

MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2003 (FIRST) Regular Session

Bill No. 147 (COR)

Introduced by:

R. Klitzkie
Mark Forbes
J.M.S. Brown
L. F. Kasperbauer
Ray Tenorio

**AN ACT TO ADD A NEW CHAPTER 2A TO 5 GCA; TO
REPEAL 1 GCA §1800, CHAPTER 11 OF 5 GCA; TO
ESTABLISH EDUCATION, HEALTH AND PUBLIC
SAFETY AS THE TOP PRIORITIES OF THE
GOVERNMENT, TO RECOGNIZE THE GOVERNOR'S
AUTHORITY TO REORGANIZE THE EXECUTIVE
BRANCH OF THE GOVERNMENT, TO REMOVE
IMPEDIMENTS TO REORGANIZATION, TO PROVIDE
THE GOVERNOR THE TOOLS NECESSARY FOR SUCH
REORGANIZATION AND PRIORITIZATION AND TO
ENACT THE GOVERNMENT PRIORITIES ACT OF 2003.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Table of Contents

Section 1. Short title. This act may be cited as the Government Priorities Act of 2003.
Section 2. Legislative intent. .
Section 3. Adds new Chapter 2A of 5 GCA, definition of reorganization.
Section 4. Repeals 1 GCA §1800, requirement for legislative approval for privatization.
Section 5. Repeals 4 GCA §4207, repeal of prohibition on reduction in force.
Section 6. Repeal 5 GCA chapter 11, repeals chapter on reorganization.
Section 7. General Repealer.
Section 8. Transition.

Section 1. Short title. This act may be cited as the Government Priorities Act of 2003.

Section 2. Legislative intent.

Education of our youth, fostering the health of the people and ensuring public safety are the most important functions of the executive branch of the government of Guam. These functions must

1 be accomplished even if, in these times of scarce resources, some other activities of government
2 must be greatly reduced or eliminated all together. By enacting the Government Priorities Act of
3 2003 the legislature intends to provide the means to accomplish this prioritization while giving
4 full recognition to the Governor's Organic Act authority to reorganize the executive branch of
5 the government of Guam.

6
7 In order to accomplish this prioritization and reorganization the legislature intends to remove
8 existing impediments to reorganizing while giving the Governor the necessary tools to
9 accomplish that reorganization. To that end, in an effort to simplify the hodgepodge of statutes,
10 rules, regulations and policies that have proliferated over the years, the primary effect of which is
11 to make reorganization difficult, the Act authorizes the Governor to implement the Act by-
12 means-of an executive order or orders. The executive order(s) must be consistent with the merit
13 system, provide the public's and employees' right to be heard and recognize the employees'
14 rights to due process of law and right of representation under PEMRA, where applicable.

15
16 The Act recognizes education, health and public safety as the government's top priorities and so
17 that that the Governor may establish priorities among government agencies so that the top
18 priorities are adequately funded.

19
20 It is the intent of the legislature that the Governor use these tools, to include outsourcing,
21 privatization, abolition of agencies, absorption of functions, reduction in force and transfer of
22 personnel and appropriations, to provide a smaller, more affordable government which, if
23 nothing else, provides for education, health and public safety. While allowing transfer of
24 appropriations when agencies are abolished or functions relocated, the legislature continues to
25 reserve to itself inviolate its power of appropriation and its power to create agencies and
26 departments.

27
28 **Section 3. A new Chapter 2A of 5 GCA is added to read:**

29
30 Chapter 2A Reorganization

31 Section 2200. Definitions. For the purposes of this act:

32 (a) *Reorganization* means:

33 (1) The transfer of the whole or any part of any agency, or of the whole or any
34 part of the functions thereof, to the jurisdiction and control of any other agency;

35 (2) The *abolition* of all or any part of the functions of any agency;

36 (3) The consolidation or coordination of the whole or any part of any agency, or
37 of the whole or any part of the functions thereof, with the whole or any part of any other
38 agency or the functions thereof;

39 (4) The consolidation or coordination of any part of any agency or the functions
40 thereof with any other part of the same agency or the functions thereof;

41 (5) The authorization of any non-elective officer to appoint any individual to
42 perform any of his functions;

1 (6) The *abolition* of the whole or any part of any agency which agency or part
2 does not have, or upon the taking effect of *reorganization* plan will not have, any
3 function;

4 (7) The establishment of a new agency to perform the whole or any of the
5 functions of an existing agency or agencies; or

6 (8) The use of a person under contract to perform functions which regularly are
7 performed or budgeted to be performed by employees appointed under the merit system.

8 (b) *Abolition* means the *abolition* or disbanding of an agency of the government.

9 (c) *Absorption* means the transfer of one or more functions of an entity to another entity
10 of the government.

11 (d) *Availability roster* means a roster of the designated *displaced employees* in an entity
12 that will be absorbed, *outsourced* or *privatized*.

13 (e) *Displaced employee* means an employee who had been employed by an entity of the
14 government that was outsourced or privatized or whose employment was terminated as a result
15 of the *outsourcing* or *privatization*

16 (f) *Gaining entity* means an entity to which a function is transferred by *absorption*.

17 (g) *Outsource* mean contracting with a private company to accomplish a function or
18 functions that have been or, were it not for the outsourcing, would be provided by an entity or
19 entities of the government.

20 (h) *Privatization* means the alienation by sale or lease or otherwise of an entity or
21 function of the government.

22
23
24 Section 2201. Internal reorganization. Internal *reorganization* of an entity, including
25 reductions in force, shall be accomplished in accordance the executive order(s) authorized by
26 section 2208.

27
28 Section 2202. Reorganization of the executive branch. *Reorganization* of the executive
29 branch, including reductions in force, shall be accomplished in accordance with the following
30 sections.

31
32 Section 2203. Executive order: reorganization of the executive branch. The Governor by
33 executive order(s) may direct the *reorganization* of the various entities of the executive branch.

34
35 Section 2204. Same: absorption of functions. The Governor by executive order(s) may
36 direct the *absorption* of any or all of the functions of an entity listed in Table 1 with a Priority
37 Number (PN) of 200 or higher by any entity(ies) with a lower priority number.

38
39 Section 2205. Same: abolition of government entities. The Governor by executive
40 order(s) may abolish any entity listed in Table 1 with a PN of 200 or higher.

41
42 Section 2206. Transfer authority. The governor is authorized to transfer the appropriation
43 of any entity which is abolished or any function which is absorbed to any other entity(ies) with a
44 lower PN than the abolished agency or absorbed function.

1
2 Section 2207. Same. Outsourcing and privatization. No more than ninety percent (90%) of
3 the appropriation for personal services for a function that is *outsourced* or *privatized* may
4 transferred by the Governor to the contractual category to fund the contract arising from the
5 *outsourcing* or *privatization*.
6

7 Section 2208. Executive order(s). (a) The executive order(s) authorized by section 2210
8 shall issue not less than thirty (30) days prior to their effective date during which time a public
9 hearing must be held in accordance with the public hearing requirements of 5 GCA §8107 to
10 provide the public the right to be heard and due process of law. The executive order(s) shall
11 provide orderly procedures to accomplish the purposes of this chapter.
12

13 (b) The executive order(s) shall recognize, where applicable, employees' rights to representation
14 in accordance with 4 GCA 10106 (PEMRA)
15

16 (c) Nothing contained herein shall be construed so as to prevent the Attorney General from
17 approving such executive order(s) as to form, content and compliance with law.
18

19 Section 2209. Same: availability roster. When executive orders authorized by section
20 2208 issue, the person in charge of the entities to be abolished or the functions of which are to be
21 absorbed, shall submit an *availability roster* to the *gaining entity*, if any. The person in charge of
22 the *gaining entity* may, in accordance with the applicable executive order, employ those
23 employees on the *availability roster* in such number, if any, as required to accomplish the
24 function(s) of the gaining agency if necessary.
25

26 Section 2210. Implementing executive order. The Governor shall provide by executive
27 order(s) procedures to accomplish the following:

- 28 (a) reduction in force
- 29 (b) layoff
- 30 (c) furlough
- 31 (d) *privatization*
- 32 (e) *outsourcing*
- 33 (f) *absorption*
- 34 (g) *abolition*
- 35 (h) *reorganization*
- 36 (i) *availability rosters*
- 37 (j) the designation of functions to be absorbed.
- 38 (k) the designation of entities to be abolished
39

40 Section 2211. Transition - Files and Equipment. (a) All files and reports held by an
41 abolished entity shall be transmitted by the person in charge of such entity to such
42 custodian as is designated by the governor within thirty (30) days following the designation
43 of the entity as an abolished entity.

1 (b) All property of the abolished entity, or property leased by it, when the lease
2 cannot be cancelled or will not expire upon the *abolition* of the entity, shall be turned over
3 to the custodian designated by the governor within thirty (30) days following the
4 designation of the entity as an abolished entity.

5
6 **Section 2212. Abolished entity.**

7 An abolished entity shall be closed and all remaining personnel terminated within
8 thirty (30) days of the day the entity was designated as an abolished entity.

9
10 **Section 2213. Table 1.** Table 1 sets out three groups of various entities of the
11 executive branch and assigns a priority number (PN) to each entity. Group I, PN 100 *et*
12 *seq.*, is composed of entities that provide services that are the government's top priority:
13 education, health and public safety. Group II, PN 200 *et seq.* is composed of entities that
14 provide services which are involved in support, enforcement, regulation, adjudication or
15 administration. Group III is composed of other entities. Any entity of the executive branch
16 not listed in Table 1 is deemed listed in Group III of Table I.

17
18 **Section 2214. Same: Boards and Commissions.** Boards and Commissions listed in
19 Group III. Boards and Commissions listed in Group III may be assigned for logistic
20 support to entities in Groups I and II when the entity supporting or directed by the board or
21 commission directs is abolished.

22
23 **Section 2215. Special provision for elected officials.** The provisions of sections
24 2201, 2203, 2204, 2205, 2211 or 2212 shall not apply to an office or department under the
25 supervision of an elected official.

26
27 **Section 2215. Special provision for the University of Guam and the Guam Community**
28 **College.** The provisions of section 2201 shall not apply to University of Guam and the Guam
29 Community College

30
31 **Section 4. Repeal of requirement for legislative approval for privatization.** 1 GCA
32 §1800 is repealed.

33
34 **Section 5. Repeal of prohibition on reduction in force.** 4 GCA §4207 is repealed.

35
36 **Section 6. Repeal of chapter on reorganization.** 5 GCA chapter 11 is repealed.

37
38 **Section 7. General Repealer.**

39 All laws, rules, regulations and policies dealing with the subject matter of this Act which
40 are inconsistent herewith are repealed effective the date of issue of the executive order(s)
41 authorized by 5 GCA §2210 as enacted by section 3 unless a different date is specified therein.

42
43 **Section 8. Transition.** Nothing contained herein shall be construed to affect proceedings
44 began or action taken prior to the effective date of this act, provided however that the executive

order(s) promulgated pursuant to 5 GCA §2210 as enacted by section 3 may be made applicable to pending proceedings if the executive order(s) so state.

Table 1

Group I

PN

100 Education:

101 Dept of Education

102 University of Guam

102 Guam Community College

102 Guam Public Library

Health:

101 Guam Memorial Hospital Authority

102 Public Health & Social Services, Dept of (public health)

102 Mental Health & Substance Abuse, Dept of

Public Safety:

101 Guam Police Department

101 Guam Fire Department

101 Depart. of Corrections

102 Attorney General (prosecution)

103 Customs & Quarantine

103 Civil Defense

103 Youth Affairs (custodial; corrections related)

Group II

200

201 Office of the Public Auditor

201 Attorney General

202 Revenue & Taxation, Dept. of (taxation)

202 Public Works, Dept. of

202 Labor, Dept of

202 Land Management, Dept of

202 Administration, Dept. of

202 Guam Environmental Protection Agency

Group III

300

300 Agency for Human Resources Development

300 Agriculture, Dept. of

300 Ancestral Land Trust Commission

300 Bureau of Budget & Mgmt Research

300 Bureau of Statistics & Plans

300 Civil Service Commission

300 Chamorro Affairs

300 Chamorro Land Trust Commission

300 Chief Medical Examiner

300 Commission on Decolonization

1	300	Contractors License Board
2	300	DISID
3	300	Guam Council on the Arts & Humanities
4	300	Guam Education Tele. Corp. (KGTF)
5	300	Guam Election Commission
6	300	Guam Energy Office
7	300	Guam Housing and Urban Renewal
8	300	Guam Housing Corp
9	300	Guam Museum
10	300	Guam Rental Corp
11	300	Military Affairs/Veterans Affairs
12	300	Parks & Recreation, Dept. of
13	300	PEALS Board
14	300	Public Defender Service Corp. (criminal defense)
15	300	Public Health & Social Services, Dept of (Social Services)
16	300	Public Transit (GMTA)
17	300	Revenue & Taxation, Dept. of
18	300	Youth Affairs (non-custodial; corrections related)