

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
302-36 (COR)	Joanne Brown Telo T. Taitague	AN ACT TO AMEND § 1908(b)(2) AND, 1909(i) TO ADD A NEW § 1925 ALL OF CHAPTER 19, TITLE 1, GUAM CODE ANNOTATED; AND TO ADD A NEW § 6325(d)(6) TO CHAPTER 6, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING THE INDEPENDENT STATUS OF THE OFFICE OF PUBLIC ACCOUNTABILITY (OPA) BY OPENING A DEPOSITORY ACCOUNT WITH DEPARTMET OF ADMINISTRATION, BY CONTINUOUSLY APPROPRIATING ONE QUARTER OF ONE PERCENT (.25%) OF THE GOVERNMENT OF GUAM'S ANNUAL BUDGET TO THE OPA, CREATING ELIGIBILITY FOR A PAY INCREASE FOR PROFESSIONAL STAFF, AND AUTHORIZING THE ESTABLISHMENT OF A SALARY SCALE FOR THE OPA.	5/2/22 11:17 a.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

Bill No. 302-36 (COR)

Introduced by:

Joanne Brown
Telo T. Taitague 

AN ACT TO *AMEND* § 1908(b)(2) AND, 1909(i) TO *ADD* A NEW § 1925 ALL OF CHAPTER 19, TITLE 1, GUAM CODE ANNOTATED; AND TO *ADD* A NEW § 6325(d)(6) TO CHAPTER 6, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING THE INDEPENDENT STATUS OF THE OFFICE OF PUBLIC ACCOUNTABILITY (OPA) BY OPENING A DEPOSITORY ACCOUNT WITH DEPARTMENT OF ADMINISTRATION, BY CONTINUOUSLY APPROPRIATING ONE QUARTER OF ONE PERCENT (.25%) OF THE GOVERNMENT OF GUAM'S ANNUAL BUDGET TO THE OPA, CREATING ELIGIBILITY FOR A PAY INCREASE FOR PROFESSIONAL STAFF, AND AUTHORIZING THE ESTABLISHMENT OF A SALARY SCALE FOR THE OPA.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslatura* finds

that historically, the Public Auditor was originally appointed for a term of six (6) years, after which it became an elected position through the retention method. There was no limit on the number of times in which voters could have retained a Public Auditor in office. Their salary and that

1 of his or her staff was determined by the Civil Service Commission and
2 the budget for the office came from the General Fund.

3 Before the expiration of the term of the first appointed Public
4 Auditor expired, the section on the election of the Public Auditor was
5 repealed and replaced by a new section calling for an independent, elected
6 Public Auditor elected by the people of Guam for a term of four (4) years
7 with the term limited to no more than two (2) consecutive terms. Also, the
8 budget of the Office of the Public Auditor was given a sustainable funding
9 source set at one quarter of one percent (.25%) of General Fund revenue.

10 Shortly after the election of the first Public Auditor, the law was
11 further amended to reduce the percentage of General Fund revenue to one
12 hundred thirty-four thousandths of one percent (.134%) for that budget
13 year only. Thereafter, the funding source reverted to the General Fund.

14 *I Liheslatura* finds that for the Office of Public Accountability (OPA)
15 to strive for a more independent status, the payment for audit services
16 performed by private auditing firms auditing the autonomous agencies or
17 instrumentalities must be paid through OPA. It is the intent
18 of *I Liheslatura* to require the autonomous agencies or instrumentalities
19 to remit the cost of the audit service to OPA.

20 *I Liheslatura* finds that a truly independent Public Auditor requires
21 the position be an elected position and a reliable source of funding be
22 provided. The Public Auditor position is currently an elected position but
23 the source of funding being an appropriation from the general fund does

1 place a limit on the independence of the Public Auditor on executing its
2 duties and responsibilities. Accordingly, it is the intent of *I Liheslatura* to
3 provide a stable funding source to the OPA.

4 The “OPA” is an independent Agency of the Government of Guam;
5 however, a major threat to the OPA’s independence is whether it is able
6 to preserve and sustain its professional staff. OPA has lost some of its
7 professional staff to other government entities due to a higher salary scale
8 available to those entities.

9 *I Liheslatura* further finds that the autonomous and semi-
10 autonomous agencies have separate salary scales reflecting the education
11 or certification requirements for the unique or technical skill level needed
12 to perform their duties.

13 *I Liheslatura* further finds that an unintended consequence of such
14 separate salary scales is that they vary for common positions throughout
15 the Government of Guam. Such variation means that the salary of a person
16 in a common position get a higher or lower salary, depending on which
17 autonomous or semi-autonomous agency employs them.

18 It is the intent of *I Liheslaturan Guahan* to develop a salary scale
19 policy for OPA to attract, preserve and sustain its professional staff.

20 **Section. 2. § 1908(b)(2) of Chapter 19, Title 1, Guam Code**
21 **Annotated is hereby amended to read:**

22 “ (2) With respect to corporations, authorities or agencies, including
23 autonomous agencies and instrumentalities, which obtain independent

audits, the Public Auditor *shall* make the selection of the auditing firm or organization and the scope of the audit, the audits of such autonomous agencies or instrumentalities to be at the cost of the agencies or instrumentalities. Autonomous agencies or instrumentalities shall deposit an amount equal to the cost of their respective audit into an account created by the Department of Administration for the purpose of funding the annual audit pursuant to date(s) set forth by the Public Auditor. The Public Auditor shall administer said funds and shall oversee the annual audit.”

Section 3. § 1909(i) of Chapter 19 of Title 1, Guam Code Annotated is amended to read:

“ (i) ~~“Subject to the availability of funds provided by annual appropriation by I Liheslaturan (the Legislature)~~ The Office of Public Accountability (OPA) shall receive a continuing annual budget equal to, at minimum one quarter of one percent (.25%) of the annual General Fund Revenues of the Government of Guam. Annual General Fund Revenues include Income Taxes and Business Privilege Taxes; Federal Sources, Section 30 funds include all customs duties and federal income taxes , quarantine, passport, immigration and naturalization fees collected in Guam; Use of Money and Property; Licenses, Fees and Permits; Department Charges. The budget of the OPA shall be exempt from the Bureau of Budget and Management Research budgetary allotment control generally provided in 5 GCA § 1303. I Maga'hågan Guåhan shall not

1 impound nor transfer funds appropriated to the OPA. The OPA shall
2 receive from the Department of Administration no less than one twelfth
3 (1/12) of its budget on the first day of every month of each fiscal year.
4 When more than two (2) pay periods occur in one month, the Department
5 of Administration shall release funds required for the purpose of meeting
6 the operational needs of the OPA for such month, subject to availability
7 of funds appropriated to the OPA,” to employ such necessary staff to carry
8 out the functions and responsibilities of the office; and for such
9 employment, the Public Auditor shall serve as the Office of Public
10 Accountability’s appointing authority for all personnel employed at the
11 Office of Public Accountability, hiring employees from an established list
12 of qualified applicants in accordance with established criteria, and
13 assigning, detailing, and transferring employees as the Public Auditor
14 deems necessary for the effective operations of the Office of Public
15 Accountability.”

16 **Section 4. A new § 1925 is hereby, *added*, to Chapter 19 of Title**
17 **1, Guam Code Annotated, to read:**

18 “§1925. Memorandum of Agreement between the Office of
19 Accountability and The Office of the Attorney General for Legal
20 Service Authorized.

21 The Office of Public Accountability is authorized to enter
22 into a Memorandum of Understanding with the Office of the
23 Attorney General to provide legal assistance to the Public Auditor.

1 The cost of such legal *shall* be at the expense of the Office of
2 Public Accountability. The Memorandum of Agreement *shall*
3 include among other provision the recruitment of one (1) Assistant
4 Attorney General; one (1) Legal Secretary and one (1) Investigator
5 whose primary responsibility *shall* be to provide legal services to
6 OPA. Should the workload allow, they *shall* also provide legal
7 services to OAG,

8 **Section 5. A new §6235 (d)(6) is of, Chapter 6, Title 4, Chapter**
9 **Guam Code Annotated is hereby *added* to read:**

10 “(6) The Director of Administration in collaboration with the
11 Public Auditor *shall* establish a salary scale for the professional staff of
12 the Office of Public Accountability upon reviewing the various salary
13 scales of line agencies, autonomous and semi-autonomous agencies. The
14 OPA salary scale *shall* be commensurate with the highest salary paid by
15 such agencies and *shall* require comparable education, certification,
16 training, and experience for each position.

17 (A) The OPA Professional staff *shall* be eligible to receive a ten
18 percent (10%) pay differential in addition to the certification pay
19 provided for under Subsection (d)(2)(A) of this Subsection. The
20 additional ten percent (10%) *shall* be forfeited upon an
21 employee’s transfer to any agency, instrumentality, or entity,
22 within the Government of Guam.”

1 **Section 6. Effective Dates.** Section 5 *shall* be effective 30 days
2 after enactment. Sections 2, 3 and 4 *shall* be effective the beginning of
3 Fiscal Year 2023.

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