
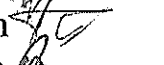



**I MINA' TRENTAISINGKO NA LIHESLATURAN GUAHAN  
2019 (FIRST) Regular Session**

**Bill No. 197-35( LS )**

Introduced by:

Amanda L. Shelton   
Joe S. San Agustin   
Telena C. Nelson 

**AN ACT TO AMEND § 16112, 16113, 16115 AND REPEAL  
AND REENACT § 16123 AND 16124 OF CHAPTER 16,  
TITLE 17, GUAM CODE ANNOTATED AND TO ADD A  
NEW SUBSECTION §§ 16136, 16137, 16138, 16139, 16140 TO  
CHAPTER 16, TITLE 17, GUAM CODE ANNOTATED  
RELATIVE TO UPDATING THE CHARTER OF THE  
UNIVERSITY OF GUAM TO FACILITATE IT'S GROWTH  
INTO A 21<sup>ST</sup> CENTURY INSTITUTION MEETING THE  
EDUCATIONAL NEEDS OF THE REGION WHILE  
GIVING IT MORE FINANCIAL INDEPENDENCE**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that it has not been able to increase the revenues of the University as  
4 enrollment has increased and thereby maintain the social contract that has  
5 been established in which tuition pays 50% of tuition and the General Fund  
6 pays the other 50% of tuition. The University will need to diversify its  
7 revenue sources and will require the freedom and independence to enter  
8 into partnerships that will provide revenue for the University and allow it  
9 the flexibility to compete for students in the changing universe of education  
10 brought on by the digital culture.

11 **Section 2.** § 16112 of Chapter 16, Title 17, Guam Code Annotated is

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1 hereby *amended* to read as:

2       “§ 16112. Personnel Rules: Academic Personnel.

3       Rules and regulations governing selection, compensation, promotion,  
4 performance evaluation, disciplinary action and other terms and conditions of  
5 employment affecting academic personnel and professional, technical, federal and externally  
6 funded (PTFEF) personnel shall be adopted by the Board of Regents. Such rules and  
7 regulations shall provide for the employment and retention of persons on the basis of  
8 merit, and shall include an orderly and systematic method of recruitment and the  
9 establishment of a list of qualified applicants for employment purposes. *Academic*  
10 *personnel* are defined as faculty and administrators. For the purposes of this Section,  
11 an *administrator* is defined as one who holds any of the following positions:  
12 President or Vice-President, Assistant or Associate to the President or Vice- President,  
13 Dean, Associate or Assistant Dean, Director, Associate or Assistant Director, Chief,  
14 provided, however, that nothing in this Chapter shall be construed as preventing the  
15 Board of Regents from establishing other administrator positions or abolishing any  
16 of the existing positions indicated herein and further provided, however, that nothing  
17 in this section nor in any other section of this Chapter involving the outlay of public  
18 funds shall become effective unless funds therefor shall have been provided in the  
19 University’s annual budget. The term *administrator* does not include positions  
20 within the purview of the Director of Administration under Chapter 6 of Title 4, Guam  
21 Code Annotated, or other applicable laws.

22       Professional, technical, federal and externally funded (PTFEF) personnel are  
23 defined as professional and technical positions that are not management positions but  
24 require significant training and education including four-year degrees or other  
25 professional designations or specialized skills; and federal grant and externally funded  
26 limited-term personnel that perform specified functions and possess unique skills  
27 necessary to carry out a designated scope of work. Nothing in this chapter shall

1 constrain the Board of Regents from adding to or subtracting from the number of  
2 professional, technical, federal and externally funded positions at the University  
3 subject to the same funding constraints as Academic personnel positions described  
4 above.

5 Faculty shall have the right to form, join, assist and participate in the  
6 management of employee organizations of their choice and to act as organization  
7 representative or to refrain from any such activity, without interference, restraint,  
8 coercion or discrimination and without fear of penalty or reprisal; provided that,  
9 employees shall not participate in the management of an organization or act as an  
10 organization representative, where such activity would result in a conflict of interest  
11 or otherwise be incompatible with law or with the employee's official duties.

12 Within ninety (90) business days of the effective date of this Act, the Board of  
13 Regents, in cooperative consultation with the recognized bargaining agent, shall  
14 develop and adopt reasonable rules for the settlement of collective bargaining  
15 disputes, including access to impartial mediation and arbitration.”

16 **Section 3.** § 16113 of Chapter 16, Title 17, Guam Code Annotated is  
17 hereby *amended* to read as:

18 **“§ 16113. Classified Employees.**

19 Notwithstanding any law, rule or regulation to the contrary, all non-academic  
20 personnel, non-professional personnel, with the exception of unclassified employees  
21 under §§ 4102 and 21031 of Title 4, Guam Code Annotated and student employees,  
22 shall be classified. Matters relating to employment of classified personnel shall be  
23 governed by and in accordance with Title 4 of the Guam Code Annotated and other  
24 applicable laws.

25 All employees of the University of Guam who have acquired government of  
26 Guam civil service tenure on the date of the enactment of this Chapter and who are  
27 transferred to the University in accordance with § 16117 of this Chapter shall retain

1 their tenure and status as employees of the government of Guam.”

2 **Section 4.** § 16115 of Chapter 16 of Title 17 of the Guam Code  
3 Annotated is hereby *amended* to read as:

4 **“§ 16115. Retirement Fund.**

5 Officers and employees of the University, not otherwise ineligible under the  
6 provisions of Chapter 8, Title 4 GCA, excluding student employees of the  
7 University, shall be members of the Retirement Fund. The University shall  
8 contribute to the Government of Guam Retirement Fund on the basis of annual  
9 billings as determined by the Board of Trustees of Government of Guam Retirement  
10 Fund, for the employer's share of the cost of the retirement benefits applicable to the  
11 University's officers and employees, and their beneficiaries.

12 The University shall not be liable for any amount except for the annual statutory  
13 billings by the Board of Trustees of the Retirement Fund. In the event that the annual  
14 statutory billing rate is determined by any external auditor employed by the  
15 University to be less than the unfunded accrued liability of the University for  
16 Retirement Fund purposes, any such differences between the statutory and actuarial  
17 calculations shall be transferred to the Government of Guam General Fund.”

18 **Section 5.** § 16118(c) of Chapter 16 of Title 17 of the Guam Code  
19 Annotated is hereby *amended* to read as:

20 **“§ 16118. Legislative Appropriation.**

21 (c) No agreements to borrow money for more than 10 years shall be entered  
22 into by the University without prior Legislative approval.”

23 **Section 6.** § 16123 of Chapter 16 of Title 17 of the Guam Code  
24 Annotated is hereby *repealed and reenacted* to read as:

25 ~~“§ 16123. Designation of Natural Energy Institute. The University of Guam~~  
26 ~~is designated as the 'Guam Natural Energy Institute.~~

27 **§ 16123. University of Guam Center for Island Sustainability.**

1        The 'Center for Island Sustainability' is hereby established at the University  
2 of Guam. Island Sustainability<sup>2</sup> ensures that the needs of the current generation are  
3 met without compromising the ability of future generations to meet their needs. The  
4 University of Guam, through its Center for Island Sustainability, serves to facilitate  
5 leading Guam and the Micronesia region toward a sustainable future. The University  
6 conducts sustainability-related research and community outreach, in cooperation and  
7 coordination with other appropriate agencies, to help meet island needs in the  
8 broader areas of environment, economy, society, and education.”

9        **Section 7.** § 16124 of Chapter 16 of Title 17 of the Guam Code  
10 Annotated is hereby *repealed and reenacted* to read:

11        ~~“§ 16124. The Guam Natural Energy Institute: Duties; Powers.~~

12 ~~The Institute shall:~~

13        ~~(a) — Maintain liaison with federal agencies (Natural Science Foundation,~~  
14 ~~Energy Research and Development Administration, National Aeronautics and Space~~  
15 ~~Administration, Department of Housing and Urban Development, Department of~~  
16 ~~Transportation and Department of Defense), the Government of Guam, the Guam~~  
17 ~~Energy Office, the Guam Environmental Protection Agency and Department of~~  
18 ~~Public Works and with other public and private natural energy related projects in~~  
19 ~~Guam; keep a current inventory of all such projects and work with the Guam Energy~~  
20 ~~Office and other organizations to encourage coordination and cooperation in all~~  
21 ~~energy related research projects through the Territory.~~

22        ~~(b) — Maintain a current file on all possible support programs (public and~~  
23 ~~private) for awards and grants to both educational and energy related research and~~  
24 ~~development programs through the University and notify and provide assistance in~~  
25 ~~proposal preparation and follow up with appropriate departments and institutes as~~  
26 ~~these programs arise.~~

27        ~~(c) — Maintain current information on natural energy resources to include:~~

1           ~~(1) — abstracts of pertinent publications;~~

2           ~~(2) — a card file on energy publications available in the University of~~  
3 ~~Guam; and~~

4           ~~(3) — catalogs, lists of suppliers and price lists on natural energy, off-~~  
5 ~~the shelf items such as solar collectors for water heating, windmills, solar~~  
6 ~~photovoltaic systems and waste digesters.~~

7           ~~(d) — Provide as a public service, both in response to direct inquiry and~~  
8 ~~especially through a public education program, information on natural energy~~  
9 ~~systems that may or may not have potential for use in Guam and Micronesia.~~

10          ~~(e) — Initiate, develop and coordinate the undertaking of natural energy~~  
11 ~~system development projects; provide some level of matching support to attract~~  
12 ~~extramural funding for these projects; and provide support for equipment requests~~  
13 ~~for graduate thesis projects and for faculty research initiation.~~

14           **“§ 16124. University of Guam Sea Grant Special Fund.**

15           ~~(a) The University of Guam Sea Grant Program, managed by the~~  
16 ~~University of Guam Center for Island Sustainability, maintains a~~  
17 ~~portfolio of federal cooperative agreements and grant-funded projects~~  
18 ~~that provides an array of research and extension services to the people~~  
19 ~~of Guam and Micronesia.~~

20           ~~(b) To comply with federal matching requirements for grants under the Sea~~  
21 ~~Grant Omnibus cooperative agreements, there is hereby established the~~  
22 ~~“University of Guam Sea Grant Special Fund”, which shall be~~  
23 ~~maintained separate and apart from any other funds of the government~~  
24 ~~of Guam, and managed by the University of Guam Center for Island~~  
25 ~~Sustainability.~~

26           ~~(c) A primary purpose of this fund is to comply with federal requirements~~  
27 ~~designating the University of Guam as a Sea Grant “Coherent Area~~

1           Program,” and to support potential future designations as a “Sea Grant  
2           Institution” and “Sea Grant College Program.”

3           (d) Donations and charitable contributions relating to sustainability and  
4           coastal research and extension services may be deposited and credited  
5           to the University of Guam Sea Grant Special Fund. The Legislature  
6           may appropriate or reappropriate to the University of Guam Sea Grant  
7           Special Fund any local matching funds necessary for approved  
8           University of Guam Programs consistent with Research and Extension  
9           Programs in the areas of Sustainability and Coastal Science and any  
10           related programs.

11           (e) All debts, liabilities and any other obligations incurred for programs  
12           described in Subsection (b) of this Section shall be paid from the  
13           University of Guam Sea Grant Special Fund.”

14           **Section 8.** A new §16136 of Chapter 16 of Title 17 of the Guam Code  
15 Annotated is hereby *added* to read as follows:

16           **“§ 16136. Student Employees**

17           Notwithstanding any law, rule or regulation to the contrary, University of  
18           Guam student employees shall not be eligible for retirement, sick or annual  
19           leave benefits, and, except as may be specifically provided herein, the  
20           personnel rules shall not apply to such employment, provided, however, that  
21           such employment shall be considered employment for purposes of the  
22           Worker’s Compensation Act. The Board of Regents is authorized to adopt  
23           rules and regulations governing student employment.

24           **Section 9.** § 16137 of Chapter 16 of Title 17 of the Guam Code Annotated is  
25 hereby *added* to read as follows:

1 **§ 16137. Secretariat of the Pacific Regional Environmental Programme.**

2 The University of Guam shall be designated as the official government of Guam  
3 representative to the Secretariat of Pacific Regional Environmental Programme.

4 **Section 10.** § 16138 of Chapter 16 of Title 17 of Guam Code Annotated is  
5 hereby *added* to read as follows:

6 **§ 16138. Procurement regulations and Exceptions to Advance Payments.**

7 Notwithstanding any other provision of law, the Board of Regents is  
8 authorized to adopt procurement regulations which shall be consistent, to the  
9 maximum extent practicable, with Guam Procurement Law, except insofar as the  
10 University is exempt from the centralized procurement regime of the Government  
11 of Guam. Exceptions from the advance payment rule shall be made for the  
12 University's procurement of textbooks and classroom, research and outreach  
13 materials, for rental arrangements, and for internet based purchases.

14 **Section 11.** § 16139 of Chapter 16 of Title 17 of Guam Code Annotated is  
15 hereby *added* to read as follows:

16 **§ 16139. Short Term Borrowing**

17 The Board may at any time or from time to time, by resolution adopted  
18 by a majority of all the members of the Board and approved by the Governor, incur  
19 indebtedness for any lawful purpose for any period not exceeding ten (10) years  
20 evidenced by contract with any person or by one or more promissory notes executed  
21 and delivered to any person. Any such indebtedness shall be incurred subject  
22 and subordinate to any contractual obligation of the Board to the holders of any  
23 bonds and the principal thereof and interest thereon may be repaid from revenues;  
24 or if incurred for a purpose for which bonds may be issued, from revenues or from  
25 the proceeds of sale of bonds or other debt instrument.

26 **Section 12.** § 16140 of Chapter 16 of Title 17 of Guam Code Annotated is  
27 hereby *added* to read as follows:



1 **§ 16140. Long Term Leasing and Contracting.**

2 The University of Guam is authorized to lease its administratively controlled  
3 real properties and to enter into long term contracts for a period up to but not  
4 exceeding thirty (30) years for public private partnerships in order to diversify the  
5 revenue streams of the University. The University shall hold a public hearing and  
6 allow for sixty (60) calendar days for public comment before executing such a  
7 contract. Nothing herein shall repeal, limit, or otherwise prohibit any law or  
8 regulation authorizing the University to enter into any contract for a longer  
9 period.