

PUBLIC LAW 28-113

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

Bill No. 255 (LS)

As amended by the Committee on Judiciary,
Governmental Operations & Reorganizations
and further amended on the Floor.

Introduced by:

- J. M.S. Brown
- F. B. Aguon, Jr.
- Edward J.B. Calvo
- B. J.F. Cruz
- Mike Cruz
- Mark Forbes
- L. F. Kasperbauer
- R. Klitzkie
- L. A. Leon Guerrero
- J. A. Lujan
- A. B. Palacios
- R. J. Respicio
- Ray Tenorio
- A. R. Unpingco
- J. T. Won Pat

**AN ACT TO AUTHORIZE THE GUAM POWER AUTHORITY AND THE GUAM
WATERWORKS AUTHORITY TO PROMULGATE PERSONNEL RULES AND
REGULATIONS; AND TO PROVIDE LIMITED AUTHORITY TO ESTABLISH PAY SCALES
FOR CERTIFIED, TECHNICAL AND PROFESSIONAL PERSONNEL.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings. *I Liheslaturan Guåhan* finds that the Guam Power Authority (GPA) and the Guam Waterworks Authority (GWA) have had difficulty recruiting and retaining a sufficient number of technical and professional employees. The ability to maintain trained and skilled employees is a significant factor in the overall efficiency and effectiveness of the utilities' equipment and facilities, decreasing operational costs, decreasing utility rates, and improving services to rate payers. *I Liheslaturan Guåhan* finds that compensation is a significant obstacle to recruitment and retention, and that skilled and professional workers are generally compensated at salary levels that are non-competitive locally and in the U.S. mainland.

Section 2. GPA Authorized to Promulgate Personnel Rules and Regulations and Establish Pay Scales.

A new Subsection (13) is hereby *added* to Section 8104, Chapter 8, 12 GCA to read:

"(13) Adopt rules and regulations governing selection, compensation, promotion, performance evaluation, disciplinary action and other terms and conditions of employment affecting *certified, technical and professional* personnel, subject to the provisions of the Administrative Adjudication Act. Such rules and regulations shall provide for the employment and retention of persons on the basis of merit and shall include an orderly and systematic method of recruitment and the establishment of a list of qualified applicants. *Certified, technical and professional personnel* are defined as personnel employed by GPA who are professional engineers, attorneys, and other licensed professionals, or who are highly skilled employees with certificates such as plant operators and other similar engineering and technical personnel, including, but not limited to, those types of jobs listed in

Attachment A. Compensation for all other personnel shall remain consistent with compensation plans and pay scales as determined by law."

Section 3. GWA Authorized to Promulgate Personnel Rules and Regulations and Establish Pay Scales.

A new Subsection (m) is hereby *added* to Section 14104, Chapter 14, 12 GCA to read:

"(m) Adopt rules and regulations governing selection, compensation, promotion, performance evaluation, disciplinary action and other terms and conditions of employment affecting *certified, technical and professional* personnel, subject to the provisions of the Administrative Adjudication Act. Such rules and regulations shall provide for the employment and retention of persons on the basis of merit, and shall include an orderly and systematic method of recruitment and the establishment of a list of qualified applicants. *Certified, technical and professional personnel* are defined as personnel employed by GWA who are professional engineers, attorneys, and other licensed professionals, or who are highly skilled employees with certificates such as plant operators and other similar engineering and technical personnel, including, but not limited to, those jobs listed in Attachment B. Compensation for all other personnel shall remain consistent with compensation plans and pay scales as determined by law."

Section 4. Subparagraph (h) of Section 4403 of Article 4, Chapter 4 of Title 4 of the Guam Code Annotated is hereby amended to read:

"(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."

Section 5. Department Rules. 4 GCA, Chapter 4, § 4105 is hereby amended to read:

"§ 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'lahañ 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."

Section 6. Commission to Provide Study. The Consolidated Commission on Utilities shall file with *I Liheslaturan Guåhan* a copy of the Classification Compensation and Benefits Study within ten (10) days after the study is completed.

Section 7. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall *not* affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.

**GUAM WATERWORKS AUTHORITY
CRITICAL POSITION LISTING**

GWA's Critical position listing, including hard to fill positions, technical-certified-skills area:

Direct-Responsible-Charge Operators/Supervisors:

- 1) Pumping Station Supervisors & Water/Sewer Supervisors with a Water and Wastewater Distribution Level IV Certification.
- 2) Sewer Plant Supervisors with a Wastewater Treatment Level III or above and/or Wastewater Collection Level III or above Certification.
- 3) Water Plant Supervisors with a Water Treatment Level III or above Certification.

Other Hard To Fill Positions:

- 1) Biologist/Chemist III (or higher) for GWA's laboratory
- 2) Customer Services Manager and/or Utility Services Administrator
- 3) Chief Engineer (P.E. designation)