

**5 GCA GOVERNMENT OPERATIONS
CH. 42 CONSTITUTIONAL CONVENTION**

**CHAPTER 42
CONSTITUTIONAL CONVENTION**

NOTE: This Chapter, commencing with GC § 15200 in the former Government Code, has been used to create two Constitutional Conventions. The first, in 1969, produced recommendations to change the Organic Act. The second, in 1977, sought to create a Constitution for Guam, the authority for which is contained in federal law still in effect (U.S.P.L. 94-584, 90 Stat. 2899); amended by P.L. 96-597 (94 Stat. 3479). The people roundly rejected this Constitution in a referendum held in August of 1979. This law is found on p. 57 of the Organic Act & Related Federal Laws, published by the Compiler of Laws as a part of the Guam Code Annotated.

While the Legislature made this Chapter a permanent, codified law, no new convention has been held pursuant to Congressional authority, nor has this law been amended since the last Referendum in 1979.

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§ 42101. Statement of Legislative Intent.

The fundamental right of the people to draft and approve a constitution for the territory of Guam having been recognized by the Congress and the President of the United States by the enactment of P.L. 94-584, the Legislature expresses its intent to establish a Constitutional Convention, determine the method of selecting delegates and appropriate necessary funds, for the purpose of drafting a Guam Constitution setting

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forth the fundamental principles that determine the powers and duties of the Government and guarantee certain rights, privileges and immunities to the people. The Constitution which shall deal with those provisions of the Organic Act of Guam which relate to local self-government, shall provide for a republican form of government, a bill of rights, a system of courts, shall recognize and be consistent with the sovereignty of the United States over Guam and the supremacy of the provisions of the Constitution, treaties and laws of United States applicable to Guam.

SOURCE: GC § 15200 repealed/reenacted by P.L. 13-202:1.

§ 42102. Constitutional Convention, Calling of.

A Constitutional Convention representing the people of Guam is called to convene May 4, 1977. When assembled, the Convention shall have the powers and duties set forth in this Chapter.

SOURCE: GC § 15200.1 added by P.L. 13-202:1.

§ 42103. Delegates to Convention, Qualifications for and Number.

(a) The Convention shall be composed of delegates elected from each municipal district of Guam as such districts are set out in 1 GCA 403. No person shall be elected to nor seated as a member of the Convention unless he shall be:

- (1) a Citizen of the United States;
- (2) qualified to vote on Guam;
- (3) a resident of the municipal district from which he has been elected for not less than thirty (30) days immediately preceding the date of his election.

(b) Each municipal district shall be entitled to one delegate for each 750 registered voters residing within a district, provided, however, that regardless of the number of registered voters each district shall have at least one delegate. It shall be the duty of the Election Commission to determine the number of delegates to be elected from each district. If after dividing the number of registered voters by 750 there is a remainder of 375 or more that district shall be accorded one additional delegate to the Convention.

SOURCE: GC § 15200.2 added by P.L. 13-202:1.

§ 42104. Election of Delegates.

The Election Commission shall conduct a general election on April 16, 1977, at which time the voters of each municipal district shall elect delegates to the Convention. The Public Official Financial Disclosure Act (4 GCA Chapter 16) shall not apply to delegate candidates. The Election Code and regulations promulgated thereunder shall apply with the following exceptions:

(a) The election shall be nonpartisan. (No political party directly or indirectly shall sponsor, nominate or endorse any of the candidates for the general election of delegates established by this Chapter.)

(b) No primary election shall be conducted.

(c) The Election Commission may elect to forego mechanical tabulation in favor of determining the official final results by a means of manual tabulation. Procedures regarding any such manual tabulation shall be duly promulgated by the Election Commission rules and regulations.

(d) 3 GCA §§ 8101, 2303 and 8104 through 8116 (Election Law) need not be complied with.

SOURCE: GC § 15200.3 added by P.L. 13-202:1; amended by P.L. 14-001:6.

§ 42105. Delegate, Candidacy for.

(a) No person shall be listed upon the ballot as a candidate for election as a delegate to the Convention nor certified by the Election Commission as having been elected unless not later than March 19, 1977:

(1) The person desiring to be a candidate shall file with the Election Commission a sworn affidavit stating that:

(A) He is a citizen of the United States.

(B) Upon election day that he shall have been a resident of the district for which he seeks election for not less than thirty (30) days.

(C) He seeks election as a delegate to the Convention.

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(2) A person desiring to be a candidate shall file with the Election Commission a petition for his candidacy signed by not less than fifty (50) nor more than one hundred fifty (150) registered voters of the municipal district from which he seeks to be elected a delegate.

SOURCE: GC § 15200.4 added by P.L. 13-202:1.

2015 NOTE: Subsection designations in (a)(1) were altered to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 42106. Voters, Registration of.

The Election Commission shall register voters for the election of April 16 through February 28, 1977, provided, however, that those persons who voted on November 2, 1976 need not re-register. In order to facilitate the registration of voters the Election Commission is authorized and encouraged to accept the assistance of volunteer clerks who may register voters at schools, shopping centers, retail stores and other places where the public may gather.

SOURCE: GC § 15200.5 added by P.L. 13-202:1.

§ 42107. Delegate Seats, Apportionment of.

No later than March 3, 1977, the Election Commission shall determine and announce the number of delegates to be elected from each municipal district. Its apportionment shall be based upon the number of persons registered as voters as of February 28, 1977.

SOURCE: GC § 15200.6 added by P.L. 13-202:1.

§ 42108. Results, Declaration of.

Immediately after the tabulation of the election returns for the election of April 16, 1977, the Election Commission shall determine the persons who have been elected to office and announce those results. After announcing the results of the election the Election Commission shall cause to be prepared a certificate of election for each delegate elected and shall cause to be delivered to the hands of each person elected a delegate the original of such certificate which shall be evidence of that person's right to attend and participate in the deliberations of the Convention.

SOURCE: GC § 15200.7 added by P.L. 13-202:1.

§ 42109. Organizational Meeting.

The Speaker of the Guam Legislature, acting as a temporary presiding officer, shall convene the organizational meeting of the Convention at 10:00 a.m., May 4, 1977, in the Session Hall of the Guam Legislature. The Chief Justice of the Supreme Court of Guam, after receiving and verifying each person's certificate of election as a delegate, shall administer the oath of office to the delegates. Immediately after the taking of their oath the delegates shall proceed to organize by:

(a) Electing a presiding officer, who shall be the President of the Convention;

(b) Adopting rules of order governing the procedure of the Convention.

Immediately after the election of a presiding officer, that person shall assume the chair of the Convention. The Convention may meet for not more than five (5) days, which days need not be consecutive, in May for organizational purposes. Thereafter, the Convention shall recess until July 1, 1977, when it shall reconvene for its regular deliberations.

SOURCE: GC § 15200.8 added by P.L. 13-202:1.

2015 NOTE: Pursuant to an amendment to § 22A(b)(2) of the Organic Act of Guam by Pub. L. 108-378:1(b) (Oct. 30, 2004), references to "Presiding Judge" have been changed to "Chief Justice of the Supreme Court of Guam." See 48 U.S.C. § 1424-1(b)(2).

§ 42110. Duty of Delegates.

It shall be the duty of the delegates to the Convention to draft a Constitution for the people of Guam pursuant to the provisions of U.S. P.L. 94-584.

SOURCE: GC § 15200.9 added by P.L. 13-202:1.

§ 42111. Convention, Duration of.

Not including the organizational meetings of the Convention, the Convention shall meet for not more than one hundred twenty (120) sessions days, and in no event shall the Convention continue beyond October 31, 1977, provided, however, the Convention may reserve three (3) session days to occur December 1 and December 15, 1977, to adopt its final report. Further provided that the President of the Convention may call a special session of the Convention within sixty (60) days after the proposed Constitution as so approved and modified by Congress is

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returned to Guam so that the delegates may formally comment on any amendments by Congress in advance of the referendum.

SOURCE: GC § 15200.10 added by P.L. 13-202:1.

§ 42112. Report, Transmission of.

The Convention shall submit to the Governor a proposed Constitution for Guam on or before December 31, 1977 which shall comply with the requirements set forth in § 42110.

SOURCE: GC § 15200.11 added by P.L. 13-202:1.

§ 42113. Convention, Employees of.

The Convention shall have the power to employ its own staff without conformity to the Civil Service system of the Government. It may engage consultants to assist it in its studies and in the preparation of its report. The Executive and Judicial branches are authorized to permit employees to be temporarily assigned to duties with the Convention, provided, however, the Convention shall reimburse the appropriate agency the cost of such an employee's service.

SOURCE: GC § 15200.12 added by P.L. 13-202:1.

§ 42114. Vacancies, Filling of.

In the event a vacancy shall occur among the delegates during the course of the Convention, the Convention shall formally notify the Election Commission of this fact. The Election Commission shall then refer to the results of the April 16 election and certify as a replacement delegate the person who finished next highest in the district in which the vacancy occurred. In the event there was no person finishing lower in the election results, then the Commissioner of the district in which the vacancy occurred shall nominate three (3) qualified persons from that district and the Convention shall by a plurality of the affirmative votes cast elect one (1) of such persons to fill the vacancy.

SOURCE: GC § 15200.13 added by P.L. 13-202:1.

§ 42115. Referendum.

The proposed constitution as so approved and modified by the Congress shall be submitted to the qualified voters of Guam for acceptance or rejection during an island-wide referendum to be held on August 4, 1979.

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SOURCE: GC § 15200.14 added by P.L. 13-202:1; amended by 14-84:4; R/R by P.L. 14-91:12, 14-151:1, 3, 15-23:1.

§ 42116. Rules and Regulations.

The Election Commission shall promulgate the necessary rules and regulations to conduct the referendum and implement its purpose. By such rules and regulations, the Election Commission may elect to forego mechanical tabulation and establish a procedure for final, official manual tabulation of the referendum votes.

Upon the approval by not less than a majority of the voters (counting only the affirmative or negative votes) participating in such referendum, the Constitution shall become effective in accordance with its terms.

SOURCE: GC § 15200.15 added by P.L. 13-202:1; amended by P.L. 14-1:7.

§ 42117. Transmission of Act.

Not later than ninety (90) days of the effective date of this Act, the Governor of Guam shall transmit a copy of this Act to the Secretary of State for transmittal to the United Nations.

SOURCE: Added by P.L. 13-202:5.
