

MINA'BENTE OCHO NA LIHESLATURAN GUAHAN
2006 (SECOND) Regular Session

Bill No. 254 (LS)

As substituted by the Committee on
Judiciary, Governmental
Operations & Reorganization
and amended on the Floor.

Introduced by:

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AN ACT TO AMEND 4 GCA §4101(a) RELATIVE TO THE PROMOTION OF GOVERNMENT EMPLOYEES BASED UPON MERIT; TO AMEND 4 GCA §4101.1 RELATIVE TO DELINEATING THE PERSONNEL MANAGEMENT RESPONSIBILITIES OF THE DIRECTOR OF ADMINISTRATION; TO AMEND 4 GCA §4105 RELATIVE TO THE RULES ENABLING AUTHORITY OF DEPARTMENTS, AGENCIES, AND PUBLIC CORPORATIONS; TO AMEND 4 GCA, CHAPTER 6, §6205 RELATIVE TO RECRUITMENT ABOVE-STEP BY BOARDS AND COMMISSIONS; TO AMEND 4 GCA, CHAPTER 6, §6302 RELATIVE TO THE HAY STUDY; TO AMEND 4 GCA,

CHAPTER 6, §6303(a) RELATIVE TO ALLOWING THE ADMINISTRATOR OF THE COURTS TO CREATE NEW POSITIONS IN THE JUDICIARY; TO ADD A NEW §6303(c) TO 4 GCA, CHAPTER 6 RELATIVE TO AUTHORIZING DEPARTMENT HEADS TO CREATE NEW POSITIONS IN LINE AGENCIES; TO ADD A NEW §6303(d) TO 4 GCA, CHAPTER 6 RELATIVE TO AUTHORIZING AUTONOMOUS AGENCY AND PUBLIC CORPORATION HEADS TO CREATE NEW POSITIONS IN AUTONOMOUS AGENCIES & PUBLIC CORPORATIONS; TO ADD A NEW §6303.1 TO 4 GCA, CHAPTER 6 RELATIVE TO PROVIDING FOR TRANSPARENCY & DISCLOSURE IN THE CREATION OF NEW POSITIONS AND ABOVE-STEP RECRUITMENT; AND TO ENACT THE PERSONNEL MANAGEMENT MODERNIZATION ACT OF 2006.

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

2 **Section 1. Short Title.** This Act may be cited as the “Personnel
3 Management Modernization Act of 2006”.

4 **Section 2. Personnel Policy. 4 GCA, Chapter 4, §4101(a) is hereby**
5 ***amended to read:***

6 **“§4101. Personnel Policy.**

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

1 **Section 3. Duties of the Director of Administration. 4 GCA, Chapter**
2 **4, §4101.1 is hereby *amended* to read:**

3 **“§4101.1 Responsibilities of the Director of Administration**
4 **Regarding Personnel Policy of the Government.** The Director of
5 Administration shall perform the following functions:

6 (a) Maintain and from time to time modify a general personnel
7 policy for all government of Guam line agencies through the adoption of
8 rules and regulations pursuant to the Administrative Adjudication Law;

9 (b) Investigate conditions of government employment as he deems
10 necessary, and report his findings thereon to *I Maga’lahen Guåhan* and *I*
11 *Lihselaturan Guåhan* annually;

12 (c) Administer the Equal Employment Opportunity Program for the
13 Executive Branch of the government of Guam;

14 (d) Maintain, post and keep current on the Department’s website a
15 list of all classified and unclassified positions in the executive branch,
16 including autonomous agencies and public corporations, showing the job
17 description and pay range assigned to each position;

18 (e) Make an annual report on July 1 on the status of the unified pay
19 schedule required by §6302 of this Title to *I Maga’lahi* and the Speaker of *I*
20 *Lihselatura* and post the report on the Department’s website;

21 (f) Establish and maintain, in coordination with the Attorney
22 General, a panel of hearing officers;

23 (g) Take cognizance of compliance with the provisions of 4 GCA
24 §4101;

25 (h) Coordinate the fielding of necessary computer software and the
26 training of personnel to allow the agencies, departments and public

1 corporations listed in § 4105(a) of this Title to assess and update the unified
2 pay schedule required by § 6302(a) of this Title;

3 (i) Delegate, at the Director’s discretion, such authority under such
4 terms as are appropriate, to the agencies, departments and public
5 corporations listed in § 4105(a) of this Title to assess and update the unified
6 pay schedule required by § 6302(a) of this Title; and

7 (j) Establish and appoint members from among the human
8 relations professionals in the government of Guam to a Human Relations
9 Officer Coordinating Council to advise the Director concerning the
10 implementation and administration of the provisions of this Title.”

11 **Section 4. Department Rules. 4 GCA, Chapter 4, § 4105 is hereby**
12 ***amended to read:***

13 **“§ 4105. Departmental Rules.** (a) Rules subject to criteria established by
14 this Chapter governing the selection, promotion, performance, evaluation,
15 demotion, suspension and other disciplinary action of classified employees shall be
16 adopted by the Board of Directors of the Antonio B. Won Pat International Airport
17 Authority, Guam; the Board of Directors of the Guam Economic Development and
18 Commerce Authority; the Board of Directors of the Guam Housing Corporation;
19 the Board of Commissioners of the Guam Housing and Urban Renewal Authority;
20 the Guam Judicial Council; the Board of Directors of the Jose D. Leon Guerrero
21 Commercial Port; the Guam Education Policy Board; the Board of Regents of the
22 University of Guam; the Guam Community College Board of Trustees; the Board
23 of Trustees of the Guam Memorial Hospital Authority; the Board of Directors of
24 the Guam Visitors Bureau; and the Consolidated Commission on Utilities on
25 behalf of the Guam Waterworks Authority and the Guam Power Authority, with
26 respect to personnel matters within their respective Branches, agencies, public

1 corporations or departments, and by the Director of Administration as to all other
2 Executive Branch employment.

3 (b) Such rules shall, to the extent practicable, provide standard conditions
4 for entry into and the other matters concerning the government service. The
5 personnel rules adopted for the Guam Economic Development and Commerce
6 Authority, the Guam Housing Corporation, the Guam Housing and Urban Renewal
7 Authority, the University of Guam, the Guam Community College, the Antonio B.
8 Won Pat International Airport Authority, Guam, the Jose D. Leon Guerrero
9 Commercial Port, the Guam Public School System, the Guam Memorial Hospital
10 Authority, by the Department of Administration and by the Consolidated
11 Commission on Utilities shall require that all their classified employee appeals,
12 except academic personnel of the Guam Community College and the University of
13 Guam in conformance with Title 4 GCA § 4403(h), be heard by the Civil Service
14 Commission ('Commission').

15 (c) The personnel rules adopted for the Judicial Branch by the Judicial
16 Council shall require that the Council hear all classified employee appeals.
17 Personnel rules governing any other Executive Branch entities shall require that
18 their classified employee appeals be heard by the Commission. Rules concerning
19 the Executive Branch shall take effect upon their approval by the Director of
20 Administration, by Executive Order of *I Maga'lahaen Guåhan* and filing with the
21 Legislative Secretary. Rules concerning the Judicial Council shall take effect upon
22 adoption by the Judicial Council of Guam and filing with the Legislative Secretary.

23 (d) Such rules shall include the following provisions:

24 (1) that the minimum rate of each pay range shall be the normal rate
25 for initial employment in the positions and classes assigned thereto;
26 provided, however, that the directors or other department heads may, in
27 accordance with §6205 of this Title, authorize initial employment in a

1 position at a higher step in the position's pay range if such action is
2 warranted by recruitment difficulties or by the new employee's special or
3 unusual qualifications, including experience;

4 (2) that no spouse of any director, chief administrator or department
5 head within the government of Guam may be employed within the
6 department, agency or instrumentality so headed by such director, chief
7 administrator, department head or other officer;

8 (3) that overtime for those employees entitled hereto shall be
9 calculated at one and one-half (1 1/2) times their regular wage;

10 (4) that employees may work at outside employment not in conflict
11 with their government service, nor such as would bring the government of
12 Guam or its employees into disrepute, but that any employee may undertake
13 such employment only if such is not in conflict with that person's duly
14 scheduled hours and only with the consent of that person's department or
15 agency head, which consent may not be unreasonably withheld; and

16 (5) that no person shall be required to work overtime, unless the
17 employee has received certification by the Director that funds for overtime
18 pay as provided in Subsection (3), above, are available.

19 (e) Adoption of such rules is subject to the Administrative Adjudication
20 Law.”

21 **Section 5. Recruitment Above-Step. 4 GCA, Chapter 6, §6205 is**
22 **hereby *amended* to read:**

23 “**§6205. Recruitment Above-Step.** Step 1 of the Pay Grade
24 assigned to a classified position shall be the regular rate for initial
25 employment in any department or agency. The appointing authority, or the
26 head of an agency, department or public corporation listed in 4 GCA
27 §4105(a) may petition the Director of Administration, the Judicial Council

1 (as to Judicial Branch employment) or the agency, department or public
2 corporation's governing board or commission (as to an agency, department
3 or public corporation listed in 4 GCA §4105(a)) for recruitment at a higher
4 step not to exceed Step 10, because of documented recruitment difficulty or
5 exceptional qualifications. The petition shall be posted on the agency's
6 website for ten (10) days (Saturdays, Sundays and government of Guam
7 holidays excepted). This petition shall be made before an applicant is hired.
8 Every petition shall be scrutinized and amply justified before being
9 approved. The Director of Administration, the Judicial Council and the
10 governing board or commission (as to an agency, department or public
11 corporation listed in 4 GCA §4105(a)) may establish policies to administer
12 this section. Increment schedule consisting of Steps 11 through 20 shall not
13 be used for recruitment above step."

14 **Section 6. 4 GCA, Chapter 6, § 6302 is hereby *repealed and re-enacted***
15 **to read:**

16 **“§6302. Administration.**

17 (a) The Director of Administration shall adopt and apply the
18 currently used unified pay schedule based on the Hay methodology or any
19 other classification methods and salary administration to the extent he deems
20 appropriate. The unified pay schedule, either by the Hay Group or any other
21 experts in classification and pay, shall be administered by the Director of
22 Administration and by the Judicial Council for the Judicial Branch.

23 (b) The Director of Administration and the Judicial Council may
24 reassign pay grades as they deem necessary. Reassignment shall be based
25 upon the calculation of Hay points or points established by other experts and
26 shall be performed by technical staff trained in the classification and
27 compensation evaluation system for the sake of consistency and uniformity

1 of results. The technical staffs of the Human Resources Division in the
2 Executive Branch, and the Judiciary Human Resources Office, shall
3 coordinate their efforts in implementing the Hay methodology or any other
4 classification and pay system.

5 (c) The Director of Administration and the Judicial Council shall
6 establish appropriate policies and procedures for implementing the
7 provisions of this Article for their respective jurisdictions.”

8 **Section 7. 4 GCA, Chapter 6, §6303(a) is hereby *amended* to read:**

9 “§6303(a). **Creation of Positions in the Judiciary.** New positions
10 may be created by the Administrator of the Courts for the Judicial Branch,
11 when necessary for the efficient performance of the duties and functions of
12 the Judiciary. The Administrator of the Courts shall submit to the Judicial
13 Council the position descriptions for the positions within thirty (30) calendar
14 days after creation and post the position descriptions on the Judiciary
15 website. The positions shall be terminated unless approved by the Judicial
16 Council within ninety (90) days after submission. No newly created position
17 shall be filled in the absence of appropriations to pay the salary of the
18 proposed position.”

19 **Section 8. A new 4 GCA, Chapter 6, §6303(c) is hereby *added* to read:**

20 “§6303(c). (1) The petition of the head (Department Head) of a line
21 agency or department to create a position shall include:

22 (A) the justification for the new position;

23 (B) the essential details concerning the creation of the position;

24 (C) an analysis of the similarities and differences between the
25 position to be created and positions listed pursuant to 4 GCA
26 §4101.1(d);

27 (D) the position description;

1 (E) the proposed pay range and demonstration of compliance
2 with §6301 of this Title;

3 (F) a fiscal note as that term is described in 2 GCA §9101 *et*
4 *seq.*; and any other pertinent information.

5 (2) The Department Head and the Director of Administration shall
6 post the petition on their respective websites for ten (10) days (Saturdays,
7 Sundays and government of Guam holidays excepted). After the posting, the
8 Director of Administration shall forward the petition with his
9 recommendation to *I Maga'lahi* who, if he approves the same, shall so
10 indicate and file it for record with the Director of Administration and the
11 Legislative Secretary.

12 (3) No new position may be filled until after compliance with the
13 provisions of 4 GCA §6303.1 and this Section and thirty (30) days have
14 elapsed from the date of filing with the Legislative Secretary.”

15 **Section 9. Creation of Positions in Autonomous Agencies & Public**
16 **Corporations. A new 4 GCA, Chapter 6, §6303(d) is hereby *added* to read:**

17 **“§6303(d). Creation of Positions in the Autonomous Agencies and**
18 **Public Corporations.**

19 (1) The petition of the head of an agency, department or public
20 corporation listed in §4105(a) of this Title to create a position shall include:

21 (A) the justification for the new position;

22 (B) the essential details concerning the creation of the position;

23 (C) an analysis of the similarities and differences between the
24 position to be created and positions listed pursuant to 4 GCA
25 §4101.1(d);

26 (D) the position description;

1 (E) the proposed pay range and demonstration of compliance
2 with §6301 of this Title;

3 (F) a fiscal note as that term is described in 2 GCA §9101 *et*
4 *seq.*; and any other pertinent information.

5 (2) The petition shall be posted on the agency, department or public
6 corporation's website for ten (10) days (Saturdays, Sundays and government
7 of Guam holidays excepted). After the posting, the head shall forward the
8 petition, along with evidence of his compliance with 5 GCA §6303.1(a), to
9 the governing board or commission who, if they approve the same, shall
10 approve the petition by resolution and file the petition and resolution for
11 record with the Director of Administration and the Legislative Secretary.

12 (3) No new position may be filled until after compliance with the
13 provisions of this Section and thirty (30) days have elapsed from the date of
14 filing with the Legislative Secretary.”

15 **Section 10. Transparency and Disclosure. A new 4 GCA, Chapter 6,**
16 **§6303.1 is hereby *added* to read:**

17 **“6303.1 Transparency and Disclosure.**

18 (a) Prompt notice of the postings required by 4 GCA §§6205 and 6303
19 shall be provided to each newspaper of general circulation and broadcasting
20 station which airs a regular local news program within Guam.

21 (b) The petitions required by 4 GCA §§6205 and 6303 are public
22 documents for the purposes of 5 GCA, Ch.10, Art 1. (The Sunshine Law.)

23 (c) Any attempted creation of a position or above-step recruitment not
24 in compliance with the provisions of 4 GCA §§6205, 6303, and 6303.1(a) is
25 void.”