

*AI MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*  
2012 (SECOND) Regular Session

Bill No. 532-31 (asr)

Introduced by:

Judith P. Guthertz, DPA

2012 NOV 14 PM 1:49

**AN ACT TO ADD SUB SECTIONS 17201.1., 17212, 17212.1, 17212.2, 17213, 17214, 17214.1, 17214.2, 17214.3 AND 17215; AND AMEND SUB SECTIONS 17203 AND 17204 OF ARTICLE 2 OF CHAPTER 17, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO THE PRESENTATION OF INITIATIVE MEASURES. THIS ACT SHALL BE KNOWN AS THE INITIATIVE REFORM AND TRANSPARENCY ACT OF 2012.**

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

**Section 1. Legislative Finding and Intent:** *I Liheslaturan Guåhan* finds that Initiatives put before the electorate shall contain full disclosure of genesis and intent. Considering the immense expense and diligent effort of the Guam Election Commission and the processes and standards which the Commission must assume and adhere to in order to entertain an initiative; the burden of transparency and accountability *shall not* fall *solely* on the voting public to ascertain the origins or intentions of a proposal. This should be a shared responsibility. It serves the public's interest to require that proponents of any Initiative placed before the people of Guam be forthcoming, available and that proponents be held accountable for any initiative they offer to the people of Guam by providing accurate information about its origins, intention and purpose.

It is the intent of *I Liheslaturan Guåhan* to clarify certain standards to ensure transparency and accountability regarding matters put before the electorate by any

1 individual, organization, partnership, corporation, committee, or business. *The*  
2 *Initiative Reform and Transparency Act of 2012 shall* begin the process of easily  
3 identifying origins, intention and purpose behind all future initiatives so that the voters  
4 of Guam have the opportunity to be fully informed about any initiative proposed for  
5 their consideration and those proposing the initiative before making their  
6 determination at the polls.

7 **Section 2.** Subsections 17201.1., 17212, 17212.1, 17212.2, 17213, 17214,  
8 17214.1, 17214.2, 17214.3, and 17215 are hereby *added*; and subsection 17203 and  
9 17204 all of Article 2, Chapter 17, Title 3, Guam Code Annotated, are hereby  
10 *amended* to Read:

11 **“ARTICLE 2 INITIATIVE**

12 **§ 17201.1. Qualified Proponent.**

13 **§ 17203. Same: Presentation of.**

14 **§ 17204. Same: Majority Required; Effective Date.**

15 **§ 17212. Commission to Develop Registration and Disclosure Requirements**  
16 **and Form.**

17 **§ 17212.1 Financial Disclosure and Registration Requirement.**

18 **§ 17212.2 Shareholder/Member Disclosure Requirement.**

19 **§ 17213. Police and Court Clearances.**

20 **§ 17214. Requirement of Fiscal Impact Statement.**

21 **§ 17214.1 Preparation of Fiscal Impact Statement, or Waiver Thereof.**

22 **§ 17214.2. Contents of Fiscal Impact Statement.**

23 **§ 17214.3. Fiscal Impact Statement Circular.**

24 **§ 172125. Special Single-Site Elections.**

1           § 17201.1. Qualified Proponent. Initiative measures may only be proposed by  
2 a bona fide resident and registered voter of Guam who was registered during the  
3 preceding general election. The qualified proponent of any initiative may act  
4 individually or on behalf of an organization, partnership, corporation, committee, or  
5 business.

6           § 17203. Same: Presentation of. The Election Commission shall submit the  
7 initiative to the electors after certification at the next regularly scheduled general  
8 election ~~held at least ninety (90) days after it qualifies or at a territory-wide special~~  
9 ~~election held at least ninety (90) days after certification,~~ provided however that *I*  
10 *Liheslatura* may call a territory-wide special election for the purpose of having the  
11 electors vote on an initiative measure.

12           § 17204. Same: Majority Required; Effective Date. An initiative must be  
13 approved by fifty percent (50%) plus one (1) of all voters who go to the polls to vote  
14 in the special or general election at which the initiative was placed on the ballot. Any  
15 initiative so approved by fifty percent (50%) plus one (1) of all voters who go to the  
16 polls to vote at said election shall take effect ~~sixty (60) days after the date on which~~  
17 ~~the Commission certifies that the initiative has been passed.~~ no earlier than the First  
18 (1<sup>st</sup>) day of the month of February of the succeeding year after certification of its  
19 passage by the Commission; and after all requisite government rules, regulations,  
20 permits pertaining to the initiative are officially adopted and effectuated by relevant  
21 department and agencies of the government of Guam. Any language in contravention  
22 of this Section that calls for an earlier date of implementation shall be disallowed by  
23 the Commission

24           § 17212. Commission to Develop Registration and Disclosure Requirements  
25 and Form. The Commission *shall* develop the registration requirements and Rules  
26 and Regulations governing the information requisite for discovery of Financial and

1 Shareholder or member disclosure requirements contained herein that stipulate the  
2 essential financial information of any person and all shareholders and or members of  
3 any organization, partnership, corporation, committee, or business which expects to  
4 receive funds or make expenditures in an effort to directly support or put forward any  
5 initiative.

6 a) The Commission shall adopt these rules within one hundred and twenty  
7 (120) days of the passage of this Act. The Commission may revisit and amend  
8 these rules as deemed necessary by the Commission every three (3) years thereafter.

9 **§ 17212.1 Financial Disclosure and Registration Requirement.** Any person,  
10 and all individual shareholders or members of any organization, partnership,  
11 corporation, committee, or business, which receives funds or makes expenditures in  
12 an effort to directly support or put forward any initiative must register and file  
13 financial disclosure reports with the Commission.

14 **§ 17212.2 Shareholder/Member Disclosure Requirement.** Financial  
15 disclosure reports shall list all individual shareholders or members of any  
16 organization, partnership, corporation, committee, or business which receives funds or  
17 makes expenditures in an effort to directly support or put forward any initiative.

18 **§ 17213. Police and Court Clearances.** At the time of filing of an initiative,  
19 any person, and all shareholders and or members of any organization, partnership,  
20 corporation, committee, or business, which expects to receive funds or make  
21 expenditures in an effort to directly support or put forward any initiative must be  
22 registered with the Commission and shall submit:

23 (1) a clearance from the Guam Police Department;

24 (2) a clearance from the Judiciary of Guam;

25 (3) a clearance from United States District Court;

1           (4) a signed affidavit attesting that the proponent, shareholder or member of  
2 any organization, partnership, corporation, committee, or business, has *not* been  
3 convicted of a felony or misdemeanor, as described herein, in any State or Territory  
4 of the United States or foreign country.

5           Notwithstanding any other provision of law, in order to put forward an  
6 initiative, any person, and all shareholders and or members of any organization,  
7 partnership, corporation, committee, or business must *not* have been convicted of a  
8 felony, and must *not* have been convicted of a misdemeanor involving criminal  
9 sexual conduct or crime of moral turpitude. Initiatives forwarded by proponents  
10 listed with such crimes herein shall be disqualified from further action by the  
11 Commission.

12           The cost for the police clearance and the court clearances required by this  
13 Section shall be borne by the person/s seeking to propose the Initiative.

14           **§ 17214. Requirement of Fiscal Impact Statement.** A Fiscal Impact  
15 Statement shall be required for all initiatives that have an effect upon the revenues  
16 or the expenditure of any funds of the government of Guam. A waiver of a Fiscal  
17 Impact Statement shall be required for all measures that do *not* have an effect upon  
18 the revenues or the expenditure of any funds of the government of Guam. *No*  
19 initiative shall be presented to the electorate by the Commission, unless a Fiscal  
20 Impact Statement or waiver thereof is submitted.

21           **§ 17214.1 Preparation of Fiscal Impact Statement, or Waiver Thereof.**  
22 The Fiscal Impact Statement, or waiver thereof, shall be prepared by the Director of  
23 Bureau of Budget and Management Research (BBMR), in coordination with the  
24 Director of the department, agency or appropriate government instrumentality,  
25 affected by the initiative. The Fiscal Impact Statement *or* waiver thereof prepared

1 by BBMR shall be considered as the official document required for fulfillment of  
2 this Section.

3 a) The proponents of an initiative may commission an independent  
4 accounting firm to conduct a Fiscal Impact Statement of its own for informational  
5 purposes, but proponents of any initiative measure may not present a waiver of their  
6 own of said Fiscal Impact Statement.

7 **§ 17214.2. Contents of Fiscal Impact Statement.** (a) A Fiscal Impact  
8 Statement shall contain the best estimate of the fiscal impact of an initiative for the  
9 fiscal year in which it would become effective, if enacted, and for the next four (4)  
10 succeeding fiscal years. If the fiscal impact of the measure is not expected to occur  
11 within the operating fiscal year, the estimate shall be for the first fiscal year in  
12 which it is expected to be fully effective, and for the next four (4) succeeding fiscal  
13 years. The cost of the proposed initiative to the government for the fiscal year in  
14 which it would become effective, if enacted, and for the next four (4) succeeding  
15 fiscal years. If the fiscal impact of the initiative is not expected to occur within the  
16 operating fiscal year, the estimate shall be for the first fiscal year in which it is  
17 expected to be fully effective, and for the next four (4) succeeding fiscal years.

18 **§ 17214.3. Fiscal Impact Statement Circular.** The Fiscal Impact Statement  
19 shall be attached to any voter information pamphlet circulated by the Commission.  
20 Proponents shall assume the costs associated with printing their independent Fiscal  
21 Impact Statement and reimburse the Commission for costs it incurs in appending  
22 the independent Fiscal Impact Statement to any pamphlet commissioned by the  
23 Commission.

24 **§ 172125. Special Single-Site Elections.**”