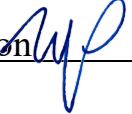


I MINA' TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

Bill No. _____

Introduced by:

William A. Parkinson 

AN ACT TO *ADD* A NEW CHAPTER 36, RELATIVE TO ESTABLISHING THE OFFICE OF THE ELECTED PUBLIC PROSECUTOR, AND TO *REPEAL* §§ 30104 AND 30104.1, AND *AMEND* §§ 30102 AND 30109, ALL OF CHAPTER 30, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO RESTORING THE APPOINTED OFFICE OF THE ATTORNEY GENERAL.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that pursuant to the Organic Act of Guam, as amended, the Attorney General of Guam serves as the Chief Legal Officer of the government of Guam. The Supreme Court of Guam has held that *I Liheslaturan Guåhan* may restrict, or modify the Attorney General's common law powers and duties by statute. Guam law, in turn, provides that the Attorney General shall have cognizance of all legal matters involving the Executive Branch of the government of Guam, its agencies, instrumentalities, public corporations, autonomous agencies and the Mayors Council.

In his role as Chief Legal Officer of the government of Guam, the Attorney General is required to provide legal services to government agencies, advise on procurements, and review and approve government contracts as provided in law. The Attorney General is also required to conduct civil actions on behalf of the government of Guam and protect the rights and properties of the government of Guam. While the Attorney General was previously appointed by the Governor of

1 Guam with the consent of the Legislature, and served at the pleasure of the Governor,
2 the Organic Act authorizes the Legislature to provide for the election of the Attorney
3 General of Guam, who may be removed for cause in accordance with procedures
4 established by the Legislature. Utilizing this provision, in Public Law No. 25-044,
5 the Legislature created an elected Attorney General.

6 The Organic Act separately authorizes *I Liheslaturan Guåhan* to establish an
7 Office of Public Prosecutor. Guam law provides that the Attorney General shall have
8 cognizance of all matters pertaining to public prosecution, including the prosecution
9 of public officials.

10 Though several Attorneys General have served the dual role of providing legal
11 services to Executive Branch agencies and serving as public prosecutor, the current
12 Attorney General has determined that he must withdraw from representing over
13 twenty (20) agencies due to a potential conflict of interest caused by simultaneously
14 representing such agencies and performing criminal and civil investigations into
15 such agencies. This apparent conflict has been raised in criminal actions in which
16 the Attorney General provided legal advice to agencies and subsequently prosecuted
17 directors whom the Attorney General previously advised. The Attorney General has
18 proffered in these cases that the Guam Rules of Professional Conduct, which governs
19 the professional conduct of attorneys in Guam and falls under the purview of the
20 Supreme Court of Guam, may not be applied to the Office of the Attorney General
21 in the same manner it is applied to private attorneys. The Attorney General has
22 further declined to implement ethical screens to protect against potential conflicts,
23 and has not requested appointment of a special prosecutor to ensure prosecution of
24 these cases proceeds with independent counsel. Instead, based on the potential
25 conflict, the Attorney General has withdrawn from representing affected agencies to
26 prioritize his statutory public prosecutor role.

1 The Attorney General’s decision to withdraw from agency representation
2 carries grave consequences for the agencies involved, especially line agencies that
3 are not authorized to employ attorneys. Efforts to authorize agencies to hire attorneys
4 or procure legal services may assist these agencies prospectively, but will not resolve
5 immediate issues caused by their lack of legal representation. Further, numerous
6 government contracts pending the Attorney General’s review, including many from
7 autonomous agencies and utilizing federal funds subject to strict time standards, will
8 be delayed. For agencies providing direct care or social services, the Attorney
9 General’s refusal to perform contract review may hinder the provision of critical
10 services including Adult Daycare and foster care, on which vulnerable populations
11 in our community rely.

12 Though the Attorney General has not withdrawn from representation of
13 agencies he is not presently investigating, these agencies are similarly vulnerable. In
14 the event the Attorney General does initiate an investigation against them in the
15 future, these agencies will also be left suddenly without legal representation,
16 potentially during pendency of important litigation or procurement of critical goods
17 and services.

18 *I Liheslaturan Guåhan* finds that it is of the utmost importance to ensure
19 continuity in the operations of the Executive Branch. The continued provision of
20 critical services and review of important contracts cannot be allowed to be disrupted
21 due to current and future potential conflicts between the Attorney General’s dual
22 roles. It is therefore the intent of *I Liheslaturan Guåhan* to establish the Office of the
23 Public Prosecutor, separate and distinct from the Office of the Attorney General. To
24 ensure the Public Prosecutor may initiate all public prosecutions, including those
25 involving public officials and Executive branch employees, the Public Prosecutor
26 shall be elected and will not be subject to the Governor’s supervision or direction.
27 The Attorney General, which serves as the Chief Legal Officer of the government

1 of Guam, will be restored to an appointed position, and will serve at the pleasure of
2 the Governor, pursuant to the Organic Act, has general supervision and control of
3 all agencies and instrumentalities of the Executive Branch of the government of
4 Guam.

5 **Section 2.** A new Chapter 36 is hereby *added* to Division 3, Part 1 of Title 5,
6 Guam Code Annotated to read as follows:

7 **“CHAPTER 36**

8 **OFFICE OF THE PUBLIC PROSECUTOR**

9 § 36101. Office of the Public Prosecutor Established.

10 § 36102. Public Prosecutor, Elected.

11 § 36103. Transition for a Public Prosecutor-elect.

12 § 36104. Duties.

13 § 36105. Transfer of Assets and Employees.

14 § 36106. Rules and Regulations.

15 § 36107. Compensation.

16 § 36108. Removal of Public Prosecutor.

17 § 36109. Budget and Financial Matters.

18 § 36110. Fiscal Authority Accounting; Expenditures.

19 § 36111. Fees.

20 § 36112. Fund.

21 § 36113. Administration of General Personnel Matters.

22 § 36114. Administration of Personnel.

23 § 36115. Employment.

24

25 **§ 36101. Office of the Public Prosecutor Established.**

26 There is within the Executive Branch of the government of Guam an Office of
27 the Public Prosecutor, which shall have legal jurisdiction over all criminal

1 prosecution on behalf of the people of Guam. Such authority as resides prior to the
2 enactment of this Section with the Attorney General of Guam and his or her deputies,
3 as well as the Department of Law, to oversee, manage and otherwise affect criminal
4 prosecution on behalf of the people of Guam in any Court of Guam or any appeals
5 arising therefrom, is hereby transferred from the Attorney General of Guam to Public
6 Prosecutor. All references in Guam law or regulation with respect to criminal
7 prosecution that contain the terms “Attorney General” or “Department of Law” shall
8 hereby be read and interpreted as referring to the “Public Prosecutor” or “Office of
9 the Public Prosecutor,” respectively.

10 This Chapter shall be interpreted not as abolishing the Office of the Attorney
11 General, but as removing from the Attorney General all responsibilities vested in the
12 Attorney General by the Guam Legislature prior to the enactment of this Chapter
13 relative to the prosecution, on behalf of the people of Guam, of criminal offenses on
14 Guam, and the empowerment of the Public Prosecutor established by this Chapter
15 with such powers enjoyed by the Attorney General needed to accomplish the
16 purposes of this Chapter.

17 **§ 36102. Public Prosecutor, Elected.**

18 (a) The Office of the Public Prosecutor shall be administered by the Public
19 Prosecutor of Guam, who shall be elected by the people of Guam for a term of four
20 (4) years. The initial election of the Public Prosecutor shall occur during the general
21 election in 2026. A candidate for the position of Public Prosecutor shall declare no
22 political party affiliation. Candidates for Public Prosecutor shall be subject to the
23 same campaign and personal financial reporting requirements as apply to candidates
24 for *I Maga'lahren* or *Maga'hågan Guahan*, as well as all laws pertaining to campaign
25 contributions. No person shall serve more than two (2) consecutive terms as Public
26 Prosecutor. No nominating petition shall be required of a candidate for Public
27 Prosecutor.

1 (b) A candidate for the position of Public Prosecutor shall file candidacy with
2 the Guam Election Commission in the manner similar to a candidate for *I*
3 *Maga'lahaen or Maga'hågan Guahan* except as is not consistent with this Chapter.
4 There shall be no Primary Election for the position of Public Prosecutor. All
5 qualified candidates complying with the provisions of this Chapter shall be placed
6 on the General Election ballot. In the General Election, the candidate receiving the
7 most votes, subject to the qualifications established by this Chapter, shall be certified
8 by the Guam Election Commission as having won election to the position of Public
9 Prosecutor. The Public Prosecutor shall be sworn into and take office on the first
10 Monday of the January following the General Election at which the Public
11 Prosecutor was elected and shall remain in office until the election and swearing in
12 of a new Public Prosecutor, unless removed from office as provided for in this
13 Chapter. The Public Prosecutor shall:

14 (1) be a resident of Guam and a citizen of the United States;

15 (2) be at least thirty-five (35) years of age;

16 (3) be an active member in good standing of the Guam Bar
17 Association on Guam for at least five (5) years immediately preceding his or
18 her candidacy for Office, or an inactive member of the Guam Bar Association
19 who, in the five (5) years preceding his election as Public Prosecutor has served
20 as an elected official elected by the people of Guam or as a Public Auditor of
21 Guam, or as a Justice of the Supreme Court of Guam or Judge of the Superior
22 Court of Guam;

23 (4) not have been convicted of a felony; and

24 (5) not have been suspended from the practice of law in any
25 jurisdiction for violation of ethical rules governing the practice of attorneys.

26 **§ 36103. Transition for a Public Prosecutor-elect.**

1 For the period following the certification of the election and the swearing-in of
2 the Public Prosecutor-elect, the incumbent Public Prosecutor, should he or she not
3 be the successful candidate in that election, shall assist the Public Prosecutor-elect
4 in the preparation of his or her new duties. During this transition period, the
5 incumbent Public Prosecutor shall assist the Public Prosecutor-elect in acquainting
6 the latter with the operations of the Office of the Public Prosecutor and all necessary
7 functions that come with holding the office. The incumbent Public Prosecutor shall
8 provide all documents at the request of the Public Prosecutor-elect necessary for the
9 preparation of the Public Prosecutor-elect in assuming office. The Public Prosecutor-
10 elect, should he or she deem necessary, is authorized to appoint a Committee which
11 shall be of assistance during the transition period between election and assumption
12 of office. No funds shall be appropriated for the purposes of transition. Should an
13 incumbent Public Prosecutor not be successful in an election, all property,
14 equipment, and documents belonging to the Office shall not be removed by the
15 exiting Public Prosecutor.

16 **§ 36104. Duties.**

17 The Public Prosecutor and, by himself or herself, or a deputy or assistant, shall:

18 (a) conduct on behalf of the government of Guam the prosecution of all
19 offenses against the laws of Guam which are prosecuted in any of the courts of
20 Guam, the District Court of Guam, and any appeals therefrom; and

21 (b) draw all information, conduct grand jury proceedings, prosecute all
22 recognizances forfeited in the courts and all actions for the recovery of debts,
23 finances, penalties and forfeitures accruing to the government of Guam, except as
24 otherwise provided in this Act.

25 **§ 36105. Transfer of Assets and Employees.**

26 Upon the election and swearing into office of the first Public Prosecutor, all
27 assets assigned to the Prosecution Division of the Office of the Attorney General,

1 inclusive of equipment, shall be transferred to the Office of the Public Prosecutor.
2 All employees assigned to the Prosecution Division of the Office of the Attorney
3 General shall be transferred to the Office of the Public Prosecutor and shall receive
4 no reduction in pay as a result of such transfer. The balance of all amounts budgeted,
5 internally or otherwise, to the operations of the Prosecution Division, whether or not
6 they have been released, shall be transferred to the Office of the Public Prosecutor.
7 Upon the election of the first Public Prosecutor, the Attorney General is directed to
8 assist the Public Prosecutor in guaranteeing a smooth transition.

9 **§ 36106. Rules and Regulations.**

10 Notwithstanding any other provision of law, the Public Prosecutor shall make
11 rules and regulations, not inconsistent with law, for the conduct of the Office of the
12 Public Prosecutor, but such rules and regulations shall become effective only upon
13 approval of *I Liheslaturan Guåhan* [the Legislature]. Rules and regulations shall *not*
14 be inconsistent with the personnel rules and regulations of the government of Guam.

15 **§ 36107. Compensation.**

16 The Public Prosecutor shall be compensated consistent with the compensation
17 scheme established for the Attorney General in 5 GCA § 30116. Compensation for
18 the Deputy and Assistant Prosecutors shall be consistent with the attorney
19 compensation plan for the government of Guam.

20 **§ 36108. Removal of Public Prosecutor.**

21 (a) Recall. The Public Prosecutor may be removed from office in the same
22 manner as that provided by the Organic Act for the removal of the Governor. In
23 determining the number of signatures on the Petition for Recall, and in determining
24 whether enough votes are cast for recall, the numbers shall be the same as if the
25 Governor were the officer being recalled.

26 (b) Removal. The Governor may remove the Public Prosecutor for conviction
27 of a felony or any crime involving moral turpitude, willful misconduct in office,

1 persistent failure to perform the duties of the office, or for any disability which
2 renders the Public Auditor unable to perform his or her duties for a period greater
3 than six (6) months, but the Auditor may retire under disability retirement if eligible
4 under the laws of the Government of Guam Retirement Fund. The Public Prosecutor
5 may appeal such removal to the Superior Court of Guam, but shall not perform
6 prosecutorial duties pending the outcome of such appeal. The Superior Court of
7 Guam may sustain the Governor’s action, or reinstate the Public Prosecutor, in which
8 latter event, the Public Prosecutor shall be awarded all back pay and benefits.

9 **§ 36109. Budget and Financial Matters.**

10 The Office of the Public Prosecutor shall receive an annual budget pursuant to
11 appropriation by *I Liheslaturan Guåhan*, which is *not* subject to the allotment
12 process or the control of the Bureau of Budget and Management Research, nor shall
13 *I Maga'lahren or Maga'hågan Guahan* impound or transfer funds appropriated to the
14 Office of the Public Prosecutor. The Office of the Public Prosecutor shall receive
15 from the Department of Administration, or its successor, an amount *no less than one*
16 twelfth (1/12) of its budget on the first (1st) day of every month of the fiscal year
17 until such budget has been exhausted. In a month in which more than two (2) pay
18 periods occur, the Department of Administration shall release such funds required
19 for the purpose of meeting the operational needs of the Office of the Public
20 Prosecutor for that month, provided a sufficient balance of the appropriation
21 remains.

22 **§ 36110. Fiscal Authority Accounting; Expenditures.**

23 (a) The Office of the Public Prosecutor shall be responsible for the conduct of
24 operational matters addressing its financial activities, in accordance with and
25 consistent with the provisions contained herein.

26 (b) The Department of Administration shall establish, for the benefit of the
27 Office of the Attorney General, a fund to be known as the “Office of the Public

1 Prosecutor Operations Fund”, hereafter referred to as the “Fund”, which shall be
2 maintained by the general administrative services of the Department of
3 Administration separate and apart from other funds of the government of Guam, and
4 independent records and accounts shall be maintained in connection therewith.
5 Financial statements detailing the revenues generated and expenses incurred of the
6 Fund shall be submitted to the Speaker of I Liheslaturan Guåhan quarterly, or as
7 otherwise required by law.

8 (c) All monies, except for monies required by law to be deposited in a special
9 fund, received by the Office of the Public Prosecutor, from whatever source derived,
10 shall be deposited in the Fund bank account of an eligible bank, as defined in 5 GCA
11 § 21112, which is procured by the Department of Administration.

12 (d) All expenditures from the Fund shall be made by the Department of
13 Administration, at the direction of the Office of the Public Prosecutor.

14 (e) The Department of Administration shall adopt a uniform system of
15 accounting, consistent with other government of Guam requirements, for the Fund
16 and special funds of the Office of Public Prosecutor.

17 **§ 36111. Fees.**

18 Every request for a letter from the Office of the Public Prosecutor to provide a
19 statement about the disposition of a person's criminal arrest or criminal case, also
20 known as a “Public Prosecutor Clearance”, shall pay to the Treasurer of Guam a
21 non-refundable fee equal to the same fee charged by the Guam Police Department
22 or the Judiciary of Guam for their police Clearance or court clearance, whichever is
23 higher. All fees shall be deposited into the “Victim/Witness Travel-Housing Fund”
24 and used accordingly.

25 **§ 36112. Fund.**

26 There is hereby established a fund to be known as the “Victim/Witness Travel-
27 Housing Fund”, which shall be maintained separate and apart from other funds of

1 the government of Guam, and not subject to any transfer authority of *I Maga'lahen*
2 *or Maga'hågan Guahan*. This Fund shall be used by the Office of the Public
3 Prosecutor for the purpose of assisting with the costs of travel and *or* housing of
4 victims *or* witnesses who must return to Guam to testify in criminal trials against
5 criminal offenders, subject to appropriation by *I Liheslaturan Guåhan*. The Attorney
6 General *shall* comply with the government of Guam's financial reporting
7 requirements.

8 **§ 36113. Administration of General Personnel Matters.**

9 The Office of the Public Prosecutor shall be responsible for the conduct of
10 operational matters addressing its personnel activities, in accordance with and
11 consistent with the provisions contained herein.

12 **§ 36114. Administration of Personnel.**

13 The Public Prosecutor is authorized to hire and appoint such personnel, and to
14 fix their duties and responsibilities under and in accordance with Title 4, Guam Code
15 Annotated, as may be necessary for the purposes of this Chapter.

16 **§ 36115. Employment.**

17 (a) Pursuant to the provisions of § 4105 of Title 4, Guam Code Annotated, the
18 Public Prosecutor may establish rules and regulations governing selection,
19 promotion, performance evaluation, demotion, suspension and other disciplinary
20 action for the employees of the Office of the Public Prosecutor. Until such time as
21 the Office of the Public Prosecutor adopts its own rules and regulations as provided
22 herein, the rules and regulations adopted by the Department of Administration shall
23 continue to apply to the Office of the Public Prosecutor.

24 (b) Employees of the Office of the Public Prosecutor shall continue to be
25 members of the Government of Guam Retirement Fund, subject to the provisions of
26 § 8105 of Title 4, Guam Code Annotated. The Office of the Public Prosecutor shall
27 contribute to the Government of Guam Retirement Fund on the basis of annual

1 billings as determined by *I Liheslaturan Guåhan* or the Government of Guam
2 Retirement Fund, for the government share of the cost of the retirement benefits
3 applicable to the Office of the Public Prosecutor employees and their beneficiaries.
4 The Office of the Public Prosecutor shall also contribute to the Workmen’s
5 Compensation Fund, on the basis of annual billings as determined by the Workmen’s
6 Compensation Commissioner, for the benefit payments made from the Workmen’s
7 Compensation Fund on account of the Office of the Public Prosecutor’s employees.

8 (c) Notwithstanding any other provision of law, the Office of the Public
9 Prosecutor may provide one (1) way airfare for newly hired classified, unclassified
10 and/or limited term appointment attorney(s), to Guam and may seek reimbursement
11 from the attorney(s) who do not serve the full term of their contract with the Office
12 of the Public Prosecutor.”

13 **Section 3.** § 30101 of Chapter 30, Division 3 of Title 5, Guam Code Annotated
14 is hereby repealed and re-enacted to read as follows:

15 **“§ 30101. Attorney General.**

16 (a) The Office of the Attorney General of the government of Guam
17 *shall* be administered by the Attorney General of Guam, who shall be elected
18 ~~by the people of Guam for a term of four (4) years~~ appointed by the Governor
19 with the advice and consent of the Legislature, and shall hold office at the
20 pleasure of the Governor.

21 (b) ~~A candidate for the position of Attorney General of Guam shall~~
22 ~~declare no political party affiliation. Candidates for Attorney General of~~
23 ~~Guam shall be subject to the same campaign and personal financial reporting~~
24 ~~requirements as apply to candidates for *I Maga’lahen Guåhan* [the~~
25 ~~Governor], as well as all laws pertaining to campaign contributions. No~~
26 ~~nominating petition shall be required of a candidate for Attorney General of~~

1 ~~Guam. A candidate for the position of Attorney General of Guam shall file~~
2 ~~his candidacy with the Guam Election Commission in the manner similar to~~
3 ~~a candidate for *I Maga'lahen Guåhan* [the Governor], except as is not~~
4 ~~consistent with this Section. All qualified candidates complying with the~~
5 ~~provisions of this Section shall be placed on a separate ballot for the office~~
6 ~~of Attorney General to be cast at the Primary Election. The two candidates~~
7 ~~who receive the most votes in the Primary Election shall be certified~~
8 ~~accordingly by the Election Commission and placed on a separate ballot for~~
9 ~~the General Election. In the General Election, the candidate receiving the~~
10 ~~most votes, subject to the qualifications established by this Chapter, shall be~~
11 ~~certified by the Guam Election Commission as having won election to the~~
12 ~~position of Attorney General. The Attorney General shall be sworn into and~~
13 ~~take office on the first Monday of the January following the General Election~~
14 ~~at which the Attorney General was elected and shall remain in office until~~
15 ~~the election and swearing in of a new Attorney General, unless removed from~~
16 ~~Office as provided for in this Section. The Attorney General shall:~~

17 ~~(1) be at least thirty (30) years of age;~~

18 ~~(2) be a citizen of the United States and a resident of Guam;~~

19 ~~(3) be an active member in good standing of the Guam Bar~~
20 ~~Association on Guam for at least five (5) years immediately preceding his~~
21 ~~or her candidacy for Office, or an inactive member of the Guam Bar~~
22 ~~Association who, in the five (5) years preceding his election as an~~
23 ~~Attorney General has served as an elected official elected by the people of~~
24 ~~Guam or as a Public Auditor of Guam, or as a Justice of the Supreme Court~~
25 ~~of Guam or Judge of the Superior Court of Guam;~~

26 ~~(4) not have been convicted of a felony; and~~

1 ~~(5) not have been suspended from the practice of law in any~~
2 ~~jurisdiction for violation of ethical rules governing the practice of~~
3 ~~attorneys.~~

4 The Attorney General shall be an active member in good standing of the
5 Guam Bar Association for at least five (5) years immediately preceding
6 his or her appointment, or an inactive member of the Guam Bar
7 Association who, in the five (5) years preceding his or her appointment
8 served as an elected official in Guam or as a Public Auditor of Guam, or
9 as a Justice of the Supreme Court of Guam or Judge of the Superior Court
10 of Guam.

11 ~~(c) The Attorney General of Guam may be removed in the same manner~~
12 ~~as provided under the Organic Act of Guam for the removal of *I Maga'lahaen*~~
13 ~~*Guåhan* [the Governor]. As provided in the Organic Act of Guam, a vacancy~~
14 ~~in the position of Attorney General shall be filled: (1) by appointment by *I*~~
15 ~~*Maga'lahaen Guåhan* [the Governor] if such vacancy occurs less than six (6)~~
16 ~~months before a General Election for the Office of the Attorney General of~~
17 ~~Guam; or (2) by a special election held no sooner than three (3) months after~~
18 ~~such vacancy occurs, and no later than six (6) months before a general~~
19 ~~election for Attorney General of Guam, and by appointment by *I Maga'lahaen*~~
20 ~~*Guåhan* [the Governor] pending a special election under this Subparagraph.”~~

21 **Section 4.** § 30102 of Article 1, Chapter 30, Division 3, of Title 5, Guam Code
22 Annotated is hereby *amended* to read:

23 **“§ 30102. Department of Law, Cognizance.**

24 (a) There is within the Executive Branch of the government of Guam,
25 the Office of the Attorney General. The Attorney General is head of the
26 Office of the Attorney General and Chief Legal Officer of the government
27 of Guam. Notwithstanding any other provision of law, the Attorney General

1 shall have cognizance of all legal matters, excluding the Legislative and
2 Judicial Branches of the government of Guam, involving the Executive
3 Branch of the government of Guam, its agencies, instrumentalities, public
4 corporations, autonomous agencies and the Mayors Council, all hereinafter
5 referred to as ‘agency’. Where any other law permits any agency or
6 autonomous public corporation to retain counsel other than the Attorney
7 General, this shall not preclude said agency or public corporation from
8 requesting the services of the offices of the Attorney General, provided that
9 said agency or autonomous public corporation shall reimburse the Office of
10 the Attorney General for such services from funds of said agency or
11 autonomous public corporation. Said reimbursement shall be deposited in
12 the General Fund and credited to the Office of the Attorney General. In
13 addition, and notwithstanding any other law to the contrary, any agency or
14 autonomous public corporation of the government of Guam may advance
15 funds to the office of the Attorney General for services and incidental travel
16 to be rendered by said office on behalf of said agency or autonomous public
17 corporation.

18 (b) Effective on the first Monday of the January following the next
19 General Election resulting in the election of the Governor following the
20 enactment of this provision, the Attorney General shall be appointed by the
21 Governor with the advice and consent of the Legislature under the conditions
22 set forth in Section 30101, Article 1, Division 3, Title 5 Guam Code
23 Annotated. If the office of Attorney General becomes vacant prior to such
24 date, the Attorney General shall be appointed by the Governor with the
25 advice and consent of the legislature under the conditions set forth in Section
26 30101, Article 1, Division 3, Title 5 Guam Code Annotated.”

1 **Section 5.** § 30104 of Article 1, Chapter 30, Division 3, of Title 5, Guam
2 Code Annotated is hereby *repealed*.

3 **Section 6.** § 30104.1 of Article 1, Chapter 30, Division 3, of Title 5, Guam
4 Code Annotated is hereby *repealed*.

5 **Section 7.** § 30109 of Article 1, Chapter 30, Division 3, of Title 5, Guam
6 Code Annotated is hereby *amended* to read:

7 **“§ 30109. Duties.**

8 The Attorney General is the ~~public prosecutor~~ Chief Legal Officer of
9 Guam and, by himself or herself, a deputy or assistant, shall:

10 ~~(a) conduct on behalf of the government of Guam the~~
11 ~~prosecution of all offenses against the laws of Guam which are~~
12 ~~prosecuted in any of the courts of Guam, the District Court of Guam,~~
13 ~~and any appeals therefrom;~~

14 ~~(b) draw all information, conduct grand jury proceedings,~~
15 ~~prosecute all recognizances forfeited in the courts and all actions for~~
16 ~~the recovery of debts, fines, penalties and forfeitures accruing to the~~
17 ~~government of Guam, except as otherwise provided in this Act;~~

18 (a) conduct on behalf of the government of Guam all civil
19 actions in which the government is an interested party; provided that
20 those branches, departments or agencies which are authorized to
21 employ their own legal counsel may use them instead of the Attorney
22 General;

23 (b) deliver receipts of money or property received by him or her
24 in his or her official capacity and file duplicates thereof with the
25 Director of Administration;

26 (c) as soon as practical after the receipt of any money in his
27 official capacity, turn the money over to the Director of Revenue and

1 Taxation, and on the first (1st) Monday of each month file with the
2 Director of Administration, an account, verified by his oath, of all
3 monies received by him or her in his or her official capacity for the
4 government of Guam during the preceding month;

5 (d) be diligent in protecting the rights and properties of the
6 government of Guam;

7 (e) institute by any appropriate action proceedings on behalf of
8 himself or herself or any other public officers (not an employee) to
9 have determined by the courts the validity of any law, rule or
10 regulation of the government of Guam;

11 ~~(h) prepare and submit annual budgets for approval by *I*~~
12 ~~*Liheslaturan Guåhan*;~~

13 (f) administer federal funds/programs on behalf of the Office of
14 the Attorney General;

15 (g) serve as the Office of the Attorney General's approving
16 authority for the expenditure of funds;

17 (h) serve as the Office of the Attorney General's appointing
18 authority for all personnel employed at the Office of the Attorney
19 General, hiring employees from an established list of qualified
20 applicants in accordance with established criteria and assigning,
21 detailing, and transferring employees as the Attorney General deems
22 necessary for the effective operation of the Office of the Attorney
23 General; and

24 (i) perform such other duties as are required by law.”

25 **Section 8. Appointment of Special Prosecutor.**

26 (a) Subject to the requirements of the procurement law, *I Maga'hågan*
27 *Guåhan* shall immediately procure the services of a Special Prosecutor to take over

1 all civil and criminal investigations into the activities of government of Guam
2 agencies currently pending in the Office of the Attorney General, including those
3 activities identified by the Public Auditor, and to initiate and prosecute any civil and
4 criminal actions resulting from such investigations against directors and employees
5 of government of Guam agencies for actions alleged to have been performed in the
6 course of their official duties. The Special Prosecutor shall also take over all civil
7 and criminal actions currently pending against directors and employees of
8 government of Guam agencies for actions alleged to have been performed in the
9 course of their official duties. Should new complaints arise that require civil or
10 criminal investigation into the activities of government of Guam agencies, such
11 matters shall be referred to the Special Prosecutor. The Attorney General shall
12 cooperate in the transition of such investigators and matters to the Special
13 Prosecutor, and shall thereafter not interfere with the investigations and proceedings.
14 In the event such complaints, investigations, or actions involve the Office of the
15 Governor, the Public Auditor shall procure the necessary Special Prosecutor
16 services.

17 (b) Subject to the limitations in the following paragraphs, the Special
18 Counsel or Special Prosecutor shall exercise, within the scope of his or her
19 jurisdiction, the full power and independent authority to exercise all investigative
20 and prosecutorial functions of any employee of the Attorney General's Office.
21 Except as provided in this part, the Special Counsel or Special Prosecutor shall
22 determine whether and to what extent to inform or consult with other government
23 officials about the conduct of his or her duties and responsibilities.

24 (c) To the extent possible, a Special Counsel or Special Prosecutor shall
25 comply with the rules, regulations, procedures, practices and policies of the
26 government of Guam, including the Office of the Attorney General. He or she shall
27 consult with appropriate offices within the government of Guam for guidance with

1 respect to established practices, policies, and procedures of the government of
2 Guam, including ethics and security regulations and procedures.

3 (d) The Special Counsel or Special Prosecutor shall be independent and
4 generally not be subject to the day-to-day supervision of any official of the
5 government of Guam, including the Attorney General of Guam.

6 **Section 9. Transition of Duties.** The Compiler of Laws shall compile all
7 statutes and regulations that assign duties to the Attorney General for further
8 legislative action including possible reassignment of such duties, where appropriate,
9 to the Office of the Public Prosecutor. The Compiler of Laws shall provide a report
10 summarizing such statutes and regulations to *I Maga'hågan Guåhan* and *I*
11 *Liheslaturan Guåhan* within One Hundred Eighty (180) days of this enactment.

12 **Section 10. Effective Date.** This Act shall be effective upon enactment.