

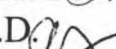


*I MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN*

2013 (FIRST) Regular Session

Bill No. 190-32 (COR)

Introduced by:

B.J.F. Cruz   
Judith T. Won Pat, Ed. D.   
A.A. Yamashita, Ph.D. 

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2013 SEP 20 PM 4: 31  


1 AN ACT TO ADD A NEW CHAPTER 28 TO DIVISION 2 OF TITLE  
2 17 GUAM CODE ANNOTATED RELATIVE TO THE  
3 ESTABLISHMENT OF THE RESEARCH CORPORATION,  
4 UNIVERSITY OF GUAM (RCUOG).

5  
6 BE IT ENACTED BY THE PEOPLE OF GUAM:

7 Section 1. **Legislative Intent and Findings.** *I Liheslaturan Guahan* finds  
8 that the University of Guam has the capacity to grow and expand its economic,  
9 social and environmental benefits to the people of Guam and the region, while  
10 fulfilling its mission as the premier institution of higher education in the region, by  
11 engaging more in research and educational programs funded by private and federal  
12 sponsors, to include business development through commercialization of research  
13 and public-private partnerships. These private contracts and federal grants  
14 complement the government of Guam's appropriation to the University by adding  
15 new revenues that assist in sustaining the University and enabling it to grow.

1 *I Liheslaturan Guahan* further finds that in 2011 University of Guam  
2 revenues from grants and contracts amounted to \$49 million, growing \$11 million  
3 (29%) over the prior year. Since 2004 the University has more than doubled the  
4 value of federal grants and contracts. This rate of increase has led to challenges in  
5 managing such remarkable growth and puts at risk the University’s ability to seek  
6 and achieve further grant and contract growth.

7 *I Liheslaturan Guahan* further finds that states and jurisdictions have  
8 implemented over 200 research corporations at or affiliated with universities that  
9 have led to dramatic growth in grant and contract awards through infrastructure,  
10 regulations and systems that are tailored to the research environment. These states  
11 have crafted legislation that provides best practice; the flexibility required for  
12 grants management while remaining compliant with rules and regulations such as  
13 federal OMB Circulars A-21 and A-133; and the agility needed to grow grants and  
14 contracts to the benefit of their jurisdictions and constituents.

15 THEREFORE, it is the intent of *I Liheslaturan Guahan* to create a new  
16 entity, to be called the Research Corporation of the University of Guam (RCUOG).

17 **Section 2. A new Chapter 28 is hereby added to Division 3 of Title 17**  
18 **Guam Code Annotated to read as follows:**

19

20 **“Chapter 28.**  
21 **RESEARCH CORPORATION OF THE UNIVERSITY OF GUAM**  
22 **(RCUOG)**

23

- 24 **§2801. Establishment of the Research Corporation.**
- 25 **§2802. Purpose.**
- 26 **§2803. Administration.**

- 1           **§2804.       Officers and Employees of the Research Corporation.**
- 2           **§2805.       Authorized Activities.**
- 3           **§2806.       Procurement.**
- 4           **§2807.       Annual Report.**
- 5           **§2808.       Dissolution.**
- 6           **§2809.       Special Account.**
- 7           **§2810.       Severability.**
- 8           **§2811.       RCUOG Excepted from certain Guam Laws.**

9

10           **§2801. Establishment of the Research Corporation.** There is established  
11 as a body corporate, the Research Corporation of the University of Guam  
12 (“RCUOG”, “Corporation”). The Corporation shall be a 501(c)(3) public  
13 corporation incorporated on Guam and shall operate as an integral part of the  
14 University of Guam (“University”, “UOG”).

15           **§2802. Purpose.** The purposes of the Corporation shall include, but not be  
16 limited to, the promotion of assigned educational, scientific, and literary pursuits of  
17 the University of Guam’s Grants and Contracts by:

18           (a.) encouraging, initiating, aiding, developing, and conducting training,  
19 research, and study in the physical, biological, and social sciences, humanities and  
20 all other branches of learning;

21           (b.) encouraging and aiding in the education and training of persons for the  
22 conduct of the training, investigations, research, and study;

23           (c.) furnishing the means, methods, and agencies by which the training,  
24 investigation, research, and study may be conducted, in support of the mission and  
25 best practices of the University of Guam;

1 (d.) assisting in the dissemination of knowledge by establishing, aiding, and  
2 maintaining professorships or other staff positions, fellowships, scholarships,  
3 publications, and lectures;

4 (e.) engaging in other means of making the benefits of training,  
5 investigations, research, and study available to the public; and

6 (f.) taking any and all other actions reasonably designed to promote these  
7 purposes in the interest of promoting the general welfare of the people of the  
8 Guam.

9 **§2803. Administration.** The affairs of the Corporation shall be under the  
10 general management and control of the RCUOG Board of Directors.

11 (a.) Composition of Board of Directors. The Board of Directors shall consist  
12 of up to ten members, as follows:

- 13 (1) Ex Officio Chief Executive Officer – University of Guam  
14 President;
- 15 (2) Ex Officio Member – Senior Vice President of Academic and  
16 Student Affairs;
- 17 (3) Ex Officio Member – Vice President of Administration and  
18 Finance;
- 19 (4) UOG President Appointee of up to four (4) Members (minimum  
20 of two representing the community at large);
- 21 (5) UOG Research Council Appointee of one Member;
- 22 (6) UOG Faculty Senate Appointee of one Member; and
- 23 (7) UOG Board of Regents Appointees of two UOG Regent  
24 Members.

25

1 (b.) All members of the Board of Directors shall serve without pay, but  
2 shall be entitled to reimbursement for necessary expenses while attending meetings  
3 and while in the discharge of duties and responsibilities.

4 (c.) The Chairperson of the Board of Directors shall be the President,  
5 University of Guam. The Senior Vice President and Vice President for  
6 Administration and Finance shall serve as ex-officio members of the Board.

7 **§2804. Officers and Employees of the Research Corporation.**

8 (a.) RCUOG will follow all the requirements applicable to each major grant  
9 program and maintain internal control over compliance in accordance with OMB  
10 Circulars A-133 and A-21, and appropriate Federal Acquisition Requirements.

11 (b.) RCUOG employees shall be governed by the RCUOG Board of  
12 Directors. Rules and regulations governing the selection, compensation,  
13 promotion, performance evaluation, disciplinary action and other terms and  
14 conditions of employment, affecting RCUOG personnel shall be adopted by the  
15 Board. The Board may establish or abolish positions as necessary for the purposes  
16 herein.

17 (c.) The Board of Directors shall appoint the Executive Director of RCUOG.

18 (d.) The RCUOG Board of Directors shall establish an employment policy  
19 for the Research Corporation as necessary in administering the affairs of the  
20 RCUOG.

21 (e.) Notwithstanding any other provision of law, rule, or regulation,  
22 employees of the Research Corporation shall be unclassified public employees.  
23 The Board of Directors shall set the employees' duties, responsibilities, salaries,  
24 holidays, leaves, hours of work, and working conditions. The Board of Directors  
25 may grant such other benefits to its employees as it deems necessary and in  
26 accordance with RCUOG's employment policy and federal employment laws.

1 (f.) The RCUOG Board of Directors shall promulgate rules and regulations  
2 for hiring, employment, procurement and property set forth by RCUOG Policy and  
3 the requirements applicable to each major grant program and on internal control  
4 over compliance in accordance with OMB Circulars A-133 and A-21, and Federal  
5 Acquisition Requirements.

6 (g.) Employees of the research corporation shall not be entitled to any  
7 benefits conferred under 4GCA PUBLIC OFFICERS AND EMPLOYEES  
8 CHAPTER 4 PERSONNEL POLICY AND THE CIVIL SERVICE  
9 COMMISSION relating to civil service, 4GCA PUBLIC OFFICERS AND  
10 EMPLOYEES CHAPTER 4 PERSONNEL POLICY AND THE CIVIL SERVICE  
11 COMMISSION relating to public service, 4GCA PUBLIC OFFICERS AND  
12 EMPLOYEES CHAPTER 8 RETIREMENT OF PUBLIC EMPLOYEES relating  
13 to pension and retirement systems, and the appropriate collective bargaining  
14 agreement, executive order, executive directive, or rule.

15 **§2805. Authorized Activities.** Notwithstanding any other provision of law,  
16 rule, or regulation, the RCUOG is authorized to conduct the following activities:

17 (a.) to create, adopt, amend, and repeal bylaws governing the conduct of its  
18 business and the exercise of the powers and performance of duties granted to it or  
19 imposed upon it by law;

20 (b.) to enter into and perform such contracts, leases, cooperative agreements,  
21 grants or other transactions on behalf of the University as it may be necessary to  
22 facilitate the conduct of the authorized activities described in sections herein;

23 (c.) to buy sell, lease, rent, hold, maintain, use and operate any property,  
24 real, personal, or mixed, tangible or intangible, in accordance with the conditions  
25 under which it was received and under the purposes of the RCUOG;

26 (d.) to submit each year for the approval of the board of directors an annual  
27 budget; such budget will include projected income, including indirect/Facilities

1 and Administrative revenue and a cost of operating expenses of the Corporation as  
2 well as the distribution plan of the net proceeds for the University's use, which  
3 shall include a reasonable corporate reserve; the allocation of indirect/Facilities  
4 and Administrative cost will be determined by the Board of Directors and  
5 following UOG-BOR Resolution 08-40;

6 (e.) to receive through University policies and procedures by gifts, grants,  
7 devises, bequests, or otherwise from private or public sources, any property, real  
8 personal, or mixed, intangible or tangible, absolutely or in trust, to be used and  
9 disposed of, either the principal or the income therefrom, in accordance with the  
10 conditions under which it was received; except that no gift to the Corporation shall  
11 be accepted unless approved or confirmed by the RCUOG Board of Directors;

12 (f.) to facilitate multi-year contracts;

13 (g.) to have a corporate seal;

14 (h.) to sue and to be sued in its own name and to indemnify the University  
15 against losses incurred specific to that activity;

16 (i.) to serve as trustee or beneficiary under terms of any gift, indenture, or  
17 will;

18 (j.) to apply for, take out, receive by purchase or gift, hold, administer, and  
19 dispose of copyrights, patent rights, licenses, assignments of inventions,  
20 discoveries, processes, and other property, rights or interests therein, the income  
21 thereof, absolutely or subject to such conditions or trusts as may be attached  
22 thereto or be imposed thereon, and to obligate itself to perform and execute any  
23 and all such conditions or trusts in coordination with UOG's Intellectual Property  
24 Policy;

25 (k.) to conduct research, studies, experiments, investigations, and tests in all  
26 fields of knowledge; to promote and develop the scientific and commercial value

1 of inventions, discoveries, and processes; and to make published, and distribute the  
2 results thereof;

3 (l.) to do any and all other acts reasonably necessary to carry out the objects  
4 and purposes of the Corporation and the University, as approved by the University  
5 and the RCUOG Board of Directors;

6 (m.) to coordinate and correlate activities and projects of the Corporation  
7 with the work of Guam agencies for the purpose of relating research work to the  
8 economic development of Guam whenever practical or desirable;

9 (n.) to stimulate and promote cooperative research projects and activities;

10 (o.) to establish and maintain, or to assist in establishing and maintaining,  
11 scholarships, fellowships, and professorships, and other staff positions for the  
12 purpose of aiding in the acquisition and dissemination of knowledge and to enter  
13 into agreements or contracts with other corporations, organizations, institutions, or  
14 persons for this purpose and to pay the necessary and appropriate expenses  
15 therefor;

16 (p.) to prepare, print, or publish any manuscript, research article, report,  
17 study, discussion, reference, collection, or any pictorial or schematic representation  
18 or group or collection thereof, whether it belongs to or is the work of any Guam  
19 agency or its employees, or the University or one of its faculty members or  
20 employees, or the Corporation or its employees, or a contractor of RCUOG. The  
21 printing or publication may be accomplished through whatever person, company,  
22 or agency is deemed most appropriate by the board of directors.

23 **§2806. Procurement.** RCUOG shall adopt a procurement policy approved  
24 by RCUOG Board aligned with sound business practices and consistent with  
25 federal program rules and regulations as applicable to grants, and contracts, such as  
26 but not limited to OMB Circular A-21.



1           **§2807. Annual Report.** The Corporation shall submit an annual report to  
2 the University Of Guam Board of Regents, the Governor of Guam, and the Guam  
3 Legislature.

4           The report shall include but not be limited to the Corporation's audited  
5 financial statements including its balance sheet, statement of income and expense,  
6 and statement of cash flows and progress and accomplishments during the year.

7           **§2808. Dissolution.** In the event of the dissolution of the Corporation, all  
8 of its property, real, personal, and mixed and wheresoever situated, shall vest  
9 immediately and absolutely in the University of Guam.

10           **§2809. Special Account.** The Corporation shall be authorized to set up a  
11 special account for depositing moneys received from either public or private  
12 contracts, or from private or public grants, awards, or gifts. All disbursements  
13 shall be drawn on the special account upon checks prepared and signed, as  
14 approved by the Executive Director of the RCUOG and at least one other RCUOG  
15 officer or employee authorized by the RCUOG Board of Directors.

16           **§2810. RCUOG Excepted from certain Guam Laws.** Unless otherwise  
17 specifically stated in law, RCUOG is excepted from the following Guam laws:

18           (a.) 5GCA GOVERNMENT OPERATIONS CH. 22 GENERAL FISCAL  
19 POLICIES AND CONTROLS relating to the management and regulation of  
20 expenditures with the use of public funds;

21           (b.) 4GCA PUBLIC OFFICERS AND EMPLOYEES CHAPTER 4  
22 PERSONNEL POLICY AND THE CIVIL SERVICE COMMISSION relating to  
23 public employment and the Civil Service Commission;

24           (c.) [4GCA PUBLIC OFFICERS & EMPLOYEES CH 8 RETIREMENT  
25 OF PUBLIC EMPLOYEES] relating to pension and retirement systems;

1 (d.) 5 GCA GOVERNMENT OPERATIONS CH. 5 GUAM  
2 PROCUREMENT LAW, relating to the procurement of good and services with  
3 public funds.

4 **§2811. Severability.** If any provision of this Act, or the application thereof  
5 to any person or circumstances is held invalid, the invalidity does not affect other  
6 provisions or applications of the Act that can be given effect without the invalid  
7 provisions or application, and to this end the provisions of this Act are severable.