishing of public parking within Guam.”

Section 25. (a) Transfer of GMTA Personnel to DOA. All classified employees filling positions with the Guam Mass Transit Authority (“GMTA”) *prior* to August 1, 2001 shall be transferred to the Department of Administration (“DOA”). The classified employees shall be transferred with all duties, responsibilities and compensation intact, and with no lapses in service to the government of Guam. The position of GMTA general manager and assistant general manager are hereby abolished.

The Director of DOA shall have the power to reorganize and realign positions in conformance with the rules and regulations of the Civil Service Commission (“CSC”) and all other applicable laws of Guam. Employees transferred from the former GMTA shall be entitled to the same retirement, workmen's compensation and hospital insurance benefits as those to which government of Guam employees are entitled.

(b) No money shall be expended or transferred to pay for the transfer or hiring of the GMTA director, general manager, deputy director or assistant general manager.

(c) **Transfer of Duties.** *Except* as otherwise specifically provided, DOA shall hereby assume all the powers, duties and responsibilities of GMTA as set out in this Act, and any other section of law. Any regulation or other action adopted, prescribed, taken or performed by the former GMTA or by any of its officers in the administration of a program, the performance of a power, duty or responsibility, or the exercise of any function transferred by this Act shall remain in effect and shall be deemed to be a regulation or action of DOA or of any of its officers to whom the program, power, duty, responsibility or function is transferred.

(d) **Transfer of Records and Equipment.** Upon the transfer of functions as provided in this Act, DOA shall have possession and control of all books, records, papers, maps, plans, documents, offices, equipment, supplies, money, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the former GMTA.

(e) Public Transportation Funds. All revenue generated by DOA resulting from the operation of Guam's mass transit system, including fares and fees collected from riders, shall be deposited into the Public Transit Fund ("Fund"), which is hereby created. The funds shall be used by DOA for the operations of the mass transit system. The funds shall be audited annually by an independent certified public accountant or by the Public Auditor.

(f) Transportation Contracts. Notwithstanding any other provisions of law, all contracts to be entered into that deal with the operations of the mass transit system shall be approved through *I Liheslaturan Guåhan*.

(g) Designation as State Agency. DOA is hereby designated as the "state agency" for purposes of receiving Federal funding for mass transit operations.

(h) Transport Care Attendants. A Transport Care Attendant shall be made available when services are required during transporting individuals with disabilities, as defined hereafter in accordance with the Americans with Disabilities Act ("ADA").

The CSC shall establish the position descriptions, duties and responsibilities, and compensation of such positions. The Transport Care Attendant shall *only* provide services while stationed in the vehicle while in motion, and may assist the driver with individuals with disabilities when entering and exiting the vehicle, when needed. The Transport Care Attendant shall be required to be certified in First Aid and Cardio Pulmonary Resuscitation ("CPR") and proficient in properly assisting individuals with disabilities to maintain a safe environment in the vehicle.

An individual with disabilities determined by GMTA to require a Transport Care Attendant shall *not* be grounds for exclusion from use of the transportation system. No individual with disabilities may be excluded from the use of transportation services, *unless* there is clear and convincing evidence that the individual is a direct threat to oneself and others, even with the presence of a Transport Care Attendant.

GMTA shall conduct a fair hearing within five (5) working days upon receipt of notice to the individual. Notice to the individual shall be served within twenty-four (24) hours of the complaint. No service may be withheld until the determination of the fair hearing has been issued. The government contract for transportation of persons with disabilities shall allow for an *increase* to cover the cost of the Transport Care Attendant.

Section 26. Creation of the Guam Transportation Commission. A new commission, called the Guam Transportation Commission (“GTC”), is hereby formed. The GTC shall consist of five (5) directors appointed by *I Maga’lahen Guåhan* with the advice and consent of *I Liheslaturan Guåhan*. *I Maga’lahen Guåhan* will designate, from among the members of the Commission thus appointed, the president and vice-president of the Commission . *I Maga’lahen Guåhan* shall select one (1) each: a person with disabilities who rides the Paratransit System, a member of GSTAT, DISID, Guam Developmental Disabilities Council and a member of the public to fill the positions on the GTC.

The Directors and officers thus appointed and designated shall hold office for terms of three (3) years, *unless* sooner removed by *I Maga’lahen Guåhan*, and shall be paid at the rate of Fifty Dollars (\$50.00) per day, for each day on which the Commission meets; *provided*, however, that such compensation shall *not* exceed One Hundred Dollars (\$100.00) per month. They may be reimbursed for reasonable expenses incurred in carrying out their responsibilities.

Section 27. References to GMTA. *Unless* otherwise provided in this Act, any reference in any law to the Guam Mass Transit Authority (“GMTA”) shall hereafter mean and be read as the Department of Administration (“DOA”), and all references therein to the Director or General Manager of GMTA shall hereafter mean and be read as the Director of DOA. All references in any contract, Executive Order, rule, regulation or document to GMTA or Director, or General Manager of GMTA shall mean and be read as DOA and Director of DOA, respectively. All references to GMTA or Director or General Manager of GMTA in any contract, Executive Order, rule, regulation or document dealing with the functions herein transferred shall mean and be read as DOA and Director of DOA, respectively.

Section 28. Transition Team Created.

(a) Transition Team. There is hereby created a Transition Team to help ensure a smooth conversion from the Guam Mass Transit Authority (“GMTA”) to the Department of Administration (“DOA”). The Transition Team shall include the following:

- (1) the Director, or a designee of GMTA; *and*
- (2) the Director, or a designee of DOA.

(b) Authority. The Transition Team shall have ninety (90) days from the enactment of this Act to do the following:

- (1) ensure the smooth transition of the operations of GMTA to DOA;
- (2) ensure that there is no lapse of mass transit services provided by the government of Guam; *and*
- (3) examine and recommend any other facts or data as may be necessary to ensure the smooth transition from the consolidation of GMTA and DOA.

(c) Effective Date. Sections 18-22 and Sections 24-25 of this Act shall be effective ninety (90) days after the enactment of this Act.

Section 29. Section 26503(c) of Article 5, Chapter 26, Division 2 of Title 11 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“(c) A portion of the revenues in the Public Transit Fund shall be used for the operation of the mass transit system by the Department of Administration.”

Section 30. Transfer of Appropriations and Other Funds. The Bureau of Budget and Management Research (“BBMR”) may direct the transfer of unexpended balances of appropriations and other funds available for use in connection with any function affected by the reorganization prescribed by this Act that the Director of BBMR determines to be necessary to facilitate the reorganization, or for use in connection with the functions affected by the reorganization; *provided*, that any unexpended balances of appropriations and other funds so transferred shall be used *only* for purposes that were authorized. All funds currently contained in Guam Mass Transit Authority (“GMTA”) bank accounts, savings accounts and Time Certificates of Deposits shall be transferred into the Public Transit Fund for DOA to use in operating the mass transit system.

Section 31. Consolidation of DOC and GEDA with the Bureau of Statistics and Plans.

(a) **Bureau of Statistics and Plans Established.** All references to the Bureau of Planning in Article 2, Chapter 1 of Title 5 of the Guam Code Annotated, and elsewhere in Guam law shall be replaced by Bureau of Statistics and Plans.

(b) Section 1209(i) is hereby *added* to Article 2, Chapter 1 of Title 5 of the Guam Code Annotated to read as follows:

“(i) **Statistics.** To conduct research and to disseminate statistical findings relative to producing data needed for economic and social planning on Guam.”

(c) **Abolition of Department of Commerce.** The Guam Economic Development and Commerce Authority (“Authority”) succeeds to, and is vested with, all the powers, duties, responsibilities and jurisdiction of the former Department of Commerce (“DOC”).

Section 32. Section 3110 of Article 1, Chapter 3 of Title 5 of the Guam Code Annotated is hereby *repealed*.

Section 33. Chapter 70 of Division 7 of Title 5 of the Guam Code Annotated is hereby *repealed*.

Section 34. Section 50101 of Chapter 50, Division 2 of Title 12 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

"Section 50101. Guam Economic Development and Commerce Authority. There is hereby created a public corporation to be known as the Guam Economic Development and Commerce Authority (“Authority”) with functions, powers and responsibilities as hereinafter provided. Any reference in any law to the Guam Economic Development Authority (“GEDA”) shall mean and be read as the Guam Economic Development and Commerce Authority, and all references therein to the Administrator of GEDA shall mean and be read as the Administrator of the Guam Economic Development and Commerce Authority. All references in any contract, Executive Order, rule, regulation or document to GEDA, or to the Administrator of GEDA, shall mean and be read as the Guam Economic Development and Commerce

Authority, and the Administrator of the Guam Economic Development and Commerce Authority, respectively.

All references to GEDA or to the Administrator of GEDA in any contract, Executive Order, rule, regulation or document dealing with the functions herein transferred shall mean and be read as the Guam Economic Development and Commerce Authority and the Administrator of the Guam Economic Development and Commerce Authority, respectively.”

Section 35. Section 50103(n) is hereby *added* to Chapter 50, Division 2 of Title 12 of the Guam Code Annotated to read as follows:

“(n) The Authority shall promote and encourage the expansion and development of markets for the products of Guam.”

Section 36. Section 50103(o) is hereby *added* to Chapter 50, Division 2 of Title 12 of the Guam Code Annotated to read as follows:

“(o) The Authority shall promote and encourage the location and development of new businesses on Guam, as well as the retention and expansion of existing businesses, with particular emphasis upon encouraging the tourist and the large-scale fisheries industries.”

Section 37. Section 50103(p) is hereby *added* to Chapter 50, Division 2 of Title 12 of the Guam Code Annotated to read as follows:

“(p) The Authority shall have authority over and supervise the Chamorro Village (*I Sengsong Chamorro*).”

Section 38. Article 2 is hereby *added* to Chapter 50, Division 2 of Title 12 of the Guam Code Annotated to read as follows:

“Article 2.

Guam Product Seal.

Section 50201.

Seal Created.

Section 50202.

Administration.

Section 50203.	Guam Product Seal Fund.
Section 50204.	Responsibilities.
Section 50205.	Definitions.
Section 50206.	Eligibility.
Section 50207.	Violations.
Section 50208.	Fines.
Section 50209.	Recovery of Merchandise.
Section 50210.	Penalty.
Section 50211.	Collection.

Section 50201. Seal Created. There is created a Guam Product Seal to identify products manufactured on Guam.

Section 50202. Administration. The Guam Economic Development and Commerce Authority ('Authority') shall administer the provisions of this Chapter and shall promulgate rules and regulations, in accordance with the Administrative Adjudication Law, to carry out the purposes of this Chapter.

Section 50203. Guam Product Seal Fund. There is established a fund to be known as the Guam Product Seal Fund, which shall be maintained separate and apart from any other funds of the government of Guam. Independent records and accounts shall be maintained in connection therewith. Funds of the Guam Product Seal Fund shall be used *exclusively* for the administration and operations of the Guam Product Seal Program. All funds collected from fees, charges or fines levied pursuant to this Chapter shall be deposited into the Guam Product Seal Fund.

Section 50204. Responsibilities. The Authority shall:

- (a) develop, or have developed, a design for the Guam Product Seal;
- (b) assess the local value added in the production processes of manufacturers applying for permission to place the seal upon their products;
- (c) issue permits for use of the seal to eligible applicants;

- (d) ensure ongoing compliance with the eligibility requirements by all manufacturers who have been issued permits;
- (e) conduct field investigations of products bearing the seal, *both* on its own initiative and in response to information and complaints received from the public;
- (f) levy fines on manufacturers, importers, distributors and retailers found to be in violation of this Chapter;
- (g) transmit information regarding the levy of fines to the Department of Revenue and Taxation; *and*
- (h) take appropriate steps to notify businesses about the requirements of this Chapter.

Section 50205. Definitions. For purposes of this Chapter:

- (a) ‘*Value added*’ shall be the difference between the wholesale price of the product, *if* sold at wholesale, or the retail price of the product, *if* sold directly by the manufacturer, and the sum of both the total landed cost of all material components of the product that have been brought into Guam and the total landed cost of materials, *excluding* machinery used in the production process that have been brought into Guam.
- (b) ‘*Substantial transformation*’ shall mean the conversion of commodities into products of a different and distinguishable commercial use or character.

Section 50206. Eligibility. The Guam Product Seal may be used *only* on a product manufactured on Guam that results from a substantial transformation of the materials used in the creation of the product and for which a *minimum* of fifty percent (50%) of the value of the product has been added on Guam. To obtain a permit to use the seal, a manufacturer must apply to the Authority. A permit to use the Guam Product Seal shall be effective for one (1) year.

Section 50207. Violations.

(a) It shall be unlawful for any business to place a Guam Product Seal on a product *if* the business does *not* have a current permit allowing the product to have such a seal.

(b) It shall be unlawful for any business establishment to state or imply in an advertisement or display of any type, including packaging, that a manufactured product is made on Guam *if* the product does *not* have a Guam Product Seal on it.

(c) It shall be unlawful for any business establishment to sell a product that has the word 'Guam' or 'Chamorro,' or a derivation of such words on the product *if* such product was *not* manufactured on Guam, *unless* the place where the product was manufactured is clearly labeled on the product.

Section 50208. Fines. For each violation of Subsection (a) of § 50207 of this Chapter, the Authority shall levy a fine against the firm in an amount equal to or greater than Two Thousand Five Hundred Dollars (\$2,500.00), but *not* to exceed Five Thousand Dollars (\$5,000.00) per type of product. For each violation of §§ 50207(b) or (c) of this Chapter, the Authority shall levy a fine against the firm in an amount equal to or greater than Five Hundred Dollars (\$500.00), but *not* to exceed Two Thousand Dollars (\$2,000.00) per type of product. Separate fines shall be levied each separate time a business is found to have violated § 50207 of this Chapter. Such fines shall be payable to the Department of Revenue and Taxation and shall be credited to the Guam Product Seal Fund.

Section 50209. Recovery of Merchandise. In the case of any violation of § 50207(a) of this Chapter, the Authority shall order the firm to recover from wholesalers and retailers and to take off the market all products sold with a Guam Product Seal for which the firm did *not* have a permit when the seal was placed upon the product.

Section 50210. Penalty.

(a) The Department of Revenue and Taxation shall revoke the business license of any firm *if*, after a hearing, it determines that the firm:

(1) failed to pay a fine levied pursuant to § 50208 of this Chapter within ninety (90) days *after* the fine was levied; *or*

(2) failed to recover merchandise in accordance with an order issued pursuant to § 50209 of this Chapter within ninety (90) days after the order was issued.

(b) The Department of Revenue and Taxation shall *not* renew the business license of any business *if* the business has *not* paid a fine levied pursuant to this Chapter.

Section 50211. Collection. The Department of Revenue and Taxation is responsible for the collection of all fines levied by the Authority pursuant to § 50208 of this Chapter.”

Section 39. Article 3 is hereby *added* to Chapter 50, Division 2 of Title 12 of the Guam Code Annotated to read as follows:

“Article 3.

Public Market.

Section 50301. Purpose.

Section 50302. Public Market Revolving Fund.

Section 50301. Purpose. The Guam Economic Development and Commerce Authority shall maintain and operate under its control a public market, or markets, for Guam products at such place or places as the Administrator may deem proper. Any such market shall be maintained and operated at all times in a sanitary and orderly manner, beneficial to both producers and patrons alike. Producers and sellers desiring to use space within such market to display or sell their produce shall be levied a uniform fee based upon the amount of space used and period of such use.

Section 50302. Public Market Revolving Fund. (a) There is established a fund to be known as the ‘*Public Market Revolving Fund*,’ which shall be

maintained separate and apart from any other funds of the government of Guam. Independent records and accounts shall be maintained in connection therewith.

(b) Funds of the Public Market Revolving Fund shall be used *exclusively* for the administration, operation and maintenance of the Public Market.

(c) All funds collected from fees levied pursuant to §50301 shall be deposited in the Public Market Revolving Fund.”

Section 40. Section 1401 of Article 4, Chapter 1, Division 1 of Title 5 of the Guam Code Annotated is hereby *amended* to read as follows:

“Section 1401. Economic Planning Council. There is within the Office of *I Maga’lahen Guåhan* an Economic Planning Council to be comprised of nine (9) members. Of the nine (9) members, four (4) members shall be selected by *I Maga’lahen Guåhan* from among those who head the following agencies: the Department of Agriculture (‘DOA’), the Guam Economic Development and Commerce Authority, the Guam Housing and Urban Renewal Authority (‘GHURA’), the Guam Housing Corporation (‘GHC’), the Department of Labor (‘DOL’), the Agency for Human Resources Development (‘AHRD’), the Bureau of Budget and Management Research (‘BBMR’), the Department of Revenue and Taxation (‘DRT’), the A. B. Won Pat Guam International Airport Authority (‘GIAA’), the Port Authority of Guam (‘PAG’), the Guam Community College (‘GCC’), the University of Guam (‘UOG’), the Guam Advisory Council of Vocational Rehabilitation, the Bureau of Statistics and Plans, and the Guam Visitors Bureau (‘GVB’).

In addition to the agency members, there shall be four (4) members from the business community and community-at-large chosen by *I Maga’lahen Guåhan* with the advice and consent of *I Liheslaturan Guåhan*. The ninth (9th) member of the Council shall be chosen by the other eight (8) members. The non-agency members shall receive the sum of Fifty Dollars (\$50.00) for each attendance at a meeting of the Council, *not* to exceed One Hundred Dollars (\$100.00) per month.”

Section 41. Section 76102 of Chapter 76, Division 2 of Title 12 of the Guam Code Annotated is hereby *amended* to read as follows:

“Section 76102. Board of Trustees.

(a) All functions and powers of GTAF shall be vested in and be exercised by and under the direction of a Board of Trustees (‘Board’), which is hereby created. The Board shall be composed of eleven (11) voting members and three (3) *ex officio* members. The Chairperson of the Board of Directors of the Authority shall concurrently serve as Chairperson of the Board, whose voting members shall be:

(1) the Director, or a designee of the Marine Laboratory of the University of Guam (‘UOG’);

(2) the Mayor, or a designee of the Municipality of Yona;

(3) the President, or a designee of the Guam Mayors' Council;

(4) two (2) at-large from the community appointed by *I Maga’lahen Guåhan*;

(5) two (2) representatives from the Guam Chamber of Commerce, selected by its Board of Directors;

(6) the Chairperson, or a designee of the Board of Directors of the Guam Visitors Bureau (‘GVB’);

(7) the Chairperson, or a designee of the Board of Directors of the Guam Hotel and Restaurant Association; *and*

(8) the Director, or a designee of the Department of Education (‘DOE’).

(b) Members selected by *I Maga’lahen Guåhan* and the Chamber of Commerce shall serve four (4) year terms. Non-voting, *ex officio* members shall include the following:

(1) the Director, or a designee of the Guam Environmental Protection Agency (‘GEPA’);

(2) a representative of the Department of Agriculture's (‘DOA’s’) Division of Aquatic and Wildlife Resources, to be selected by the Director of DOA; *and*

(3) the Administrator, or a designee of the Authority.”

Section 42. Section 68605 of Article 6, Chapter 68, Division 2 of Title 21 of the Guam Code Annotated is hereby *amended* to read as follows:

“Section 68605. Task Force Membership. The Director of the Bureau of Statistics and Plans shall serve as the Chairperson of the Task Force. In addition, the Task Force will include the Director of the Department of Land Management (‘DLM’), the Administrator of the Guam Environmental Protection Agency (‘GEPA’), the Administrator of the Guam Economic Development and Commerce Authority, the General Manager of Guam Visitors Bureau (‘GVB’), all Mayors from the Villages specified in § 68601, hereinabove, a representative of the Chamber of Commerce and a member of the public at-large to be chosen by *I Maga’lahen Guåhan*.

The Chamber of Commerce may, *however*, decline to participate in this Task Force. Each Director or Administrator may appoint a permanent representative from that person’s office to attend meetings in that person’s stead; *provided*, however, that the Director or Administrator shall bear ultimate responsibility for the actions of such representative.”

Section 43. Section 1209.1 is hereby *added* to Article 2, Chapter 1 of Title 5 of the Guam Code Annotated to read as follows:

“Section 1209.1. Additional Duties of the Bureau. The Bureau shall carry out the following duties in addition to the functions specified in § 1209 of this Chapter:

(a) facilitate cooperation with the U.S. Bureau of the Census in collecting, compiling, analyzing, interpreting and disseminating information concerning demographics, agriculture, housing, manufacturing, businesses and government of Guam in such forms as to be most valuable to Guam’s businesses and industries, and of other places; and to act as the principal receiver, depository and distributor of similar information provided by its national and international counterparts;

(b) assume lead agency functions for the South Pacific Commission and the Economic and Social Commission for Asia and the Pacific;

- (c) conduct the census under the auspices of the U.S. Census Bureau;
- (d) compile, collect, develop and publish quarterly scientific indices and economic indicators, including, but *not* limited to, economic growth, trade balances, exports and imports, consumer prices and other information relating to economic conditions;
- (e) compile periodically a census of businesses and industries on Guam, and analyze and publish this information in such forms as to be most valuable to Guam's businesses and industries; *and*
- (f) in the event sufficient funds are *not* available to the Bureau, to publish all of the material required by this Section; the information gathered shall be published, *subject* to the following priorities:
 - (i) consumer prices;
 - (ii) exports and imports;
 - (iii) trade balances; *and*
 - (iv) all other information deemed essential to be published."

Section 44. Section 1209.2 is hereby *added* to Article 2, Chapter 1 of Title 5 of the Guam Code Annotated to read as follows:

"Section 1209.2. Information as Confidential.

- (a) The Director shall have the *sole* authority to approve the contents of reports or data and the timing or release of information by the Bureau.
- (b) Neither the Director nor any other officer or employee of the Authority, or the Office of *I Maga'lahañ Guåhan* may use the information furnished under the provisions of this Article for any purpose other than the statistical purposes for which it is supplied, or make any publication whereby the data furnished by any particular establishment or individual under this Article can be identified.
- (c) Whoever, being the owner, official, agent, person in charge, or assistant person in charge, of any company, business, institution, establishment, or organization of any nature whatsoever, neglects or refuses, when requested by the Director or other authorized officer or employee of the Bureau to answer

completely and correctly to the best of that person's knowledge all questions pertinent to the duties of the Authority set forth in § 1209.1 of this Title, and relating to that person's company, business, institution, establishment or other organization, or to records or statistics in that person's official custody, contained in any census or other schedule prepared and submitted to that person under authority of this Article, shall be fined *not more than* Five Hundred Dollars (\$500.00), or imprisoned *not more than* sixty (60) days, or both; and *if* that person willfully gives a false answer to any such question, that person shall be fined *not more than* One Thousand Dollars (\$1,000.00), or imprisoned *not more than* one (1) year, or both.

(d) Whoever, being an officer or an employee of the Bureau, publishes or communicates, without the written authority of the Director, any information coming into that person's possession by reason of that person's employment under the provisions of this Article shall be fined *not more than* One Thousand Dollars (\$1,000.00), or imprisoned *not more than* one (1) year, or both."

Section 45. Section 16132 is hereby *added* to Chapter 16, Division 3 of Title 17 of the Guam Code Annotated to read as follows:

"Section 16132. Designation of UOG as Lead Agency for Aquaculture.

The University of Guam ('UOG') is hereby designated as the lead agency for the development of the aquaculture industry on Guam; and as such, UOG shall have purview over all matters related to the development of aquaculture on Guam."

Section 46. Transfer of Department of Commerce Personnel. All personnel of the Department of Commerce ("DOC") who are members of the classified service of the government of Guam, upon the transfer of functions pursuant to this Act, shall be transferred as specified in this Act with all duties, responsibilities and compensation intact, and with no lapses in service to the government of Guam. The Administrator of the Guam Economic Development and Commerce Authority, *subject* to the approval of the Board of Directors, the Director of the Bureau of Statistics and Plans, and the President of the University of Guam ("UOG"), in the interest of improved departmental management, shall have the power to reorganize and realign

positions in conformance with the rules and regulations of the Civil Service Commission (“CSC”) and all other applicable laws of Guam.

(a) All personnel identified in the Director’s Office, Economic Research Center, and the Economic Development and Planning Divisions on the date of enactment of this Act who are members of the classified service of the government of Guam shall be transferred to the Bureau of Statistics and Plans.

(b) All personnel within the Business and Overseas Affairs and the Chamorro Village on the date of enactment of this Act who are members of the classified service of the government of Guam shall be transferred to the Guam Economic Development and Commerce Authority.

(c) All personnel within the Guam Aquaculture Development and Training Center on the date of enactment of this Act who are members of the classified service of the government of Guam shall be transferred to UOG.

Section 47. Records and Equipment Transfer. Upon the transfer of functions as provided for in this Act, the Guam Economic Development and Commerce Authority, Bureau of Statistics and Plans, and the University of Guam (“UOG”) shall have possession and control of all appropriate Divisions’ books, records, papers, maps, plans, documents, offices, equipment, supplies, money, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the former Department of Commerce (“DOC”) in accordance with this Act.

Section 48. Transfer of Duties. *Except* as otherwise specifically provided, the Guam Economic Development and Commerce Authority, Bureau of Statistics and Plans, and the University of Guam (“UOG”) shall hereby assume all the powers, duties and responsibilities of the Department of Commerce (“DOC”) as set out in this Act and any other relevant section of law. Any regulation or other action adopted, prescribed, taken or performed by the former DOC, or by any of its officers in the administration of a program, the performance of a power, duty or responsibility, or the exercise of any function transferred by this Act shall remain in effect and

shall be deemed to be a regulation or action of the appropriate department or agency, or of any of its officers to whom the program, power, duty, responsibility or function is transferred.

Section 49. References to Commerce. *Unless* otherwise provided for in this Act, any reference in any law, contract, Executive Order, rule, regulation or document to the Department of Commerce (“DOC”), or dealing with the functions of the DOC shall hereafter mean and be read as the Guam Economic Development and Commerce Authority, Bureau of Statistics and Plans, or the University of Guam (“UOG”), as applicable and in accordance with this Act. All references therein to the Director of DOC shall hereafter mean and be read as the Administrator of the Guam Economic Development and Commerce Authority, the Director of the Bureau of Statistics and Plans, or the President of UOG, as applicable and in accordance with this Act.

Section 50. Funds Transfer. The Bureau of Budget and Management Research (“BBMR”), as directed by this Act, shall direct the transfer of unexpended balances of appropriations and other funds available for use in connection with any function affected by the reorganization prescribed by this Act that the Director of BBMR determines to be necessary to facilitate the reorganization, or for use in connection with the functions affected by the reorganization; *provided*, that any unexpended balances of appropriations and other funds so transferred shall be used, as to appropriations, *only* for purposes that were authorized by the appropriation, and, as to other available funds, *only* for purposes authorized as of the effective date of this Act.

Section 51. Promulgation of Rules and Regulations. The Guam Economic Development and Commerce Authority Board of Directors, the Bureau of Statistics and Plans and the University of Guam (“UOG”) may make, alter, amend or repeal rules and regulations, pursuant to the Administrative Adjudication Law, as required to carry out the purposes of this Act. Nothing in this Act shall be deemed to invalidate the existing rules and regulations of any agency affected by this Act, nor the requirement to make, alter, amend or repeal rules and regulations, nor cause the postponement of the implementation of this Act.

Section 52. (a) Transition Team Created. There is hereby created a Transition Team to help ensure a smooth conversion from the Department of Commerce (“DOC”) and the Guam Economic Development Authority (“GEDA”) to the Guam Economic Development and Commerce Authority, the University of Guam (“UOG”) and the Bureau of Statistics and Plans. The Transition Team shall include the following:

- (1) the Director, or a designee of DOC;
- (2) the Administrator, or a designee of GEDA;
- (3) the President, or a designee of UOG; *and*
- (4) the Director, or a designee of the Bureau of Statistics and Plans.

(b) Authority. The Transition Team shall have ninety (90) days from the enactment of this Act to do the following:

- (1) ensure the smooth transition of the operations of DOC and GEDA to the Guam Economic Development and Commerce Authority, UOG and the Bureau of Statistics and Plans;
- (2) ensure that there is no lapse of services formerly provided by the DOC and GEDA; *and*
- (3) examine and recommend any other facts, or data as may be necessary to ensure the smooth transition from the consolidation of DOC and GEDA.

(c) Effective Date. Sections 26-46 of this Act shall be effective ninety (90) days *after* the enactment of this Act.

Section 53. Revocation of GOICC. Any Executive Order establishing the Guam Occupational Information Coordinating Committee (“GOICC”) is hereby declared void, a nullity and without effect.

Section 54. Revocation of SCOVE. *I Liheslaturan Guåhan* recognizes the importance of offering vocational education programs of study in the school system. Any Executive Order establishing the State Council on Vocational Education (“SCOVE”) is hereby declared void, a nullity and without effect. Functions required of SCOVE shall be met by the Guam Community College (“GCC”) Board of Trustees.

Section 55. Repeal of Guam Health Planning and Development Agency as a Division of DISID. Sections 1 through 8 of Public Law Number 24-92 are hereby *repealed*. The Guam Health Planning and Development Agency is hereby abolished, as a Division of the Department of Integrated Services for Individuals with Disabilities (“DISID”), or as a separate agency. Any previous Executive Order promulgated to establish the Guam Health Planning and Development Agency is hereby rendered a nullity and without force. Any classified employees displaced as a result of this action shall be transferred to the Bureau of Statistics and Plans.

Section 56. Any board, commission, council or oversight body that has *not* met in the last twelve (12) months, with the *exception* of bodies relating to the Department of Education (“DOE”), the Guam Community College (“GCC”), the University of Guam (“UOG”) and the Guam Memorial Hospital Authority (“GMHA”), shall hereby be abolished.

Any powers vested in said boards, commissions or councils shall revert to the previous authority empowered with handling the respective mandate. In the event a body was created within a governmental entity to generally manage the affairs of matters relating to said entity, that government entity shall assume the powers given to any body abolished by this Section.

Should *I Maga’lahen Guåhan* identify the continued need for such a board, commission, council or oversight body, *I Maga’lahen Guåhan* shall provide *I Liheslaturan Guåhan*, within thirty (30) days of the enactment of this Act, justification for the reformulation of such body and a list of appropriate mandates.

Section 57. Transfer of Animal Quarantine Program and the Animal Control Program from DPH&SS to DOA.

(a) All references to “*Department of Public Health and Social Services*” in Articles 1 and 3 of Chapter 34 of Title 10 of the Guam Code Annotated shall be changed to read “*Department of Agriculture*,” and all references to the “*Director of the Department of Public Health and Social Services*” shall be changed to read “*Director of the Department of Agriculture*.”

(b) All positions of Animal Control Officers and Animal Caretakers are transferred from the Department of Public Health and Social Services (“DPH&SS”) to

the Department of Agriculture (“DOA”), along with the budgetary funding for those positions.

(c) The property, equipment, supplies and operations of the Yigo Animal Shelter are transferred from DPH&SS to DOA.

(d) Any Memorandum of Understanding between DPH&SS and the Department of Corrections (“DOC”) relating to the picking up of dead animals shall be amended to be between DOA and DOC. Any Memorandum of Understanding between DPH&SS and Guam Animals In Need (“GAIN”) relating to operating the Yigo Animal Shelter and adoption program shall be amended to be between DOA and GAIN.

(e) All responsibility and statutory authority for the clearance of imported animals at ports of entry on Guam shall be transferred from the Customs and Quarantine Agency to DOA’s Plant Protection and Quarantine Division.

(f) The effective date of the provisions of this Section shall be ninety (90) days *after* the effective date of this Act.

Section 58. Section 1909.1 is hereby *added* to Chapter 19 of Title 1 of the Guam Code Annotated to read as follows:

“Section 1909.1. Confidentiality of Investigations.

(a) *Except* pursuant to a subpoena issued by a court of competent jurisdiction for good cause shown, or the powers afforded *I Liheslaturan Guåhan* under Legislative Investigative Powers, Chapter 3 of Title 2 of the Guam Code Annotated, the Public Auditor shall *not* be required to disclose any working papers. For the purposes of this Section, ‘*working papers*’ means the notes, internal memoranda and records of work performed by the Public Auditor on audits and other investigations made pursuant to this Chapter, including any and all project evidence collected and developed by the Public Auditor.

(b) Information received by the Public Auditor alleging criminal activity or alleging wrongful use of government funds or property is privileged. Neither the Public Auditor nor any person employed by the Public Auditor shall disclose the identity of the person providing that information, *unless* such failure to disclose infringes upon the Constitutional rights of the accused. Nor shall the

Public Auditor, nor any person employed by the Public Auditor, be required to produce any records, documentary evidence, opinions or decisions relative to such privileged communication or information: (i) in connection with any criminal case, criminal proceeding or any administrative hearing of whatever nature, *or* (ii) by way of any discovery procedure.

(c) Any person arrested or charged with a criminal offense may petition the Court for an *in camera* inspection of the records of a privileged communication or information received by the Public Auditor, and which is material to the criminal charge brought against the person. The petition shall allege facts showing that such records would: (i) provide evidence favorable to the accused; (ii) be relative to the issue of guilt; *and* (iii) cause a deprivation of a constitutional right *if* such communication or information is *not* disclosed. *If* on the basis of such criteria, the Court determines that the person is entitled to all or any part of such records, it may order its production and disclosure to the degree necessary, protecting to the extent possible, the identity of the person who has informed the Public Auditor of such matter.

(d) Disclosure of a privileged communication or privileged information in violation of this Section shall be a felony of the third (3rd) degree.”

Section 59. Section 1921 is hereby *added* to Chapter 19 of Title 1 of the Guam Code Annotated to read as follows:

“Section 1921. Supervision of Audits in Autonomous Agencies and Grantees, Manpower Audits. The Public Auditor is *specifically* authorized to supervise audits, or at the Public Auditor’s discretion, perform audits, of autonomous agencies and instrumentalities of the government of Guam, inclusive of, but *not* limited to, the Guam Visitors Bureau (‘GVB’), the Guam Economic Development Authority (‘GEDA’), the Port Authority of Guam (‘PAG’), the A. B. Won Pat Guam International Airport Authority (‘GIAA’), the University of Guam (‘UOG’), the Guam Community College (‘GCC’), the Guam Memorial Hospital Authority (‘GMHA’), the Guam Housing Corporation (‘GHC’), the Guam Housing and Urban Renewal Authority (‘GHURA’), the

Guam Power Authority ('GPA'), the Guam Waterworks Authority ('GWA'), the Guam Telephone Authority ('GTA'), and the Government of Guam Retirement Fund ('GGRF').

The Public Auditor is authorized to supervise audits of all funds in *excess* of Three Hundred Thousand Dollars (\$300,000.00) for a single fiscal year from the government of Guam that are given in grant or subsidy to non-profit or profit-making groups, inclusive of GVB. The Public Auditor is authorized to audit the hiring practices, manpower levels and staffing patterns of all departments, agencies and bureaus of the Executive Branch of the government of Guam, and to determine and report to *I Maga'lahaen Guåhan, I Liheslaturan Guåhan* and the Public Utilities Commission ('PUC'), as appropriate, on the necessity and applicability of employment levels and categories to the department or agency's purpose and function, as well as draw comparisons with similar entities located elsewhere."

Section 60. Severability. *If* any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall *not* affect other provisions or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.