

I Mina'trentai Singko 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
197-35 (LS)	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 21ST CENTURY INSTITUTION MEETING THE EDUCATIONAL NEEDS OF THE REGION WHILE GIVING IT MORE FINANCIAL INDEPENDENCE.	8/21/19 2:40 p.m.						

I MINA' TRENTAI SINGKO 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 21ST 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 Sustainability² 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.