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(APRIL 14, 2006)

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Scope of this Supplement

In December of 2005, the Guam Code Annotated 2005 Edition was released, which updated the code through parts of Public Law 28-68 then in effect. This supplement updates Volume 1 of the 2005 Edition through Public Law 28-100 which was signed into law on February 7, 2006. The following table identifies the updated sections.

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| 1 | 1013.1 (c) | R/R | 28-68: II:I:9 |
| 1 | 1033 | Amended | 28-68: IV:77 |
| 1 | 1903 | R/R | 28-68: IV:102 |
| 1 | 1907 | Amended | 28-68: IV:42 |
| 1 | 1907 | Amended | 28-68: IV:63 |
| 1 | 1909 (k) | Added | 28-68: IV:64 |
| 3 | 1119 | Added | 28-68: IV:106 |
| 4 | 1103.3 | Added | 28-90: 1 |
| 4 | 1114 (a)(b) | Amended | 28-68: IV:32 |
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| 4 | 4101 (a) | Amended | 28-112: 2 |
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| 4 | 4124 | Amended | 28-68: IV:42 |
| 4 | 4203.3 | Amended | 28-98: 1 |
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| 4 | 4403 (a)(c)(d)(e)(f) | Repealed | 28-68: IV:31 |
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| 4 | 6304 | Amended | 28-68: IV:45 |
| 4 | 6401-6408 | Repealed | 28-68: IV:41 |
| 4 | 6504 | Amended | 28-68: IV:45 |
| 4 | 8122 (d)(6) | Amended | 28-68: III:12 |
| 4 | 8122.1 | Added | 28-68: IV:96 |
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| 4 | 8129 (g) | Amended | 28-68: III:11 |
| 4 | 8135 (d)(6) | R/R | 28-68: III:10 |
| 4 | 8140 | Amended | 28-68: IV:72 |
| 4 | 8140.1 | Added | 28-68: IV:73 |
| 4 | 12104 | Repealed | 28-68: II:II:8 |
| 4 | 15409 | R/R | 28-76: 2 |
| 4 | 15410 | R/R | 28-76: 3 |
| 4 | 15411 | R/R | 28-76: 4 |
| 4 | 15412 | Added | 28-76: 5 |
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1 GCA § 1013.1. Liberation Day Carnival.

(a) Whenever the Guam Island Fair is to be held in a location other than the Agana Paseo grounds, then any Civic Organization, as provided herein, may sponsor a Liberation Day Carnival for the same duration as the Guam Island Fair. In this instance, the Commissioner's Council shall appoint a Liberation Day Carnival committee to plan and make appropriate arrangements for the celebration of this Carnival. The Committee shall be composed of members of patriotic, religious, or other civic organizations.

(b) In the event the Guam Island Fair is not held at the Agana Paseo grounds, then the sponsoring organization may utilize the Agana Paseo grounds to sponsor its own Liberation Day Carnival as provided herein. The responsible governmental agency or agencies shall issue a permit to the sponsoring organization to conduct the Liberation Day Carnival at the Agana Paseo grounds. The provisions of law contained in §§ 64.62 and 64.70 of Title 9 of the Guam Code Annotated shall be applicable to the Liberation Day Carnival held at the Agana Paseo grounds as provided herein.

(c) The net proceeds from the Liberation Day Carnival shall be divided in the following manner:

(1) The sponsoring organization shall be entitled to retain fifty percent (50%) of the net proceeds and may convey any interest or portion thereof to any charitable organization; and

(2) Fifty percent (50%) of the net proceeds shall be deposited into the 'Public School Library Resources Fund' and used *solely* for the purchase of public school library resources.

The sponsoring organization shall be subjected to an audit by the Public Auditor in calculating the net proceeds.

(d) Whenever the Guam Island Fair is to be held at the Agana Paseo grounds, then such Fair will be consolidated with the Liberation Day Carnival as provided herein, and the sections pertaining to the Guam Island Fair shall apply.

SOURCE: Added by P.L. 17-10. Subsection (a) amended by P.L. 17-14:4. Subsection (c) repealed and reenacted by P.L. 28-068:II:1:9 (Sept. 30, 2005).

NOTE: P.L. 21-136:15 (Sept. 29, 1992), states:

Section 15. Section 3 of Public Law 20-229 is amended to read:

“Section 3. Notwithstanding any other provision of law, the Liberation Day Festivities (except for the Liberation Day Parade) shall be held at Ypao Beach Park.”

1 GCA § 1033. Guam-Micronesia Island Fair.

(a) Annually, *I Maga'lahaen Guåhan* (Governor) shall issue a proclamation calling upon the people of Guam to observe a Guam-Micronesia Island Fair, which shall be held at the discretion of the Guam Visitors Bureau.

(b) The Guam Visitors Bureau shall be the organizing body for the Guam-Micronesia Island Fair and shall provide the necessary logistics and financial support to insure the success of the Fair as an international event and visitor attraction. The Department of Parks and Recreation shall assist by issuing permits for booths and exhibits, and designing the general layout of booths, exhibits and activities, with cultural awareness paramount in the design. The Department of Public Works shall inspect and ensure that the public facilities at the selected site are in good working condition to adequately protect the health and safety of the persons at the Fair. The Department of Revenue and Taxation shall issue on a priority basis a license for each type of activity being conducted at the Fair which requires a license from the department. The Department of Public Health shall issue licenses for the preparation and sale of food. The Customs and Quarantine Department shall provide information and assistance to participants concerning the importation requirements of statutes and the U.S. Department of Agriculture and other agencies for importation of items into the territory for use at the Fair. The Department of Agriculture shall establish regulations for the judging of produce and livestock exhibited at the Fair. The Mayors Council shall create a mechanism for village participation or competitions. The Guam Council on the Arts and Humanities shall provide technical assistance to encourage public participation of the performing and fine arts.

(c) The Governor shall appoint, from among the personnel of the departments and agencies mentioned in Subsection (b) of this Section, personnel to insure the success of the Guam-Micronesia Island Fair. The Speaker, in consultation with the respective Chairpersons of the Committees on Economic Development and Tourism, shall designate representatives from the Legislature to serve as members of the organizing committee.

(d) The Guam Visitors Bureau, in collaboration with the agencies listed in Subsection (b), shall establish a fee schedule for the conduct of the Guam-Micronesia Island Fair. The fee schedule shall include at a minimum: the cost for rental of display space; a participation fee to cover the costs of security, maintenance and other common area services at the fair site; and, a means by which food and beverage, produce, handicrafts, and other items being offered for sale, may be purchased. All fees from the sale of goods or services sold at the Fair shall be collected and deposited to the Treasury of Guam. Twenty-five percent (25%) of the proceeds collected shall be deposited in the General Fund, fifty percent (50%) shall be deposited in the Guam-Micronesia Island Fair Revolving Fund, which is hereby created, to be administered by the Guam Visitors Bureau, for the sole purpose of paying for Guam-Micronesia Island Fair-related expenses, with twenty-five percent (25%) to be deposited in the Guam, CNMI and Micronesian Student Loan Fund.

(e) Within thirty (30) days of the close of each Guam-Micronesia Island

Fair, the Guam Visitors Bureau shall report on the financial status of the Fair and the Guam-Micronesia Island Fair Revolving Fund to the Governor and the Speaker of *I Liheslaturan Guåhan*, and shall make recommendations to improve the implementation of the Fair, including future sites and dates of the Fair and post the same on its website.

SOURCE: § 1033 added by P.L. 19-7:2 as amended by P.L. 19-14:14. Amended by P.L. 23-128:III:23(a); P.L. 25-176:20; P.L. 28-068:IV:77 (Sept. 30, 2005).

1 GCA § 1903. Public Auditor Election.

The Public Auditor shall be elected by the voters of Guam in a general election occurring at the same time as the general election for Mayors. The Public Auditor shall serve a term of four (4) years. The Public Auditor is a non-partisan office. No candidate for the position of Public Auditor shall declare a political party affiliation. No candidate for the office of Public Auditor shall seek the endorsement or receive directly or indirectly financial or material support from a political party. Any violation of the aforementioned shall constitute the Guam Election Commission to invalidate the candidacy of the individual for Public Auditor. Candidates for Public Auditor shall be subject to the same campaign and personal financial reporting requirements as applied to candidates for *I Maga'lahren Guåhan*, as well as all laws pertaining to campaign contributions. No nominating petition shall be required of a candidate for Public Auditor. A candidate for the position of Public Auditor shall file candidacy with the Guam Election Commission in the manner similar to a candidate for *I Maga'lahren Guåhan*, *except* as is not consistent with this Chapter. There shall be no primary election for the position of Public Auditor. All qualified candidates complying with the provisions of this Chapter shall be placed on the general election ballot. In the general election, the candidate receiving the most votes, subject to the qualifications established by this Chapter, shall be certified by the Guam Election Commission as having won election to the position of Public Auditor.

SOURCE: § 1903 repealed/reenacted by P.L. 25-42:1. Repealed and reenacted by P.L.28-068:IV:102 (Sept. 30, 2005).

1 GCA § 1907. Public Auditor and Staff, Compensation of

(a) The annual compensation of the Public Auditor shall be One Hundred Thousand Dollars (\$100,000) and shall *not* be diminished during the Public Auditor's term of office.

(b) The salaries of the staff of the Public Auditor shall be fixed by the Director of Administration in accordance with the methodology recommended by the Hay Study adopted by *I Liheslatura* and effective October 1, 1991.

SOURCE: Amended by P.L. 27-005:IV:12 (eff.2/28/2003); P.L. 28-068:IV:63 (eff. 10/1/2005).

NOTE: P.L. 28-068:IV:42 & 47 (Sept. 30, 2005), purports to transfer the duties herein to the Director of Administration effective January 1, 2006. However, PL 28-068:IV:63 provides that the effective date is October 1, 2005.

1 GCA § 1909. Duties of Public Auditor.

The Public Auditor shall have the following powers and duties:

(a) To direct and supervise all financial and management audits conducted pursuant to § 1908 of this Chapter so that annual audits are completed for the prior fiscal year no later than June 30.

(b) To settle, in accordance with law and administrative regulations, the accounts of Disbursing Officers and Certifying Officers who are accountable for the proper payment of vouchers certified and presented to them for payment and for cash and related assets in their custody and control. This authority shall not extend to the collection of income taxes; however, once the taxes are collected, the authority shall extend to the disbursement or transfer of such revenues. This authority shall not be construed so as to repeal any provision of the Government Claims Act.

(c) To communicate directly with any person or with any department, officer or person having official relations with the office in any matter relating to the expenditures of government funds and property or to the settlement thereof.

(d) To conduct public hearings, to subpoena witnesses, to conduct depositions, to administer oaths, to require the production of any books, records or documents in the exercise of the powers of the Public Auditor in the carrying out of the Public Auditor's duties under this Chapter and other laws of Guam. In doing any of the activities in this subsection, the Public Auditor may, at his discretion, utilize the services of the Attorney General or an attorney in private practice.

(e) To carry out other duties and powers as may be designated to the Office of the Public Auditor by law.

(f) To submit annual reports to the Governor and the Legislature within ninety (90) days after the close of each government fiscal year, such reports to include recommendations for necessary legislation to improve and to protect the integrity of the financial transactions and condition of the government.

(g) To make rules and regulations, subject to the provisions of the Administrative Adjudication Law, as may be necessary to carry out the duties and powers of the Office.

(h) To report to the Attorney General of Guam for prosecution of violations of law regarding violations coming to the Public Auditor's attention, where such violations pertain to the expenditures of funds and property of the government of Guam, including its autonomous agencies and instrumentalities, including those

pertaining to trust funds held by the government of Guam; or for such other civil or criminal action as the Attorney General may determine.

(i) Subject to the availability of funds provided by annual appropriation by the Legislature, to employ such necessary staff to carry out the functions and responsibility of the office.

(j) Provide copies of all audits to the Director of Administration, the Director of the Bureau of Budget and Management Research, to the Chairperson of the Committee on Rules of the Legislature, and to the Controller of the Superior Court of Guam. Copies of all audits shall also be available to members of the public.

(k) Shall hear and decide all appeals of decisions that arise under 5 GCA § 5425(c), as provided for by 5 GCA § 5425(e).

SOURCE: Subsection (k) added by P.L. 28-068:IV:64 (Sept. 30, 2005).

3 GCA § 1119. Recall of Elected Officials.

(a) The people of Guam shall have the right of initiative, referendum, and recall to be exercised under conditions and procedures specified in the laws of Guam

(b) Notwithstanding the provisions of Article 3, Chapter 17, Title 3 GCA, Mayors, Vice Mayors, Consolidated Commission on Utilities members, Guam Education Policy Board Members, and the Public Auditor may be removed from office by a recall election in which at least two-thirds of the number of persons voting for such official in the last preceding general election at which such official was elected vote in favor of a recall and in which those so voting constitute a majority of all those participating in the recall election.

(c) The Recall election shall be initiated by *I Liheslaturan Guahan* by the following:

(1) a two-thirds vote of the members of *I Liheslaturan Guahan* in favor of a recall; or

(2) a petition for such a recall to *I Liheslaturan Guahan* by registered voters equal in number to at least 50 per centum of the entire number of votes cast at the general election at which such official was elected preceding the filing of the petition.

SOURCE: Added by P.L. 28-068:IV:106 (Sept. 30, 2005) as 3 GCA § 2301. Renumbered by Compiler to § 1119 and placed more appropriately within Chapter 1 “General Provisions.”

4 GCA § 1103.3. Identification of Agency or Department.

All vehicles leased or owned by the government of Guam shall display a distinguishing word, letter and symbol indicating to which agency or department the vehicle is assigned. If the vehicle is part of a government-wide motor pool,

the identification shall reflect the department or agency operating the motor pool, and that the vehicle is part of the motor pool. This logo shall include the proper name of the agency or department and shall be affixed to the sides of the driver and passenger doors in a fashion that makes it easily visible. The letterings on the signs shall be no less than two (2) inches in height. If an agency or department does not have a logo, the full proper name of the agency in letters will meet the requirements of this provision.

The only vehicles exempt from this provision are those listed in §1103 and §1103.1(a), (b) and (c) of this Chapter.

SOURCE: Added by P.L. 28-090:1 (Dec. 12, 2005), effective. January 1, 2006.

4 GCA § 1114. Administration.

(a) Rules and Regulations. Maintain and from time to time modify rules and regulations for the administration of the program in accordance with the Administrative Adjudication Law. In order to provide for the fair and efficient administration of the Program, such rules and regulations shall provide specific controls to safeguard against the possibility of collusion or manipulation. The rules and regulations for the Incentive Award Program must also include methods for protecting the rights and benefits of the person generating and submitting an idea.

(b) Awareness Program. The Director of Administration, the heads of the autonomous agencies, and the Supreme Court of Guam shall maintain and from time to time modify a “Government of Guam Incentives Awards Program” providing information about the objectives and procedures of the Program and to encourage participation from all government of Guam employees.

SOURCE: Added by P.L. 24-114:7. Amended by P.L. 28-68:IV:32 (Sept. 30, 2005) with effective date January 1, 2006.

4 GCA § 2103.12. Acting Capacity.

No person who shall be appointed to a position which requires advice and consent of *I Liheslatura* may serve in an acting capacity as head or director of a department, agency or instrumentality for a period in excess of one year. Any employee so appointed shall have the right to return to the position the employee held immediately before the appointment to serve in an acting capacity after the one year period is exhausted. The time limitation of this Section may not be circumvented by an interruption in the appointment to an acting capacity or by transfer back to the position the employee held immediately before the appointment for a period of less than thirty (30) days or by a temporary transfer to any other position.

SOURCE: Added by P.L. 22-108:10. Amended by P.L. 27-106:VI:30; P.L. 28-068:IV:86 (Sept. 30, 2005).

4 GCA § 2103.4. Definitions.

As used in this chapter, the following terms have the following meanings:

(a) *Appointing authority* - either the governor of Guam or any other board, commission or duly authorized public entity or individual charged with the duty to appoint an approved official or an approved board official.

(b) *Appointed official* - any official who is appointed by the Governor.

(c) *Approved official* - an official who is appointed by the Governor with the advice and consent of the Legislature.

(d) *Appointed position* - any position which is filled by appointment by the Governor.

(e) *Approved position* - a position which is filled by the Governor with the advice and consent of the Legislature.

(f) *Appointed board official* - any official who is appointed by any board or commission of the government of Guam.

(g) *Approved board official* - an official who is appointed by any board or commission with the advice and consent of the Legislature.

(h) *Official* - a member of a board or commission of the government of Guam, or an officer or employee of the government of Guam.

(i) *Undated courtesy resignations* - the practice of requiring or submitting undated resignations to be accepted at a later date by the appointing authority.

(j) *Legislative day* - a day during which the Legislature is in actual session, and during which it engages or may engage in debate. Excluded are sessions in which the Legislature convenes solely for ceremonial purposes for state funerals or addresses by the Governor, Presiding Judge, or Guam Delegate. In computing the period 'ninety (90) days plus three (3) legislative days' or any similar terminology using a different number of days, the term "plus ___ Legislative days" shall be deemed to refer to legislative days which occur following the expiration of the ninety (90) day or other initial period.

(k) *Acting appointment* - the filling of a position by a person who has not been appointed to fill the position on a permanent basis, or, in the case of positions requiring the advice and consent of *I Liheslatura*, the situation where a person is filling the position in an acting capacity whose nomination to fill the position permanently has been received by *I Liheslatura*, but has not been confirmed to the position by *I Liheslatura*. Acting appointments include so-called 'holdover' positions on boards and agencies, such as when the enabling legislation provides that an appointee shall serve until his or her successor is appointed. In construing the time limits in this Chapter, all time as an acting appointee shall be included together, even if such acting time was spent in an acting position pursuant to different appointments or as a 'holdover'. *I Maga'lahaen Guåhan* shall inform the Speaker of *I Liheslaturan Guåhan*, in

writing, of any acting appointments upon appointment.

(l) *Acting capacity* - the serving of a person in a position in an acting capacity or pursuant to an acting appointment.

(m) *Salaried position* - any position receiving a salary, but not including members of boards and commissions receiving a stipend for each meeting attended.

(n) *Ninety (90) days* - in computing the ninety (90) day time limit imposed in this chapter, the term ninety (90) days shall mean ninety (90) days from the date of the initial acting appointment, without regard to weekends, holidays, nor any lapses in the acting appointment of less than thirty (30) days.

SOURCE: Added by P.L. 22-108:2. Subsections (k) and (l) amended by P.L. 27-106:VI:28; and P.L. 28-068:VI:83-84 (Sept. 30, 2005).

4 GCA § 2103.9. Time Limits on Acting Capacity for Positions Requiring Legislative Approval.

(a) *I Maga'lahaen Guåhan* [The Governor] or appointing authority may, by separate appointment, appoint a person in an acting capacity to fill a salaried position which requires the advice and consent of *I Liheslaturan Guåhan* [Guam Legislature]. In any twelve (12) month period, no person may serve in such an acting capacity for a total of more than ninety (90) days plus three (3) legislative days; provided, that no acting director who is not otherwise a classified employee of the government of Guam may serve in the capacity of acting director without the transmittal of such person's name to *I Liheslaturan Guåhan* for the purpose of confirmation within fifteen (15) days of their appointment as acting director.

This Section does not apply to appointments to classified positions, but does apply to classified employees appointed in an acting capacity to positions requiring the advice and consent of *I Liheslaturan Guåhan*.

(b) In the event of that person's rejection, a candidate's nomination may be resubmitted by the appointing authority to fill the same position, but the candidate may not function in an acting capacity for that position following such rejection, and may assume the position only when confirmed by *I Liheslaturan Guåhan*.

(c) No funds appropriated by law may be expended to pay a salary or any personnel benefits of any kind, or to pay someone on payroll or contract who serves in an acting capacity in a position to which that person was appointed by *I Maga'lahaen Guåhan* and subsequently denied confirmation by *I Liheslaturan Guåhan*, for a period of three (3) years following rejection of that person's appointment by *I Liheslaturan Guåhan*.

(d) No person shall serve for a period in excess of one year in an acting capacity on any board or commission, which shall include a period in time during

which the position was held over. No person may be appointed to serve in an acting capacity on any board or requiring legislative advice and consent, unless that person has been nominated by the appointing authority to serve in that position in a permanent capacity and the nomination has been received by *I Lihislatura*. Failure to comply with this Subsection shall render the actions of a defective appointee null and void.

(e) An appointed board or commission member may continue to serve in that person's position after that person's term has expired in an acting holdover capacity until that person, or another person, is appointed by *I Maga'lahan Guåhan* [Governor] and confirmed by *I Liheslaturan Guåhan* [the Legislature]; provided, that the time limits imposed by law on acting appointments shall apply.

(f) The ninety (90) calendar day plus the three (3) legislative day limitation period for serving in an acting capacity shall not be tolled because another person is serving in a temporary acting capacity during the nominee's absence, nor shall it be tolled by the appointment of some other person to temporarily fill the position in an acting capacity.

SOURCE: Added by P.L. 22-108:7. Amended by P.L. 26-119:4. Subsection (d) amended by P.L. 27-106:IV:29 and P.L. 28-068:IV:85 (Sept. 30, 2005).

4 GCA § 4101. Personnel Policy.

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

(b) The Government shall initiate an Affirmative Action Program to assure that physically and mentally handicapped persons shall have an opportunity to obtain government employment. The affirmative action program shall include job training programs for the handicapped and a continuing review of job and work requirements by the personnel agencies and the Director of Administration to assure no artificial impediments or discriminatory physical or mental requirements be established to thwart job applications submitted by handicapped persons.

(c) All employment in the service of the government of Guam shall have, as a reasonable measure of job performance, the minimum requirement of a high school diploma or a successful completion of a General Educational Development ('GED') Test, or any equivalent of a general education high school

program, or a successful completion of a certification program, from a recognized accredited or certified vocational technical institution, in a specialized field required for the job.

This Subsection shall not be applicable to the Summer Youth Employment and Training Act, a person with a disability which would prevent him or her from complying with this Section, or a person born on Guam whose eighteenth (18th) birthday was prior to August 1, 1950, and shall only apply to individuals hired after May 17, 2002.

SOURCE: § 4101 GCA, as reenacted by P.L. 16-23. Subsection (a) amended by P.L. 28-112:2 (April 14, 2006). Subsection (b) amended by P.L. 28-068:IV:33 (Sept. 30, 2005) (eff. Jan. 1, 2006). Subsection (c) added by P.L. 26-87:2 (effective May 18, 2002); amended by P.L. 27-61:1 (Dec. 22, 2003).

4 GCA § 4101.1. Responsibilities of the Director of Administration Regarding Personnel Policy of the Government.

The Director of Administration shall perform the following functions:

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

(b) Investigate conditions of government employment as he deems necessary, and report his findings thereon to *I Maga'lahaen Guåhan* and *I Liheslaturan Guåhan* annually;

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

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

(e) Make an annual report on July 1 on the status of the unified pay schedule required by § 6302 of this Title to *I Maga'laha* and the Speaker of *I Liheslatura* and post the report on the Department's website;

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

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

(h) Coordinate the fielding of necessary computer software and the training of personnel to allow the agencies, departments and public corporations listed in § 4105(a) of this Title to assess and update the unified pay schedule required by § 6302(a) of this Title;

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

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

SOURCE: Added by P.L. 28-068:IV:46 (Sept. 30, 2005), effective January 1, 2006. Amended by P.L. 28-112:3 (April 14, 2006).

4 GCA § 4102. Classified and Unclassified Services.

All offices and employment in the Government of Guam, except for employment as academic personnel of the Guam Community College (GCC) and the University of Guam (UOG), as the term *academic personnel* is defined in enabling laws of GCC and UOG, shall be divided into classified and unclassified services as follows:

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

(1) elective officials;

(2) judges;

(3) Superior Court marshal, chief clerk, chief probation officer and court administrator of the Superior Court;

(4) heads of agencies and instrumentalities and not more than one (1) secretary for each such officer;

(5) The first assistant, by whatever title denominated, to the heads of agencies and instrumentalities stated in paragraph (4) of this Subsection;

(6) persons employed on a temporary basis;

(7) members of boards and commission;

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

(9) all offices and employment in the Executive Branch whose appointment are required to be confirmed by the Guam Legislature;

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

(11) all legislative employees;

(12) members of the Guam Gaming Commission;

(13) physicians and health care administrators employed at the Guam Memorial Hospital Authority;

(14) With the exception of civilian non-uniformed positions, all positions in the Department of Military Affairs, including the Executive Secretary and Executive Services Coordinator.

(15) employees of the office of the Governor and Lieutenant Governor including off-island offices and Government House, as authorized in the applicable appropriation law.

(16) Property Management Officer at the Department of Corrections.

(17) persons employed on a seasonal basis.

(b) The classified service shall include all other positions in the government of Guam.

(c) Notwithstanding any law or rule to the contrary, employment as academic personnel of the Guam Community College and the University of Guam shall be governed by rules adopted by the Board of Trustees and the Board of Regents, respectively, in order to provide academic freedom and autonomy to the institutions, as intended by P.L. 14-77 as to GCC, and P.L. 19-40 as to UOG.

(d) Notwithstanding any other provision of law there shall be *no* other personnel classifications in the government of Guam, other than the classified and unclassified services as set forth in this Section. The Director of Administration shall *not* create any unclassified positions. The Civil Service Commission shall hear *no* appeal regarding the creation of a new position.

SOURCE: § 4102 GCA, reenacted by P.L. 16-23; Subsection (a) amended by P.L. 16-41; further amended by P.L.s 16-111, 16-120 and 17-5; (a)(5) amended by P.L. 18-15:48; Subsection (b) amended by P.L. 17-5; Subsection (16) added by P.L. 20-132:9; Subsection (15). Repealed and reenacted by P.L. 21-17:3. Entire section was amended by P.L. 23-26:1(5/1995). Subsection (c) added by P.L. 23-26:2 (5/95). Subsection (14)(a) amended by P.L. 23-45:IV:21 (10/95). Subsection (a)(5) amended by P.L. 24-23:2 to remove reference to positions in the Guam Police Dept – to conform with P.L. 23-24:1, which recreated the GPD. Item (a)(17) added by P.L. 26-74:4. Subsection (d) added by P.L. 26-121:5; amended by P.L. 28-068:IV:34 (Sept. 30, 2005), effective January 1, 2006.

COMMENT: The main purpose of the amendment made by P.L. 26:1 is to exclude entirely *academic personnel* of UOG and GCC from the classification system of the government of Guam. Such personnel are neither classified nor unclassified, but a separate class unto themselves.

§ 4105. Departmental Rules.

(a) Rules subject to criteria established by this Chapter governing the selection, promotion, performance, evaluation, demotion, suspension and other disciplinary action of classified employees shall be adopted by the Board of Directors of the Antonio B. Won Pat International Airport Authority, Guam; the Board of Directors of the Guam Economic Development and Commerce Authority; the Board of Directors of the Guam Housing Corporation; the Board of Commissioners of the Guam Housing and Urban Renewal Authority; the Guam Judicial Council; the Board of Directors of the Jose D. Leon Guerrero

Commercial Port; the Guam Education Policy Board; the Board of Regents of the University of Guam; the Guam Community College Board of Trustees; the Board of Trustees of the Guam Memorial Hospital Authority; the Board of Directors of the Guam Visitors Bureau; and the Consolidated Commission on Utilities on behalf of the Guam Waterworks Authority and the Guam Power Authority, with respect to personnel matters within their respective Branches, agencies, public corporations or departments, and by the Director of Administration as to all other Executive Branch employment.

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

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

(d) Such rules shall include the following provisions:

(1) that the minimum rate of each pay range shall be the normal rate for initial employment in the positions and classes assigned thereto; provided, however, that the directors or other department heads may, in accordance with § 6205 of this Title, authorize initial employment in a position at a higher step in the position's pay range if such action is warranted by recruitment difficulties or by the new employee's special or unusual qualifications, including experience;

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

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

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

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

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

SOURCE: § 4104 GCA, reenacted by P.L. 16-23; amended by P.L. 16-41, P.L. 17-5, P.L. 17-25:14, P.L. 17-32:3, P.L. 20-3:XII:7, P.L. 23-26:3 (5/95). Repealed and reenacted by P.L. 26-88:4. Amended by P.L. 28-068 (Sept. 30, 2005), P.L. 28-112:4 (April 14, 2006), P.L. 28-113:5 (April 14, 2006).

4 GCA § 4108. Sick Leave.

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

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

(c) When Allowed. Sick leave with pay is allowed whenever:

(1) The employee is compelled to be absent from duty on account of physical or mental illness; injury; mental health examination, counseling or treatment; pregnancy; childbirth; medical, dental or optical examination or treatment; or because of quarantine due to his own or another's illness.

(2) The employee is compelled to be absent from duty to provide health care for a member of the employee's immediate family as a result of serious illness or injury and the employee has exhausted all annual leave and compensatory time available. *Serious illness or injury* means an urgent condition that is certified by

the attending physician as requiring hospitalization, institutionalization, or extended home care in which the person needs the constant administration of special medical care or support. *Immediate family member* means the employee's spouse, common law, parents, parents-in-law, grandparents, brothers, sisters, children, grandchildren, any step or adoptive parents, adopted children or grandchildren of both the employee and the spouse, a guardian or person in loco parentis.

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

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

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

(1) Additional sick leave with pay may be allowed an employee on the recommendation of the Director of Administration, or the appropriate branch, department, agency or authority head and approval of the department, agency or authority board or commission, where such exists, or the Governor for employees of the Executive Branch, the Rules Committee of the Legislature for employees within the Legislative Branch, and the Judicial Council for employees of the Judiciary;

(2) Falsification of an illness or medical condition report shall be considered sufficient cause for disciplinary action, including dismissal from the government service for repeated offenses;

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

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

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

(6) Responsibility for administration of this Section shall remain with the appointing authorities, subject to such audit as may be ordered by the Director of Administration.

(g) Vesting. Sick leave accrued for service with the government of Guam or any of its instrumentalities, branches, authorities or any entity, corporation or agency, shall vest in the employee upon accrual and shall remain vested in such employees while he is employed by the Government notwithstanding the fact that from time to time, he may be transferred from one branch to another or to an autonomous agency, authority or other entity within the government of Guam. Sick leave accrued and unused at the time of separation from the government shall remain credited to the employee if such employee returns to government service.

(h) Lump Sum Payment Prohibited. No person who leaves the government service for any reason may receive a cash payment for sick leave accrued at the time that person leaves such service, except for payments upon death as provided in Chapter 7 of this Title, and except for lump sum payments to participants in the Defined Contribution Retirement System upon retirement.

Lump sum payments described herein shall be calculated by multiplying: (i) the employee's hourly rate based on the average of the three (3) highest salaries received by an employee during that person's years of credited service, by (ii) one-half (½) of the employee's unused accumulated sick leave hours. Payment of the lump sum for unused sick leave shall be the responsibility of the employee's agency of employment.

SOURCE: § 4107 GCA, as reenacted by P.L. 16-23; Subsection (g) amended by P.L. 17-81:36 and further amended by P.L. 18-10:22; (h) and (i) added by P.L. 17-57:1 and 2; subsection (j) added by P.L. 23-113:1. Subsection (c) amended by P.L. 24-94:2. Subsection (h) amended by P.L. 26-86:3. Subsection (f)(6) amended by P.L. 28-068:IV:36 (Sept. 30, 2005), effective January 1, 2006, pursuant P.L. 28-068:IV:47.

COMMENT: Reference to Department of Education changed to Guam Public School System pursuant to P.L. 28-045:10 (June 6, 2005).

4 GCA § 4109. Annual Leave.

(a) Annual leave shall be granted to employees occupying permanent positions, except personnel of the Guam Public School System, the Guam Community College or the University of Guam, who are employed on a school year basis, in accordance with the following schedule:

(1) One-half day (4 hours) for each full bi-weekly pay period in the case of employees with less than five (5) years of service;

(2) Three-fourths day (6 hours) for each bi-weekly pay period in the case of employees with five (5) years of service but less than fifteen (15) years of service.

(3) One (1) day (8 hours) for each full biweekly pay period in the case of employees with fifteen (15) years or more service.

For purposes of this Subsection (a), all elected officials except members of the Guam Education Policy Board, Members of *I Liheslaturan Guåhan* and the Consolidated Commission on Utilities shall be deemed employees occupying permanent positions.

(b) The term years of service shall be deemed to include service with the Naval Government of Guam or with other Federal instrumentalities or agencies within Guam prior to August 1, 1950, and to include honorable service with the Armed Forces of the United States, provided no more than three (3) years of service shall be credited to any individual for purposes of this Section. Years of service shall include one (1) year for each year served as a school employee.

The provisions of this Subsection shall not apply to those employees of the government of Guam hired prior to the date of enactment of this Act, except that any current employee of the government who has been in the employ of the government for less than three (3) years on the date of enactment and is a former member of the Armed Forces of the United States and is receiving a retirement annuity or pension as result of such military service shall be deemed to have three (3) years of service with the government at the date of enactment of this Subsection for the purposes of accruing annual leave.

(c) Employees entitled to annual leave hereunder may accumulate up to three hundred twenty (320) hours. Any annual leave earned by eligible employees in excess of three hundred twenty (320) hours shall be credited to such employee's accumulated sick leave, provided, that *no more than* one hundred (100) hours shall be credited to sick leave at the end of each fiscal year. The determination of accumulation of annual leave, and crediting of excess hours sick leave, shall be done at the end of each fiscal year.

Notwithstanding the provision of this Section, employees who have accumulated annual leave in excess of three hundred twenty (320) hours as of February 28, 2003, may carry over their excess and shall use the excess amount of leave, *prior* to retirement or termination from service. At the time of retirement or termination of service, that portion permitted to be credited to sick leave shall be so credited and the remainder of the excess leave, if any, shall be lost. Nothing herein shall allow lump sum compensation or retirement credit for annual leave in excess of three hundred twenty (320) hours

(d) [Repealed.]

(e) Any employee who transfers from one branch of the government of Guam to another, or from one department, agency, instrumentality or corporation of the government of Guam to another department, agency, instrumentality or corporation at his option may accept the cash value of his earned leave at the

time of transfer or transfer his accumulated leave to his new government position, notwithstanding the fact that such transfer may appear on the employee's personnel records as a resignation and re-employment.

(f) Any employee of the government of Guam who shall transfer from one government of Guam department or agency to the Guam Housing and Urban Renewal (GHURA) shall be credited with all prior creditable service to the government of Guam in computing annual leave. This subsection shall be applicable to all former employees of GHURA who shall make specific application for such credit within six (6) months after the date of enactment hereof.

(g) Any employee of the government of Guam who is a participating athlete or coach or administrator in an athletic contingent, recognized by the Guam National Olympic Committee ('GNOC'), representing Guam by invitation in any regional, national or international tournament, game or other sporting event sanctioned by the GNOC, shall be granted leave by his or her respective department director or appointing authority for the time it takes to complete both competition and any necessary travel, not to exceed fifteen (15) working days; provided, that his or her accumulated annual leave or compensatory time off ('CTO') is charged with the number of hours he or she is absent from duty, and further provided, that the employee requests such leave in writing thirty (30) calendar days prior to the first day of leave. If said employee has exhausted his or her annual leave, or chooses not to use such, he or she shall be granted leave without pay. Under no circumstances shall any employee of the government of Guam be granted said leave for competition more than three (3) times in one (1) calendar year under this Subsection.

SOURCE: § 4108 GCA, as reenacted by P.L. 16-23. Subsection (f) added by P.L. 21-15:6 as § 4006.2 of the *Government Code*. *This section*, as well as the rest of the sections which now comprise this Chapter were completely reenacted by P.L. 16-23. It is clear that the sponsor of this amendment was not aware of subsection (e) of this section, which accomplishes a similar goal for all government employee. Subsection (b) amended by P.L. 24-155:2. Subsection (g) added by P.L. 24-179:2. Subsection (c), (d) amended by P.L. 25-164:IV:17, 18. Subsection (c) amended by P.L. 27-106:VI:19. Subsection (d) repealed by P.L. 27-05:IV:2. Subsection (a) amended by P.L. 27-05:IV:3. Subsection (c) amended by P.L. 27-05:IV:4. Subsection (a) amended by P.L. 27-158:1; P.L. 28-01 and P.L. 28-068:IV:112 (Sept. 30, 2005).

COMMENT: Reference to Department of Education changed to Guam Public School System pursuant to P.L. 28-045:10 (June 6, 2005).

4 GCA § 4109.2. Leave Sharing Program.

(a) **Legislative Statement.** From time to time, classified employees in the civil service of the government of Guam have occasion to need leave for personal reasons, but may have already exhausted the leave that they have earned and accrued. At times like these, particularly when the employee needs time off to take care of sick family members or in the case of the military reserves and

National Guard members, being called to active duty in excess of fifteen (15) working days, the employee might be forced to take leave without pay. Through the generosity of the other employees, the affected employees could be relieved of the stress of this situation.

(b) Voluntary Transfer of Sick Leave or Annual Leave. Whenever a government of Guam employee desires to transfer a number of hours of earned sick leave or annual leave to another employee in any department or agency of the government, a formal written request shall be made by the donor employee to that person's payroll supervisor, stating the name of the recipient, the number of hours of leave to be transferred and the type of leave. No transfer may be made by any employee to that person's supervisor, or to any person above that employee in the supervisory chain, or to a member of the supervisor's or such supervisory person's immediate family. If the donor has sufficient hours of leave accrued to cover the donation, the payroll supervisor shall notify the Payroll Division to transfer the approved number of hours to the recipient. Upon receipt of the notice of transfer, the receiving employee may then submit a leave request for the number of hours of leave, sick or annual, that the employee needs and the department head shall then approve the leave request. Leave may not be transferred to another employee if as a recipient that employee intends to use it for credit towards retirement or accumulated leave. This transfer of leave shall be strictly on a voluntary basis. Leave transferred shall be used as leave by the person to whom it is transferred, and if it is not used in its entirety, it may be re-transferred to the person who originally earned it. In no event shall transferred leave be converted to cash or retirement credit by the person to whom it is transferred. Participation in the leave sharing program shall not exceeding ninety (90) working days, shall require a certification from the attending medical doctor that the recipient of the leave needs additional time for medical treatment or recovery from a medical illness and is physically unable to return to work due to the medical illness. An additional ninety (90) working days may be granted upon similar certification from the attending medical doctor made within two (2) weeks of the first ninety (90) day period. A final period of thirty (30) working days may be granted upon an additional certification from the attending medical doctor that additional time is needed for recovery.

SOURCE: Added by P.L. 22-10:1; amended by P.L. 22-140:5; P.L. 26-134:2; P.L. 27-29:V:16; and P.L. 28-068:IV:105 (Sept. 30, 2005).

4 GCA § 4109.3. Implementation.

The Director of Administration shall maintain and from time to time amend the leave-sharing program for the Executive Branch pursuant to Section I of this Act to be implemented in the same manner as other personnel rules and regulations enacted pursuant to §4105 of Title 4, Guam Code Annotated.

SOURCE: Added by P.L. 22-10:2. Amended by P.L. 28-068:IV:37 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47.

4 GCA § 4114. Inter-Branch Employee Transfers.

Any employee in the classified service may be appointed or transferred to a position in a different branch, department, agency, instrumentality, authority or corporation requiring equivalent qualification for the one held or to a higher position. Qualification and standards as established by the Director of Administration in cooperation with any branch, department, agency or instrumentality authorized by law to administer the personnel laws and determine its own personnel rules shall be honored and accepted. Any employee affected by this Section shall not have affected adversely his governmental service, retirement credits, sick or annual leave, and other fringe benefits normally granted to an employee of the Government.

SOURCE: § 4113 GCA, as reenacted by P.L. 16-23. Amended by P.L. 28-068:IV:38 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47.

4 GCA § 4117. Temporary Assignments.

No employee shall be temporarily assigned or detailed to a position nor shall the employee assume the duties and responsibilities of a position other than the one to which he has been appointed for a period in excess of ninety (90) days unless the appointing authority obtains an exemption upon written application to the Director of Administration, which exemption shall *not* extend beyond an additional ninety (90) days. *No* exemption shall be granted to the ninety (90) day detail limitation except upon express approval by the Director of Administration and except that the Guam Public School System is provided an extended time period in the temporary assignment of school principals and assistant school principals as follows: Department employees temporarily assigned to the position of school principal or assistant school principal shall *not* assume the duties and responsibilities of a position other than the one to which he or she has been appointed for a period in excess of three hundred sixty (360) days, provided that there are *no* qualified applicants for those positions and unless the appointing authority obtains an exemption upon written application to the Director of Administration, which exemption shall *not* extend beyond an additional three hundred sixty (360) days. *No* exemption shall be granted to the Department on the three hundred sixty (360) days limitation except upon approval by the Director of Administration, provided, however, that *no* further temporary assignment to the same position shall be allowed beyond a total of seven hundred twenty (720) days, unless extraordinary extenuating circumstances as found by the Director of Administration, justify further temporary assignment to such position. In any such temporary assignments, the assignee shall suffer *no* loss of pay while so assigned. The Speaker of *I Liheslaturan Guåhan* shall be given a notice of all temporary assignments within forty-eight (48) hours of such temporary assignment.

SOURCE: Enacted by P.L. 17-81:10. Amended by P.L. 27-106:VI:27. Amended by P.L. 28-068:IV:39 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47.

COMMENT: Reference to Department of Education changed to Guam Public School System pursuant to P.L. 28-045:10 (June 6, 2005).

4 GCA § 4122. Development of Personnel Rules and Regulations for Peace Officers of the Executive Branch.

The Director of Administration and the Peace Officer Standards and Training Commission ('POST') shall jointly develop personnel rules and regulations for each agency of the Executive Branch that employs peace officer positions for such peace officers in such agency consistent with the provisions of Title 4 Guam Code Annotated. Such personnel rules and regulations shall apply only to peace officers, and shall be so construed to reflect the moral and ethical standards and conduct expected of peace officers both on and off duty. Each agency employing peace officers shall implement such personnel rules and regulations for its peace officer positions. '*Peace officers*' for purposes of this Section are those defined in § 32301(b) of Title 17 of the Guam Code Annotated.

SOURCE: Added by P.L. 25-52:2. Amended by P.L. 28-068:IV:42 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47; reference to Civil Service Commission changed to Director of Administration.

4 GCA § 4124. Prior Precedents Need *Not* Apply.

Prior decisions and precedents regarding the application of personnel rules and regulations by the Director of Administration and the Judicial Council for the Executive and Judicial Branches, respectively, need *not* be applied to cases deliberated under the provisions of §§ 4122, 4123 and 4124 of this Chapter.

SOURCE: Added by P.L. 25-54:4. Amended by P.L. 28-068:IV:42 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47; reference to Civil Service Commission changed to Director of Administration.

NOTE: The Compiler has renumbered the new sections that are being added to Title 4, GCA by Public Law 25-54. The reason for this amendment originates from Public Law 24-169:4, which already added a § 4121 to Title 4, GCA. Therefore, The following section 4121, 4122, and 4123, all have been re codified to read Section 4122, 4123 and 4124. Amended by the Compiler of Laws in order to meet the current codification order.

4 GCA § 4203.3. Prohibition: Sex Offenders Prohibited From Employment in Agencies and Facilities of the Government of Guam.

(a) No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry shall work in any agency or instrumentality of the government of Guam.

SOURCE: Added by P.L. 28-24:1. Amended by P.L. 28-98:1 (Feb. 7, 2006).

4 GCA § 4207. Reduction in Force.

There shall be no reduction in force by any government of Guam department, bureau or agency which includes autonomous agencies or other instrumentalities of the Executive Branch of the government of Guam until such time as the particular department, bureau or agency implements a layoff, demotion or salary reduction procedure, which among other considerations adopted by the Director of Administration shall be based upon employee efficiency and seniority. The provisions of this Section shall be effective retroactive to February 1, 1983 and any employee laid off or whose salary was reduced shall be reinstated or salary increased to the position or level they occupied or received on February 1, 1983.

SOURCE: P.L. 17-4:8, codified by the Compiler; amended by P.L. 17-5:13. Amended by P.L. 28-068:IV:42 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47; reference to Civil Service Commission changed to Director of Administration.

4 GCA § 4403. Duties of the Commission.

The Commission has the following duties, powers and responsibilities:

(a) [Repealed]

(b) it shall hear appeals from the adverse actions taken to suspend, demote or dismiss an employee from the classified service if such right of appeal to the Commission is established in the personnel rules governing the employee; however, it may not hear any appeal of an action taken to suspend, demote or dismiss an employee of the government of Guam who has not been hired through the competitive hiring procedures of the personnel rules of the government of Guam, as such personnel rules required at the time of the hiring of the employee, nor any unclassified employee;

(c) [Repealed]

(d) [Repealed]

(e) [Repealed]

(f) [Repealed]

(g) the provisions of this Section shall not apply to the Judiciary or *I Liheslaturan Guåhan* [Legislature] in compliance with the doctrine of Separation of Powers, unless such separate Branch opts to make them applicable by submitting to the jurisdiction of the Commission; and all reference to classified employees will be deemed to mean classified employees of the Executive Branch, including agencies and authorities; and

(h) the jurisdiction of the Commission shall not extend to academic personnel of the Guam Community College, the University of Guam, all personnel of the Guam Memorial Hospital Authority, and certified, technical and professional personnel of the Guam Power Authority and the Guam Waterworks Authority, except upon mutual consent by the governing board of the respective

institution or public corporation and the Commission, nor to any position or person, appeal or proceeding of whatever kind or description if the position is denominated ‘unclassified’ in this Title, except to the extent explicitly permitted in this Section, nor shall such jurisdiction extend to the determination of whether it is practicable to place a position in the classified service.

SOURCE: § 4172 GCA, as reenacted by P.L. 16-23; Subsection (g) repealed by P.L. 16-111; a new subsection (h) added by P.L. 17-5 and relettered to (g), by Compiler. Subsection (h) added by P.L. 23-26:5 (5/95). Relettered from (I) by Compiler to conform with prior lettering. Repealed/reenacted by P.L. 26-121:2. Subsection (h) repealed and reenacted by P.L. 28-068:IV:12 (Sept. 30, 2005); amended by P.L. 28-113:4 (April 14, 2006). Subsections (a), (c), (d), (e) and (f) repealed by P.L. 28-068:IV:31 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47.

COMMENT: The purpose of the amendment by P.L. 23-26:5 was to make sure that *academic personnel* of GCC and UOG may not be brought under the Civil Service Commission without the consent of the institutions concerned. The repeal/reenactment was because the Legislature perceived that the Civil Service Commission had exceeded its jurisdiction. See P.L. 26-121:1.

4 GCA § 4408. Enforcement of Orders.

The Civil Service Commission may seek enforcement of its decisions and orders in all decisions and orders rendered pursuant to §4403 of this Chapter by application to the Superior Court for the appropriate remedy. In seeking enforcement of its decisions and orders, the application for enforcement shall be entitled, “The Civil Service Commission v. (department, agency, instrumentality or officer).” *No* enforcement shall be commenced against any department head or other employee or officer of the Government in his personal capacity.

SOURCE: § 4177 GCA, as reenacted by P.L. 16-23. Amended by P.L. 28-068:IV:40 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47.

4 GCA § 6202. Salary Increments.

Every classified employee in Pay Grades A through V shall be entitled to one step salary increment for satisfactory performance. Employees at Steps 1 through 6 shall be entitled to an increment after twelve (12) months of satisfactory performance. Employees at Steps 7 through 9 shall be entitled to an increment after eighteen (18) months of satisfactory performance. Employees at Step 10 shall be entitled to an increment equivalent to 3.5% of an employee’s based salary after twenty-four (24) months of satisfactory performance; the Director of Administration shall prepare an increment schedule consisting of at least Steps 11 to 20 to implement the 3.5% increment policy.

SOURCE: GC § 4103.1, as added by P.L. 16-111; amended by P.L. 16-114. Repealed and reenacted by P.L. 21-59:7. Amended by P.L. 28-068:IV:42 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47; reference to Civil Service Commission changed to Director of Administration.

4 GCA § 6204. Cost of Living Adjustments.

The Governor may institute a cost of living adjustment (COLA). The COLA shall not be a part of the employee's base salary and shall be non-taxable; provided, however, that the COLA shall be considered as part of the base pay for retirement purposes. The Governor may defer, uniformly reduce, or uniformly increase the COLA adjustments according to economic conditions. The Director of Administration shall consult with the Department of Commerce in determining the appropriate methodology to be applied. The feasibility of adopting the federal COLA system, in whole or in part, shall be considered by the Director of Administration.

SOURCE: GC § 4104, as amended by P.L. 13-71; Repealed and reenacted by P.L. 21-59:7. Amended by P.L. 28-068:IV:42 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47; reference to Civil Service Commission changed to Director of Administration.

4 GCA § 6205. Recruitment Above-Step.

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

NOTE: GC § 4101.1, added by P.L. 14-52. Amended by P.L. 18-29:6. Repealed and reenacted by P.L. 21-59:7. Amended by P.L. 28-068:IV:42 (Sept. 30, 2005), P.L. 28-112:5 (April 14, 2006).

4 GCA § 6205.1 Recruitment Above-Step for the Guam Public School System.

Notwithstanding the provisions of Title 4 GCA §6205, Step 1 of the Pay Grade assigned to a classified position shall be the regular rate for initial employment in Guam Public School System. The Superintendent of Education may petition the Guam Educational Policy Board for recruitment at a higher step not to exceed Step 10, because of recruitment difficulty or exceptional qualifications for *professional education positions*. This petition shall be made before an applicant is hired. Every petition shall be scrutinized and amply justified before being approved. The Guam Educational Policy Board may

establish policies to administer this Section. Increment schedule consisting of Steps 11 through 20 shall not be used for recruitment above-step. Such *professional education positions* may include, but not be limited to the following:

1. Teacher II – VI, in any Special Education Program, Mathematics, Science and Language Arts
2. Program Coordinator II – IV, Autism Program
3. Program Coordinator II – IV, Assistive Technology Program
4. Program Coordinator II – IV, Transition Program
5. Program Coordinator II – IV, State Compliance Monitoring Program
6. Psychologist, Emotional Disabilities Program
7. Psychologist, Psychological Services Program
8. Speech Language Pathologist
9. Speech Language Clinician
10. Speech Language Pathology Supervisor
11. Audiologist
12. Occupational Therapist I – II
13. Physical Therapist I – II
14. Nutritionist
15. Assistant Superintendent, Special Education
16. Associate Superintendent, Special Education.

SOURCE: Added by P.L. 28-068:IV:100 (Sept. 30, 2005).

4 GCA § 6208. Government Attorneys Salaries.

It is the intent of *I Liheslatura* that all full-time attorneys working for the government of Guam, its agencies and instrumentalities (including autonomous agencies and instrumentalities), the Judiciary, and the Public Defender Service Corporation be paid according to the following schedule in order to make the pay received by full-time attorneys working for different departments and agencies more or less uniform. Therefore, all full-time attorneys now working for or later hired after the effective date of this Section by the government of Guam, its agencies and instrumentalities (including autonomous agencies and instrumentalities), the Judiciary, and the Public Defender Service Corporation including classified, unclassified, and contract hire shall be paid according to the following schedule. However, no attorney working for the government of Guam

on the effective date of this Act shall have his or her salary reduced by this schedule below.

ATTORNEY I

(a) An attorney with zero (0) to three (3) years experience as an attorney, working under the supervision of a senior attorney or judge. The pay scale and steps shall be as follows:

Step 1 -- under one (1) year as an attorney, \$40,352;

Step 2 -- more than one (1) year but *less than* two (2) years as an attorney, \$42,874; and

Step 3 -- more than two (2) years but *less than* three (3) years as an attorney, \$45,396.

ATTORNEY II

(b) An attorney with three (3) years experience but *less than* five (5) years experience as an attorney, working under the supervision of a senior attorney. The pay scale and steps shall be as follows:

Step 1 -- more than three (3) years but *less than* four (4) years experience as an attorney, \$47,008;

Step 2 -- more than four (4) years but *less than* five (5) years experience as an attorney, \$49,773.

ATTORNEY III

(c) A senior attorney with over five (5) years but *less than* eight (8) years experience as an attorney, working with minimal supervision, who may supervise and direct other attorneys. The hiring authority may allow up to two (2) years of attorney experience credit or seniority credit for special skills, training, or excellence as an attorney. The pay scale and steps shall be as follows:

Step 1 -- more than five (5) years but *less than* six (6) years experience as an attorney, \$51,723;

Step 2 -- more than six (6) years but *less than* seven (7) years experience as an attorney, \$54,765; and

Step 3 -- more than seven (7) years but *less than* eight (8) years experience as an attorney, \$59,329.

ATTORNEY IV

(d) An Attorney IV includes all non-supervisory and program-supervisor senior attorneys, to include, the Chief Deputy Attorney General, and the Public Defender. A senior attorney with over eight (8) years as an attorney, working with minimal supervision, with possible supervisory duties over other attorneys. The hiring authority may allow up to three (3) years of attorney experience credit or seniority credit for special skills, trial experience, training, or excellence as an attorney, to the extent the attorney has less than eleven (11) years of experience as an attorney. The pay scale and steps shall be as follows:

Step 1 -- over eight (8) years but *less than* nine (9) years of experience as an attorney, \$62,114;

Step 2 -- over nine (9) years but *less than* ten (10) years of experience as an attorney, \$68,493;

Step 3 -- over ten (10) years but *less than* eleven (11) years of experience as an attorney, \$72,522;

Step 4 -- over eleven (11) years but *less than* twelve (12) years of experience as an attorney, \$75,208;

Step 5 -- over twelve (12) years but *less than* fifteen (15) years of experience as an attorney, \$77,894; and

Step 6 -- over fifteen (15) years experience as an attorney, \$80,580.

Any attorney who has sixteen (16) years or more of total experience as an attorney, and who has reached the level of Attorney IV, Step 6, shall thereafter receive a pay increase of 3.5% every two (2) years of service as a government of Guam attorney.

In the case of attorneys working for the government of Guam as of the effective date of this Section, the Department of Administration shall review the current attorney's salaries and slot the attorneys into the appropriate step and grade of the previous salary structure without regard to any freeze on salaries that may have occurred. After placing the attorneys at the appropriate step and grade, the attorneys shall then be slotted in accordance with the above schedule closest to, but not below the step and grade established by the Department of Administration and to receive pay increases established by the new salary structure on their anniversary of hire. The slotting into the appropriate steps closest to, but *not* below their current salaries shall include all experience and seniority credits.

The salary schedules contained in Subsections (a) through (d) above may be modified upwards from time to time by the Director of Administration pursuant

to the Administrative Adjudication Act public notice requirements without further legislation.

SOURCE: GC § 4106.1, added by P.L. 13-117; amended by P.L. 15-147; Repealed and reenacted by P.L.'s 16-72, 16-80, 17-6 and 19-52:8; amended by P.L. 27-106:VI:20. Effective January 1, 2006, reference to the "Civil Service Commission," amended to "Director of Administration" pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

4 GCA § 6209. Professionals of Public Health and Social Services.

(a) Within the Department of Public Health and Social Services the following classified positions are created and given annual compensation as follows:

| POSITION | COMPENSATION |
|--|---------------------|
| Physician Specialist (Board Certified) | \$80,618 - \$94,418 |
| Physician Specialist (Board Eligible) | \$75,098 - \$88,898 |
| General Practitioner | \$52,862 - \$62,862 |
| Chief Public Health Dental Officer | \$54,531 - \$66,528 |
| Dental Officer II | \$48,300 - \$58,926 |
| Dental Officer I | \$44,850 - \$54,717 |

(b) The Director of Administration is hereby directed to assign an appropriate pay range for the position of Nurse Practitioner under the Option 1 Salary Schedule; provided, however, that persons presently occupying the position shall not have their present salary reduced. Once an appropriate salary level is assigned by the Director of Administration, persons employed as Nurse Practitioners shall be compensated at such level retroactive to October 1, 1987.

(c) The Director of Administration shall review the salaries of staff dentist and physician positions in the Department of Public Health and Social Services every two (2) years from the date of enactment of this Act to make salary adjustments as needed. The Director of Administration shall consider the income levels of private practitioners and government dentists and physicians on Guam and nationwide, and increases in salary given other government of Guam employees.

SOURCE: GC § 4106.2, as added by P.L. 14-52; amended by P.L.'s 16-111, 18-33:15 and 19-34:33; Subsection (a) is repealed and reenacted by P.L. 20-207:12. Subsection (c) enacted by P.L. 20-207:16 as uncodified, permanent law. Codified here by Compiler. Amended by P.L. 28-068:IV:42 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47; reference to Civil Service Commission changed to Director of Administration.

4 GCA § 6212. Hourly Rates of Pay.

In the event it is desirable to establish hourly rates of pay for temporary, seasonal, intermittent, project or part-time employment in any class of position in the classified service the Director of Administration shall determine such hourly

rates by dividing by 2080 the annual pay rates in the range of pay established for the class by or under this Chapter. Normally, Step 1 in the appropriate pay range shall be used in making this calculation, but the Director of Administration, however, may authorize as compensation for such employment, hourly rates based on higher steps in the pay range if recruitment conditions or other circumstances warrant such action.

SOURCE: GC § 4109. Amended by P.L. 28-068:IV:42 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47.

COMMENT: Pursuant to P.L. 28-068:IV:42 (Sept. 30, 2005), the duty of the Civil Service Commission was transferred to the Director of Administration. Therefore, reference to Civil Service Commission in the second sentence of the section was removed.

4 GCA § 6217. Night Differential Pay.

All employees of the government of Guam, except the department or agency heads and the Deputy Directors, shall be entitled to night differential pay, calculated at the rate of their regular wage plus ten percent (10%), for all periods worked between the hours of 6 p.m. and 6 a.m., provided they work a minimum of more than four (4) consecutive hours within that time period.

SOURCE: §4110.4; renumbered by P.L. 13-81; amended by P.L. 14-130; amended by P.L. 27-29:V:6. Amended by P.L. 28-068:V:5 (Sept. 30, 2005).

4 GCA § 6218. Conditions.

The application of the pay ranges set forth in this Chapter shall be subject to the following conditions:

(a) The rates and ranges of pay shall be considered to be gross compensation for full time service and the value of maintenance in the form of meals, lodging and the like shall be deducted from the established rates of pay. The Director of Administration shall determine the values to be placed upon such maintenance, taking into consideration the costs of the maintenance provided and the convenience of the government served thereby. Maintenance shall not be considered to include the costs of travel incurred in connection with official duties.

(b) The minimum rate of each pay range shall be the normal rate for initial employment in the employment in the positions and classes assigned thereto. The Director of Administration, however, may authorize initial employment in the class at a higher rate in the pay range if such action is warranted by recruitment difficulties or by special or unusual qualifications of the individual employed.

(c) Advancement of employees within the pay ranges established for their positions shall be based upon quality of work and length of service in a manner to be determined by the personnel rules.

(d) Any classified employee of the government of Guam, who terminates such employment for the sole purpose of entering active duty in the Armed

Forces of the United States, shall be entitled to limited military leave for such periods and under such conditions as may be from time to time be determined by the Director of Administration and upon termination under honorable conditions of such active duty, be entitled to reinstatement in his previous position or its equivalent, in the step within his former pay range, to which such employee would have been entitled but for his military service, provided that such employee makes application for such reinstatement within ninety (90) days after discharge, and provided further that at the time of such application he shall be on military leave status with the government of Guam.

(e) Notwithstanding any other provision of law, when an Assistant Commissioner has been serving as such at a rate of pay higher than Step 1 of the salary range of a Commissioner and automatically receive compensation as provided in that step of the Commissioner's pay range which will not represent a reduction in the compensation he was theretofore receiving as Assistant Commissioner.

SOURCE: GC § 4111.

NOTE: Personnel Board changed to Civil Service Commission by authority of P.L. 16-9. Effective January 1, 2006, reference to the "Civil Service Commission" removed from subsection (b) and amended to "Director of Administration" in subsection (d) pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

4 GCA § 6219. Firemen: Compensation: Annual and Sick Leave.

(a) Notwithstanding any other law, rule, or regulation, firefighters within the Guam Fire Department, *except* the Fire Chief, shall be compensated at the regular hourly rate of pay at one hundred six (106) hours, and shall be compensated at one and one-half (1½) times the regular hourly rate for hours worked in *excess* of one hundred six (106) hours per pay period. Firefighters who are working administrative duty shall work eighty (80) hours per pay period at their regular rate of pay in the same manner as other government of Guam employees and at one and one-half (1½) times their regular hourly rate only in the event that they work in *excess* of one hundred six (106) hours in a pay period.

(b) All hours of work performed by firefighters during a legal holiday shall be compensated at double the regular hourly rate, irrespective of work shifts, provided, however, that work performed on such a holiday in excess of nine (9) hours shall be compensated at the regular hourly rate.

(c) Firefighters shall be charged no more than nine (9) hours annual leave or sick leave for any given day on which such leave is taken.

(d) All other laws, rules, regulations applicable to firefighters not consistent with this Section shall remain in full force and effect.

SOURCE: GC § 4111.1, as added by P.L. 12-183. Subsection (a) as amended by P.L. 17-87:7; Subsection (a) is Repealed and reenacted by P.L. 20-172:1. Subsection (a) amended by P.L. 26-35:11. Subsection (a) repealed by P.L. 26-36:35. Subsection (a) reenacted by P.L. 26-49:7 along

with considerable legislative history in P.L. 26-49:7(a). P.L. 26-49:7(c) provides that this section is retroactive to 10/1/2001. Amended by P.L. 28-068:II:21 (Sept. 30, 2005). Subsection (b),(c) & (d) added by P.L.28-072:1 (Nov. 15, 2005), effective October 1, 2005.

4 GCA § 6222. Corrections Officers--Hazardous Pay.

(a) A corrections officer or any employee of the government who performs the duty of guarding prisoners shall be entitled to hazardous pay calculated at the rate of his or her regular wage plus ten percent (10%) for all periods he or she is on such duty. The differential shall be applicable only during time of exposure.

(b) Any marshal, probation officer, or alternative sentencing officer of the Judiciary is eligible to receive hazardous pay for any duty considered to be under hazardous conditions as specified by the Superior Court of Guam's Personnel Rules and Regulations, provided that "hazardous condition" shall not include the customary, ordinary, or routine duties of marshals, probation officers and alternative sentencing officers.

SOURCE: Added by P.L. 17-53:24 as § 6221; renumbered by Compiler; amended by P.L. 20-132:2. Amended by P.L. 28-068:V:6 (Sept. 30, 2005).

4 GCA § 6223. Firefighters - EMT-A Duty.

Notwithstanding any law to the contrary, a Firefighter in the Guam Fire Department who performs work as an Emergency Medical Technician-Ambulance (EMT-A) and is a certified EMT-A shall be entitled to differential pay calculated at the rate of his or her regular wage plus fifteen percent (15%) for all periods he or she is assigned as an EMT-A and is a certified EMT-A.

SOURCE: Added by P.L. 19-52:10 as an uncodified section; codified by Compiler. Repealed by P.L. 28-62:5 (June 30, 2005). Restored by P.L. 28-068:II:18 (Sept. 30, 2005).

4 GCA § 6229.1. Nursing Recruitment and Retention Incentives.

The Director of Administration shall provide recruitment and retention incentives for nurses in the government of Guam.

SOURCE: Added as § 6228.1 by P.L. 24-325:4. Recodified by the Compiler of Laws as §6229.1. Effective January 1, 2006, reference to the "Civil Service Commission," amended to "Director of Administration" pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

4 GCA § 6229.14. Recruitment Process.

All government of Guam agencies shall be exempted from the government of Guam Department of Administration recruitment process for the hiring of nurses and other healthcare professional positions. All nursing and other healthcare professional applicants, who have a license to practice on Guam and meet the minimum requirements of the class specifications, may be scheduled for an interview and may be recruited, using the Director of Administration education/experience pay adjustment schedule. Any action taken to recruit an applicant who is *not* licensed, does *not* meet the minimum requirements, and/or

did *not* comply with the Director of Administration education/experience pay adjustment schedule, shall be null and void by the Department of Administration.

SOURCE: Added as § 6228.14 by P.L. 24-325:17. Recodified by the Compiler of Laws as §6229.14. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

4 GCA § 6229.15. Implementation.

The provisions of this Act shall be implemented in Fiscal Year 2002. The Director of Administration shall transmit a status report three (2) months after the enactment of this Act, and upon implementation of the provisions. The Administrator, Bureau of Family Health and Nursing Services, at the Department of Public Health and Social Services, shall submit copies of the GNA Commission on Nursing Leadership meeting minutes to *I Maga’lahen Guåhan* and *I Liheslaturan Guåhan* on a quarterly basis.

SOURCE: Added § 6228.15 by P.L. 24-325.18 Repealed and reenacted as 6228.15 by P.L. 25-072:IV:10. Recodified by the Compiler of Laws as §6229.15. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

4 GCA § 6229.2. Salary Schedule Three (3) Year Review.

The Director of Administration shall meet annually with the Guam Nurses Association Commission on Nursing Leadership to address recruitment and retention incentives for nurses. The salary schedules of the nurses shall be reviewed by the Director of Administration every three (3) years, and upgraded as needed. The salary for each of the nursing classifications under the government of Guam shall be competitive with the National average.

SOURCE: Added as § 6228.2 by P.L. 24-325.5. Recodified by the Compiler of Laws as §6229.2. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

4 GCA § 6229.3. Class Specifications Three (3) Year Review.

The Director of Administration, in collaboration with the government of Guam agencies’ nursing administrators, shall update the class specifications pertaining to duties, requirements and experience of all nursing classifications. The class specifications shall be re-evaluated every three (3) years, and changes shall be made as indicated.

SOURCE: Added as § 6228.3 by P.L. 24-325:6. Recodified by the Compiler of Laws as §6229.3. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

4 GCA § 6229.5. Compensation for Education and Experience.

Nurses and other healthcare professionals in the government of Guam shall be given above-step compensation commensurate to the education and

experience that exceed the minimum requirements. The Director of Administration shall establish the pay adjustment schedule specific to this Section to be used by the nurse and other healthcare administrators during recruitment. The nurse and other healthcare administrators shall implement the above-step compensation, using the Director of Administration education/experience pay adjustment schedule. Any deviation from the established education/experience pay adjustment schedule *not* having prior approval by the Director of Administration shall be deemed invalid. The Department of Administration shall review the documents of all applicants and the compensation as assigned by the nurses and other healthcare administrators to ensure the education/experience pay adjustment schedule is being properly implemented. Any errors shall be rectified by the Department of Administration.

SOURCE: Added as § 6228.5 by P.L. 24-325:8. Recodified by the Compiler of Laws as §6229.5. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

4 GCA § 6229.6. Certification Pay Differential.

The Director of Administration shall implement a certification pay differential for all nursing and other healthcare professional positions in the government of Guam. Nurses and other healthcare professionals who have a national or Guam Board certification, and are practicing in their area of certification, shall be entitled to a minimum certification pay differential, calculated at the rate of their regular wage plus fifteen percent (15%) to rectify an inequity in certification pay.

SOURCE: Added as § 6228.6 by P.L. 24-325:9. Recodified by the Compiler of Laws as §6229.6. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

4 GCA § 6232. [Untitled].

The Director of Administration shall triennially review all positions requiring certification as either EMT-B, EMT-I, or an EMT-P and recommend salary adjustments based on such qualifications to be competitive with national salary schedules.

SOURCE: Added by P.L. 28-62:4 (June 30, 2005) as section 6231. Renumbered to section 6232 because section 6231 was already occupied. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

4 GCA § 6302. Administration.

(a) The Director of Administration shall adopt and apply the currently used unified pay schedule based on the Hay methodology or any other classification methods and salary administration to the extent he deems appropriate. The unified pay schedule, either by the Hay Group or any other experts in

classification and pay, shall be administered by the Director of Administration and by the Judicial Council for the Judicial Branch.

(b) The Director of Administration and the Judicial Council may reassign pay grades as they deem necessary. Reassignment shall be based upon the calculation of Hay points or points established by other experts and shall be performed by technical staff trained in the classification and compensation evaluation system for the sake of consistency and uniformity of results. The technical staffs of the Human Resources Division in the Executive Branch, and the Judiciary Human Resources Office, shall coordinate their efforts in implementing the Hay methodology or any other classification and pay system.

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

SOURCE: GC § 4113. Repealed and reenacted by P.L. 21-59:7. Amended by P.L. 28-68:IV:45 (Sept. 30, 2005). Repealed and reenacted by P.L. 28-112:6 (April 14, 2006).

§ 6303. Creation of Positions.

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

(b) This Section shall *not* apply to positions required by law to be filled by persons confirmed by *I Liheslaturan Guðhan*.

(c) (1) The petition of the head (Department Head) of a line agency or department to create a position shall include:

(A) the justification for the new position;

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

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

(D) the position description;

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

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

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

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

(d) Creation of Positions in the Autonomous Agencies and Public Corporations.

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

(A) the justification for the new position;

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

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

(D) the position description;

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

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

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

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

SOURCE: GC § 4114. Repealed and reenacted by P.L. 21-59:7. Amended by P.L. 22-144:5 (12/27/94), P.L. 24-327:16, P.L. 28-68:IV:45 (Sept. 30, 2005). Subsection (a) amended by P.L. 28-112:7 (April 14, 2006). Subsections (c) added by P.L. 28-112:8 (April 14, 2006). Subsection (d) added by P.L. 28-112:9 (April 14, 2006).

§ 6303.1. Transparency and Disclosure.

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

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

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

SOURCE: Added by P.L. 28-112:10 (April 14, 2006).

4 GCA § 6304. Differential Pay.

The Director of Administration and the Judicial Council shall establish and implement uniform differential pay policies. All statutes, rules, regulations, and policies which are not covered by or inconsistent with the policies set forth herein, are hereby repealed upon establishment of uniform pay policies.

SOURCE: GC § 4115; Repealed and reenacted by P.L. 21-59:7. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

4 GCA § 6504. Prohibition.

No contract for the hiring of officers or employees for the government of Guam from the continental United States or elsewhere, pursuant to § 6213 of this Chapter, may be executed after March 1, 1964, with any person who does not have either unique skills or other qualifications not available among the residents of Guam. Prior to the execution of any such contract after March 1, 1964, the Director of the Department of Administration or the Board of Directors of the Guam Telephone Authority or the Board of Directors of Guam Power Authority must certify to the Director of Administration that the person to be employed by the respective agency or department within its jurisdiction by such contract possesses either skills or qualifications not possessed by any resident of Guam available for hire for the position to be filled by said contract.

SOURCE: GC § 4110.3, as amended by P.L. 13-81. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

4 GCA § 8122. Annuity: Amount.

(a) Formula. The basic retirement annuity payable to any member shall be the following:

(1) an amount equal to two percent (2.0%) of average annual salary for each of the first ten (10) years of credited service, and two and one-half percent (2.5%) of average annual salary for each year, or part thereof, of credited service over ten (10) years;

(2) in addition, there shall be added to the amount set forth in Subsection (1) an amount equal to Twenty Dollars (\$20.00) multiplied by each year of credited service, the total of which shall then be reduced by an amount equal to one hundredth of one percent (.01%) of said total for each One Dollar (\$1.00) that a member's average annual salary exceeds the amount of Six Thousand Dollars (\$6,000.00);

(3) no basic retirement annuity shall exceed eighty-five percent (85%) of average annual salary; *and*

(4) the basic retirement annuity shall *not*, in any case, be less than One Thousand Two Hundred Dollars (\$1,200.00) per year per member.

(b) Automatic Increases in Annuity. Any member receiving a basic retirement annuity and entitled to benefits under this Chapter shall receive each year on the anniversary date of the member's retirement or entitlement, an automatic 'sliding scale' increase in the member's annual annuity, to be computed as follows:

(1) members receiving an annual annuity of Three Thousand Five Hundred Dollars (\$3,500.00) or less shall receive an automatic annual increase of Six Hundred Dollars (\$600.00);

(2) members receiving an annual annuity of more than Three Thousand Five Hundred Dollars (\$3,500.00), but not more than Six Thousand Three Hundred Dollars (\$6,300.00), shall receive an automatic annual increase of Four Hundred Dollars (\$400.00);

(3) members receiving an annual annuity of more than Six Thousand Three Hundred Dollars (\$6,300.00) but not more than Ten Thousand One Hundred Dollars (\$10,100.00) shall receive an automatic annual increase of Three Hundred Dollars (\$300.00); *and*

(4) members receiving an annual annuity of more than Ten Thousand One Hundred Dollars (\$10,100.00) shall receive an automatic annual increase of Two Hundred Dollars (\$200.00).

(c) Recomputation of Annuities Previously Given. The basic retirement annuity set forth in Subsection (a) shall be recomputed as follows:

(1) any member who commenced receiving a retirement annuity on or after September 1, 1972, but prior to July 1, 1984, and entitled to benefits under this Chapter shall have the member's basic annuity recomputed to reflect a one-time One Hundred Dollar (\$100.00) increase to that member's basic retirement annuity; *and*

(2) any member who commenced receiving a retirement annuity prior to September 1, 1972 shall have the member's basic retirement annuity recomputed based upon the formula set forth in Subsection (a) of this Section; provided, however, that any member receiving a retirement annuity on September 1, 1972 which is greater than the basic retirement annuity recomputed pursuant to Subsection (a) of this Section shall have that member's basic retirement annuity recomputed to reflect an amount equal to the sum of that member's annuity on September 1, 1972, plus five percent (5%) of the member's annuity on said date.

(d) Additions to Recomputed Annuities. The recomputed retirement annuity set forth in Subsection (c) shall be subject to any of the following applicable non-cumulative additions:

(1) any member who commenced receiving a retirement annuity prior to October 1, 1995, and who is entitled to benefits under this Chapter, shall receive, during the fiscal years commencing on October 1, 2002, and ending on February 28, 2003, an additional Four Thousand Two Hundred Thirty-Eight Dollars (\$4,238.00), to replace the amount known as the sum of the One Thousand Two Hundred Dollars (\$1,200.00), One Thousand Five Hundred Dollar (\$1,500.00), Seven Hundred Dollars (\$700.00), and Eight Hundred Thirty-Eight Dollars (\$838.00) supplemental annuity benefits formerly contained in various General Appropriation Acts.

(2) any member who commenced receiving a retirement annuity prior to October 1, 1999, and who is entitled to benefits under this Chapter, shall receive, during the fiscal years commencing on October 1, 1999 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars (\$1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts; *and*

(3) any member who commenced receiving a retirement annuity on or after October 1, 1999, but prior to January 1, 2000, and who is entitled to benefits under this Chapter shall receive, during the fiscal year commencing on October 1, 2000 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars (\$1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(4) Any member who commenced receiving a retirement annuity on or after January 1, 2000, but prior to October 1, 2000, and who is entitled to

benefits under this Chapter shall receive, during the fiscal year commencing on October 1, 2000 and ending September 30, 2001, an additional One Thousand One Hundred Dollars (\$1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(5) Any retirement annuitant who commenced receiving a retirement annuity prior to October 1, 1995, and who is entitled to retirement benefits under this Chapter shall receive, during the period commencing on March 1, 2003, and ending on October 28, 2003, prospective, non-cumulative supplemental annuity benefits as follows:

(i) Two Thousand Four Hundred Seventy-Two (\$2,472.00) in Class 1 Retiree Supplemental Annuity Benefits, known as the sum of One Thousand Two Hundred Dollars (\$1,200.00), One Thousand Five Hundred Dollars (\$1,500.00), Seven Hundred Dollars (\$700.00), and Eight Hundred Thirty-Eight Dollars (\$838.00) in annual benefits formerly contained in various General Appropriation Acts, for those employees who retired as of October 1, 1977.

(ii) One Thousand Seven Hundred Seventy-Two Dollars (\$1,772.00) in Class 2 Retiree Supplemental Annuity Benefits comprised of the sum of One Thousand Five Hundred Dollars (\$1,500.00), Seven Hundred Dollars (\$700.00), and Eight Hundred Thirty-Eight Dollars (\$838.00) in annual annuity benefits formerly contained in various General Appropriation Acts, for those employees who retired between October 2, 1977, and October 1, 1980.

(iii) One Thousand Three Hundred Sixty-Four Dollars (\$1,364.00) in Class 3 Retiree Supplemental Annuity Benefits, comprised of the sum of One Thousand Five Hundred Dollars (\$1,500.00), and Eight Hundred Thirty-Eight Dollars (\$838.00) in annual annuity benefits formerly contained in various General Appropriation Acts, for those employees who retired between October 2, 1980, and October 1, 1982.

(iv) Eight Hundred Seventy-Five Dollars (\$875.00) in Class 4 Retiree Supplemental Annuity Benefits, composed of the sum of One Thousand Five Hundred Dollars (\$1,500.00) in annual annuity benefits, formerly contained in various General Appropriation Acts, for those employees who retired between October 2, 1982 and October 1, 1995, or their survivors.

(v) No persons eligible for Class 1, 2, 3 or 4 Retiree Supplemental Annuity Benefits provided for in paragraph (5) of this Section shall receive such benefit if their regular annual retirement annuity prior to the supplemental amounts herein is more than Forty Thousand Dollars (\$40,000.00). Persons eligible for Class 1, 2, 3, or 4 Retiree Supplemental Annuity Benefits shall only receive an amount of such

benefits up to the total aggregate sum of Forty Thousand Dollars (\$40,000.00) in combined retirement annuities and supplemental retirement annuities and not more.

(6) Any retirement annuitant who commenced receiving a retirement annuity *prior* to October 1, 1995, and who is entitled to retirement benefits under this Chapter, shall receive, during the period commencing on October 1, 2005, and ending on September 30, 2006, prospective, non-cumulative supplemental annuity benefits as follows:

(i) Four Thousand Two Hundred Thirty-eight Dollars (\$4,238.00) in Retiree Supplemental Annuity Benefits, known as the sum of One Thousand Two Hundred Dollars (\$1,200.00), One Thousand Five Hundred Dollars (\$1,500.00), Seven Hundred Dollars (\$700.00), and Eight Hundred Thirty-eight Dollars (\$838.00) in *annual* benefits formerly contained in various General Appropriation Acts.

(ii) *No* persons eligible for Retiree Supplemental Annuity Benefits provided for in Paragraph (6) of this Section shall receive such benefit *if* their regular annual retirement annuity *prior* to the supplemental amounts herein, but *excluding* survivor benefits, is more than Forty Thousand Dollars (\$40,000.00). Persons eligible for Retiree Supplemental Annuity Benefits shall *only* receive an amount of such benefits up to the total aggregate sum of Forty Thousand Dollars (\$40,000.00) in combined retirement annuities and supplemental retirement annuities and *not more*.

SOURCE: GC § 4211; Subsection (b) Repealed and reenacted by P.L. 12-151 and amended by P.L. 17-66:1, introductory sentence further amended by P.L. 17-82:5; (d) repealed and reenacted by P.L. 12-151 and 17-66:2; (e) added by P.L. 15-135, repealed and reenacted by P.L. 16-114:5. Amended by P.L. 25-072:IV:4. Subsection (d)(4) added by P.L. 25-174:2 to correct prior miscalculations and omissions. Subsection (d)(1) amended by P.L. 26-36:27 and P.L. 27-05:IV:23. Subsection (d)(5) added by P.L. 26-36:28 and 27-05:IV:28. Subsection (d)(6) added by P.L. 27-29:IV:18; repealed and reenacted by P.L. 27-106:IV:18; amended by P.L. 28-068:III:12 (Sept. 30, 2005).

4 GCA § 8122.1. Adjustments.

(a) When an error is made in the records maintained by the Fund or by the government, or in the contributions made on behalf of a member, or in computing a benefit, and, as a result, a member or beneficiary is entitled to receive from the Fund more or less than the member or beneficiary would have been entitled to receive had the records or contributions been correct or had the error not been made, then (1) the records, contributions, or error shall be corrected, and (2) as far as practicable, future payments or benefit entitlement shall be adjusted so that the actuarial equivalent of the annuity or benefit to which the member or beneficiary was correctly entitled shall be paid. If no future payment is due, a person who was paid any amount to which the person

was not entitled is liable for repayment of that amount, and a person who was not paid the full amount to which the person was entitled shall be paid the balance of that amount.

(b) An adjustment that requires the recovery of benefits may not be made under this section if:

(1) the error was not the result of erroneous information supplied by the member or beneficiary;

(2) the member or beneficiary did not have reasonable grounds to believe that the amount of the benefit was in error; and

(3) the incorrect benefit was first paid four years or more before the member or beneficiary was notified of the error.

(c) At every regularly scheduled meeting of the Board of Trustees of the Fund, the Director shall report to the Board on all situations since the Director's last report in which an adjustment has been prohibited under (b) of this section. If the Board finds that there is reason to believe that one or more of the conditions set out in (b) of that section have not been met, the Director shall notify the member or beneficiary that an adjustment will be made to recover the overpayment.

(d) Notice of the adjustment under this Subsection shall include a statement that the affected member or beneficiary may appeal the adjustment to the record by notifying the Director, in writing, within thirty (30) days after receipt of notice that the records will be adjusted. A member or beneficiary who receives notice of adjustment under this subsection may appeal to the Board for a waiver of the adjustment in accordance with Section 8122.2(b). An adjustment shall not be required while the appeal is pending.

(e) The Fund shall pay regular interest on amounts owed to a member or beneficiary.

(f) Interest shall be charged on amounts owed to the Fund by a member or beneficiary if the amount owed is the result of erroneous information supplied by the member or beneficiary, or if the member or beneficiary had reasonable grounds to believe the amount of the benefit was in error. The interest paid under this subsection shall be equal to the rate established in §8137(c) for which the correct payment was due and shall continue until an actuarial adjustment to the benefit is effective or the amount owed is paid.

SOURCE: Added by P.L. 20-150:4. Repealed by P.L. 25-072:IV:5. Reenacted by P.L. 28-068:IV:96 (Sept. 30, 2005).

4 GCA § 8122.2. Waiver of Adjustments.

(a) Upon appeal to the Board by an affected member or beneficiary under

(b) of this section, the Board may waive an adjustment or any portion of an adjustment made under §8122.1 if , in the opinion of the Board:

(1) the adjustment or portion of the adjustment will cause undue hardship to the member or beneficiary;

(2) the adjustment was not the result of erroneous information supplied by the member or beneficiary; and

(3) the member or beneficiary had no reasonable grounds to believe the records were incorrect or a mistake had been made before the adjustment was made.

(b) In order to obtain consideration of a waiver under this section, the affected member or beneficiary must appeal to the Board in writing within thirty (30) days after receipt of notice that an adjustment is to be made.

(c) The Board may conduct a hearing on an appeal under this Section.

(d) The Board may impose conditions on the granting of a waiver which it considers equitable. These conditions may include requiring the member or beneficiary to make additional contributions, with interest, to the Fund.

(e) The Board may reconsider a ruling under this section, pursuant to the procedures set fort in the Administrative Adjudication Act.

SOURCE: Added by P.L. 28-068:IV:96 (Sept. 30, 2005).

4 GCA § 8129. Same: Automatic Increases in and Additions to Recomputed Annuities.

The recomputed disability retirement annuity set forth in § 8125 of this Chapter shall be subject to any of the following applicable non-cumulative additions:

(a) Any member receiving a disability retirement annuity shall receive each year on the anniversary date of that person's retirement or entitlement, an *automatic sliding scale* increase to be computed as follows:

(1) disability retirement annuitants receiving an annual annuity of Three Thousand Dollars (\$3,000.00) or less shall receive an *automatic* annual increase of Three Hundred Dollars (\$300.00);

(2) disability retirement annuitants receiving an annual annuity of more than Three Thousand Dollars (\$3,000.00), but not more than Six Thousand Dollars (\$6,000.00) shall receive an *automatic* annual increase of Two Hundred Fifty Dollars (\$250.00);

(3) disability retirement annuitants receiving an annual annuity of more than Six Thousand Dollars (\$6,000.00), but not more than Ten Thousand Dollars

(\$10,000.00), shall receive an *automatic* annual increase of Two Hundred Dollars (\$200.00); and

(4) disability retirement annuitants receiving an annual annuity of more than Ten Thousand Dollars (\$10,000.00) shall receive an *automatic* annual increase of One Hundred Dollars (\$100.00).

(b) Any disability retirement annuitant who commenced receiving a disability retirement annuity prior to October 1, 1995, and who is entitled to disability retirement benefits under this Chapter shall receive, during the fiscal years commencing on October 1, 2002 and ending on February 28, 2003, an additional Four Thousand Two Hundred Thirty -Eight Dollars (\$4,238.00), to replace the sum known as the One Thousand Two Hundred Dollars (\$1,200.00), One Thousand Five Hundred Dollars (\$1,500.00), Seven Hundred Dollar (\$700.00), and Eight Hundred Thirty-Eight Dollars (\$838.00) supplemental annuity benefits formerly contained in various General Appropriation Acts.

(c) Any disability retirement annuitant who commenced receiving a disability retirement annuity prior to October 1, 1999, and who is entitled to benefits under this Chapter, shall receive, during the fiscal years commencing on October 1, 1999 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars (\$1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(d) Any disability retirement annuitant who commenced receiving a disability retirement annuity on or after October 1, 1999, but prior to January 1, 2000, and who is entitled to benefits under this Chapter shall receive, during the fiscal year commencing on October 1, 2000 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars (\$1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(e) Any disability retirement annuitant who commenced receiving a disability retirement annuity on or after January 1, 2000, but prior to October 1, 2000, and who is entitled to benefits under this Chapter shall receive, during the fiscal year commencing on October 1, 2000 and ending September 30, 2001, an additional One Thousand One Hundred Dollars (\$1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(f) Any disability retirement annuitant who commenced receiving a disability retirement annuity prior to October 1, 1995, and who is entitled to disability retirement benefits under this Chapter shall receive, during the period commencing on March 1, 2003, and ending on October 28, 2003, prospective non-cumulative supplemental annuity benefits as follows:

(i) Two Thousand Four Hundred Seventy-Two (\$2,472.00) in Class 1 Retiree Supplemental Annuity Benefits, known as the sum of One Thousand Two

Hundred Dollars (\$1,200.00), One Thousand Five Hundred Dollars (\$1,500.00), Seven Hundred Dollars (\$700.00), and Eight Hundred Thirty-Eight Dollars (\$838.00) in annual benefits formerly contained in various General Appropriation Acts, for those employees who retired as of October 1, 1977.

(ii) One Thousand Seven Hundred Seventy-two (\$1,772.00) in Class 2 Retiree Supplemental Annuity Benefits comprised of the sum of One Thousand Five Hundred Dollars (\$1,500.00), Seven Hundred Dollars (\$700.00), and Eight Hundred Thirty-Eight Dollars (\$838.00) in *annual* annuity benefits formerly contained in various General Appropriation Acts, for those employees who retired between October 2, 1977, and October 1, 1980.

(iii) One Thousand Three Hundred Sixty-Four Dollars (\$1,364.00) in Class 3 Retiree Supplemental Annuity Benefits, comprised of the sum of One Thousand Five Hundred Dollars (\$1,500.00), and Eight Hundred Thirty-Eight Dollars (\$838.00) in annual annuity benefits formerly contained in various General Appropriation Acts, for those employees who retired between October 2, 1980, and October 1, 1982.

(iv) Eight Hundred Seventy-Five Dollars (\$875.00) in Class 4 Retiree Supplemental Annuity Benefits, composed of the sum of One Thousand Five Hundred Dollars (\$1,500.00) in annual annuity benefits, formerly contained in various General Appropriation Acts, for those employees who retired between October 2, 1982, and October 1, 1995, or their survivors.

(v) No persons eligible for Class 1, 2, 3 or 4 Retiree Supplemental Annuity Benefits provided for in paragraph (f) of this Section shall receive such benefit if their regular annual retirement annuity prior to the supplemental amounts herein is more than Forty Thousand Dollars (\$40,000.00). Persons eligible for Class 1, 2, 3, or 4 Retiree Supplemental Annuity Benefits shall only receive an amount of such benefits up to the total aggregate sum of Forty Thousand Dollars (\$40,000.00) in combined retirement annuities and supplemental retirement annuities and not more.

(g) Any disability retirement annuitant who commenced receiving a disability retirement annuity *prior* to October 1, 1995, and who is entitled to disability retirement benefits under this Chapter shall receive, during the period commencing on October 1, 2005, and ending on September 30, 2006, prospective non-cumulative supplemental annuity benefits as follows:

(1) Four Thousand Two Hundred Thirty-eight Dollars (\$4,238.00) in Retiree Supplemental Annuity Benefits, known as the sum of One Thousand Two Hundred Dollars (\$1,200.00), One Thousand Five Hundred Dollars (\$1,500.00), Seven Hundred Dollars (\$700.00), and Eight Hundred Thirty-eight Dollars (\$838.00) in *annual* benefits formerly contained in various General Appropriation Acts.

(2) *No* persons eligible for Retiree Supplemental Annuity Benefits provided for in Paragraph (g) of this Section shall receive such benefit *if* their regular annual retirement annuity, *excluding* survivor benefits, *prior* to the supplemental amounts herein is more than Forty Thousand Dollars (\$40,000.00). Persons eligible for Retiree Supplemental Annuity Benefits shall *only* receive an amount of such benefits up to the total aggregate sum of Forty Thousand Dollars (\$40,000.00) in combined retirement annuities and supplemental retirement annuities and *not more*

SOURCE: GC § 4212.6, as added by P.L. 13-199. Subsections (b), (d) and (e) repealed by P.L. 25-072:IV:6. Preamble (first paragraph) to § 8129 repealed by P.L. 25-072:IV:7(a). Section 8129 Repealed and reenacted by P.L. 25:072:IV:8. Subsection (e) added by P.L. 25-174:3 to correct misapplications and omissions. Subsection (b) amended by P.L. 26-36:29. Subsection (b) amended by PL. 27-05:IV:25. Subsection (f) added by P.L. 26-36:30. Subsection (f) added by P.L. 27-05:IV:27. Subsection (g) added by P.L. 27-29:IV:17; repealed and reenacted by P.L. 27-106:IV:17; amended by P.L. 28-068:III:11 (Sept. 30, 2005).

4 GCA § 8135. Same: Rate Formula.

(a) The annual survivor annuity payable under § 8134 shall be determined as follows:

(1) Spouse. The annual survivor annuity shall be equal to fifty percent (50%) of the basic retirement annuity or the basic disability retirement annuity earned by the member and accruing to that member's credit, or payable to the member at the date of the member's death for the period of the member's total service, whichever is greater. *c*The spouse's annual survivor annuity shall not, in any case, be less than One Thousand Two Hundred Dollars (\$1,200.00) per year.

(2) Children. The basic minor child annuity shall be Two Thousand One Hundred Sixty Dollars (\$2,160.00) per year for a minor child up to eighteen (18) years of age. *c*The aggregate basic minor child annuity for children of a member shall *not*, in any case, exceed Ten Thousand Eight Hundred Dollars (\$10,800.00) per year for five (5) or more minor children.

(b) Automatic Increases in Annuity. Any survivor annuitant, *not* to include a minor child annuitant, who is entitled to benefits under this Chapter shall receive each year on the anniversary date of the annuitant's entitlement, an *automatic* 'sliding scale' increase, to be computed as follows:

(1) survivor annuitants receiving an annual annuity of Three Thousand Five Hundred Dollars (\$3,500.00) or less shall receive an *automatic* annual increase of Six Hundred Dollars (\$600.00);

(2) survivor annuitant receiving an annual annuity of more than Three Thousand Five Hundred Dollars (\$3,500.00), but not more than Six Thousand Three Hundred Dollars (\$6,300.00), shall receive an *automatic* annual increase of Four Hundred Dollars (\$400.00);

(3) survivor annuitants receiving an annual annuity of more than Six Thousand Three Hundred Dollars (\$6,300.00), but *not* more than Ten Thousand One Hundred Dollars (10,100.00), shall receive an *automatic* annual increase of Three Hundred Dollars (\$300.00); *and*

(4) survivor annuitants receiving an annual annuity of more than Ten Thousand One Hundred Dollars (\$10,100.00) shall receive an *automatic* annual increase of Two Hundred Dollars (\$200.00).

(c) **Recomputation of Annuities.** The basic survivor annuity set forth in Subsection (a)(1) of this Section shall be recomputed as follows:

(1) any person receiving a survivor annuity prior to August 31, 1974 shall have that person's basic annuity recomputed based upon the formula set forth in §§ 8104(j), 8122(a)(1), 8122(a)(2), 8123(d), 8135(a)(1) and 8135 (b); *and*

(2) any person who commenced receiving a survivor annuity on or after September 1, 1972, but prior to July 1, 1984, and entitled to benefits under this Chapter shall have that person's basic annuity recomputed to reflect a one-time One Hundred Dollar (\$100.00) increase to that person's basic survivor annuity.

(d) **Additions to Recomputed Survivor Annuities.** The recomputed survivor annuity set forth in Subsection (c) shall be subject to any of the following applicable non-cumulative additions:

(1) Any survivor annuitant who commenced receiving a survivor annuity prior to October 1, 1995, shall receive, during the fiscal years commencing on October 1, 2002, and ending on February 28, 2003, an additional Four Thousand Two Hundred Thirty-Eight Dollars (\$4,238.00) to replace the amount known as the sum of the One Thousand Two Hundred Dollar (\$1,200.00), One Thousand Five Hundred Dollars (\$1,500.00), Seven Hundred Dollars (\$700.00), and Eight Hundred Thirty-Eight Dollars (\$838.00) supplemental annuity benefits formerly contained in various General Appropriation Acts.

(2) Any survivor annuitant who commenced receiving a survivor annuity prior to October 1, 1999, and is entitled to benefits under this Chapter, shall receive, during the fiscal years commencing on October 1, 1999 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars (\$1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(3) Any survivor annuitant who commenced receiving a survivor annuity on or after October 1, 1999, but prior to January 1, 2000 and entitled to benefits under this Chapter, shall receive, during the fiscal year commencing on October 1, 2000 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars (\$1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(4) Any survivor annuitant who commenced receiving a survivor annuity on or after January 1, 2000, but prior to October 1, 2000, and who is entitled to benefits under this Chapter shall receive, during the fiscal year commencing on October 1, 2000 and ending September 30, 2001, an additional One Thousand One Hundred Dollars (\$1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(5) the prospective payment of supplemental benefits for the period March 1, 2003, through September 30, 2003, for survivors of those employees who retired prior to October 1, 1995, to be paid in the following manner:

(i) Two Thousand Four Hundred Seventy-Two (\$2,472.00) in Class 1 Retiree Supplemental Annuity Benefits, known as the sum of One Thousand Two Hundred Dollars (\$1,200.00), One Thousand Five Hundred Dollars (\$1,500.00), Seven Hundred Dollars (\$700.00), and Eight Hundred Thirty-Eight Dollars (\$838.00) in annual benefits formerly contained in various General Appropriation Acts, for survivors of those employees who retired as of October 1, 1977.

(ii) One Thousand Seven Hundred Seventy-Two (\$1,772.00) in prospective Class 2 Retiree Supplemental Annuity Benefits comprised of the sum of One Thousand Five Hundred Dollars (\$1,500.00), Seven Hundred Dollars (\$700.00), and Eight Hundred Thirty-Eight Dollars (\$838.00) in annual annuity benefits formerly contained in various General Appropriation Acts, for survivors of those employees who retired between October 2, 1977, and October 1, 1980.

(iii) One Thousand Three Hundred Sixty-Four Dollars (\$1,364.00) in Class 3 Retiree Supplemental Annuity Benefits, comprised of the sum of One Thousand Five Hundred Dollars (\$1,500.00), and Eight Hundred Thirty-Eight Dollars (\$838.00) in annual annuity benefits formerly contained in various General Appropriation Acts, for survivors of those employees who retired between October 2, 1980 and October 1, 1982.

(iv) Eight Hundred Seventy-Five Dollars (\$875.00) in Class 4 Retiree Supplemental Annuity Benefits, composed of the sum of One Thousand Five Hundred Dollars (\$1,500.00) in annual annuity benefits, formerly contained in various General Appropriation Acts, for survivors of those employees who retired between October 2, 1982, and October 1, 1995.

(v) No persons eligible for Class 1, 2, 3 or 4 Retiree Supplemental Annuity Benefits provided for in paragraph (5) of this Section shall receive such benefit if their regular annual retirement annuity prior to the supplemental amounts herein is more than Forty Thousand Dollars (\$40,000.00). Persons eligible for Class 1, 2, 3, or 4 Retiree Supplemental Annuity Benefits shall only receive an amount of such benefits up to the total aggregate sum of Forty Thousand Dollars (\$40,000.00) in combined retirement annuities and supplemental retirement annuities and not more.

(6) the prospective payment of supplemental benefits for the period October 1, 2005, through September 30, 2006, for survivors of those employees who retired *prior* to October 1, 1995, to be paid in the following manner:

(i) Four Thousand Two Hundred Thirty-eight Dollars (\$4,238.00.00) in Retiree Supplemental Annuity Benefits, known as the sum of One Thousand Two Hundred Dollars (\$1,200.00), One Thousand Five Hundred Dollars (\$1,500.00), Seven Hundred Dollars (\$700.00), and Eight Hundred Thirty-eight Dollars (\$838.00) in *annual* benefits formerly contained in various General Appropriation Acts.

(ii) *No* persons eligible for Retiree Supplemental Annuity Benefits provided for in Paragraph (6) of this Section shall receive such benefit *if* their regular annual retirement annuity *prior* to the supplemental amounts herein is more than Forty Thousand Dollars (\$40,000.00). Persons eligible for Retiree Supplemental Annuity Benefits shall *only* receive an amount of such benefits up to the total aggregate sum of Forty Thousand Dollars (\$40,000.00) in combined retirement annuities and supplemental retirement annuities and *not more*.

(e) Additions to Minor Child Annuities.

(1) Minor surviving children of a member, retirement annuitant or disability retirement annuitant, who commenced receiving minor child annuities provided under § 8135(a)(2) prior to October 1, 1999, and have no surviving parent, shall receive, during the fiscal years commencing on October 1, 1999 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars (\$1,100.00), which shall be payable to their guardian for the collective benefit of all surviving minor children entitled to receive benefits under this Chapter, in order to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(2) Minor surviving children of a member, retirement annuitant, or disability retirement annuitant, who commenced receiving minor child annuities provided under § 8135(a)(2) on or after October 1, 1999, but prior to January 1, 2000, and have no surviving parent, shall receive, during the fiscal year commencing on October 1, 2000 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars (\$1,100.00), which shall be payable to their guardian for the collective benefit of all surviving minor children entitled to receive benefits under this Chapter, in order to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(3) Any minor surviving children of a member, retirement annuitant or disability retirement annuitant, who commenced receiving minor child annuities provided under § 8135 (a)(2) on or after January 1, 2000, but prior to October 1, 2000, and have no surviving parent, shall receive, during the fiscal year commencing on October 1, 2000 and ending September 30, 2001, an additional

One Thousand One Hundred Dollars (\$1,100.00), which shall be payable to their guardian for the collective benefit of all surviving minor children entitled to receive benefits under this Chapter, in order to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

SOURCE: GC § 4217.1, as added by P.L. 11-171; amended by P.L. 12-180; Subsection (b) amended by P.L. 17-66:3; further amended by P.L. 17-82:6. Subsection (a)(1) amended by P.L. 19-19:62; Subsection (a)(2) amended by P.L. 18-5:25. Amended by P.L. 24-44:2 and P.L. 25-072:IV:9. Subsections (d)(4) and (e)(3) added by P.L. 25-174:4 & 5 to correct for miscalculations and omissions. Subsection (d)(1) amended by P.L. 26-36:31 and 27-05:IV:24. Subsection (d)(5) added by P.L. 26-36:32. Subsection (d)(5) added by P.L. 27-05:IV:26. Subsection (d)(6) added by P.L. 27-29:IV:16; repealed and reenacted by P.L. 27-106:IV:16; amended by P.L. 28-068:III:10 (Sept. 30, 2005).

4 GCA § 8140. Director of Fund.

(a) The Board shall appoint the Director of the Fund, who shall be its Chief Executive Officer. The Director of the Fund shall serve at the pleasure of the Board, which shall fix his annual base salary at a minimum of Eighty Thousand Five Hundred Eighty Dollars (\$80,580) and a maximum not to exceed the base salary assigned for *I Maga'laken Guðhan*. The Director of the Fund shall be responsible for the planning, organizing, and administering the operations of a multi-billion dollar pension system under the laws, policies and programs as established by acts of *I Liheslaturhan Guðhan* and under the policy guidance and direction of the Board of Trustees, and shall perform such other and additional duties as the Board may require.

The Director of the Fund shall have the necessary knowledge, skills, and abilities to include:

(1) thorough knowledge of the general principles of management and supervision, particularly as they apply to public administration;

(2) considerable knowledge of the general principles of fiscal management, including knowledge of auditing and accounting requirements;

(3) considerable knowledge of actuarial, insurance, and investment principles and practices;

(4) considerable knowledge of pension system, both Federal and Local Systems;

(5) ability to plan, organize and direct the works of others;

(6) demonstrated oral and written communication skills;

(7) ability to analyze, interpret and clearly convey to others, complex financial, statistical, actuarial and other technical information, and to take action or to make recommendations on such data;

(8) ability to establish and maintain positive communication and effective

working relationships with administrative officials, legislators, consultants, Board Trustees, system employees, both active, inactive and retired members of the Fund, public employee organizations and the general public;

(9) a Bachelor's degree in Business Administration, Finance, Accounting, Economics, Public Administration, or closely-related area; and at least seven (7) years of diverse management experience in the administration of a public or private pension system; or a Master's Degree in Business Administration, Finance, Accounting, Economics, Public Administration, or closely-related field, and at least five (5) years of diverse management experience in the administration of a public or private pension system.

SOURCE: GC §4222; amended by P.L. 14-154 and P.L. 18-5:2; amended by P.L. 28-068:IV:72 (Sept. 30, 2005).

4 GCA § 8140.1 Deputy Director of Fund.

The Director of the Fund may employ, with the consent of the Board, a Deputy Director with an annual base salary of a minimum of Sixty-six Thousand Three Hundred Sixty-four (\$66,364) and a maximum not to exceed the base salary assigned for the Lieutenant Governor of Guam. The Deputy Director shall serve at the pleasure of the Director and the Board, and his duties shall be determined by the Director.

SOURCE: Added by P.L. 28-068:IV:73 (Sept. 30, 2005).

4 GCA § 12104. Housing Revolving Fund.

[Repealed].

SOURCE: § 4302 GC as added by P.L. 10-103. Amended by P.L. 10-154; repealed and reenacted by P.L. 13-184:3; Repealed by P.L. 28-068:II:2:8 (Sept. 30, 2005).

4 GCA § 15409. Judicial Branch.

The Chief Justice of the Supreme Court shall have jurisdiction and governance over all justices and judges of the judicial branch in matters of ethics as covered in this Chapter 15.

NOTE: Pursuant to P.L. 28-076:9 (Nov. 25, 2005), this section will be repealed and reenacted, effective, January 1, 2007, as follows:

“§ 15409. Applicability of Ethics in Government Program.

(a) Any person who is an elected official of the government of Guam shall attend an ethics in government program within ninety (90) days of taking office. Additionally, elected officials shall undergo refresher ethics in government program at least once every four (4) years. The Guam Ethics Commission (“Commission”) may grant permission for an elected official to attend a later program for good cause shown. The Commission shall award a certificate of completion to those completing the program.

(b) Any person who is appointed to a position as board or commission member, including autonomous agencies, director, deputy director, or by whatever title denotes the head and first assistant of a government of Guam agency, department, public corporation,

authority, or any other entity of the executive branch, shall attend an ethics in government program within the first six (6) months of his or her appointment. Additionally, appointed officials shall undergo refresher ethics in government program at least once every four (4) years. The Commission may grant permission for an appointed official to attend a later program for good cause shown. The Commission shall award a certificate of completion to those completing the program.”

SOURCE: P.L. 28-076:2 (Nov. 25, 2005).

4 GCA § 15410. Repeal.

Those portions of the Guam Code Annotated, which are in conflict with any section of this Chapter, are hereby repealed.

NOTE: Pursuant to P.L. 28-076:9 (Nov. 25, 2005), this section will be repealed and reenacted, effective, January 1, 2007, as follows:

“§ 15410. Ethics in Government Program Guidelines.

The ethics in government program shall be provided by the University of Guam (“UOG”) or other providers. The Public Auditor shall develop standards for the ethics program until the Guam Ethics Commission is appointed and functioning, at which time the Commission shall assume authority to develop the standards. The providers shall repeat the course as necessary to accommodate those who are required to attend. The course shall not exceed four (4) hours and shall be available in a single day and its scheduling shall accommodate the different work schedules of the persons affected by this Act.

- (a) The program topics shall include, but not be limited to:
- (1) Guam statutes concerning ethics;
 - (2) Guam statutes concerning lobbying;
 - (3) Group participation in discussing, analyzing, and solving general ethics-related dilemmas;
 - (4) Guam procurement laws and regulations;
 - (5) Guam contracting laws and regulations;
 - (6) Parliamentary procedure;
 - (7) Fiduciary responsibility;
 - (8) Personnel policy;
 - (9) Government finance; and
 - (10) Open Government Law and Sunshine Reform Act of 1999.

(b) The cost of tuition, books and training materials for the ethics in government program of the officials specified in §15409(b) of this Chapter, shall be paid by the agency that employs the official.”

SOURCE: P.L. 28-076:3 (Nov. 25, 2005).

4 GCA § 15411. Severability.

If any part of this Chapter 15 shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, or invalid as applied to a class of cases, such

judgment shall not affect, impair, or invalidate the remainder thereof, and shall be confined in its operation to the part thereof directly involved in the controversy in which such judgment shall have been rendered.

NOTE: Pursuant to P.L. 28-076:9 (Nov. 25, 2005), this section will be repealed and reenacted effective January 1, 2007 as follows:

“§ 15411. Judicial Branch.

The Chief Justice of the Supreme Court shall have jurisdiction and governance over all justices and judges of the judicial branch in matters of ethics as covered in this Chapter 15.”

SOURCE: P.L. 28-076:4 (Nov. 25, 2005).

4 GCA §15412. Repeal. [This new § 15412 will be effective January 1, 2007]

Those portions of the Guam Code Annotated and the Government Code of Guam, which are in conflict with any section of this Chapter, are hereby *repealed*.

SOURCE: Added by P.L. 28-076:5 (Nov. 25, 2005).

4 GCA § 15413. Severability. [This new § 15413 will be effective January 1, 2007]

If any part of this Chapter 15 shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, or invalid as applied to a class of cases, such judgment shall not affect, impair, or invalidate the remainder thereof, and shall be confined in its operation to the part thereof directly involved in the controversy in which such judgment shall have been rendered.

SOURCE: Added by P.L. 28-076:6 (Nov. 25, 2005).