I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN

2018 (SECOND) Regular Session

LEGISLATIVE SESSION VOTING RECORD

Bill No. 168-34 (COR) As corrected by the Prime Sponsor; and amended by the Committee on Appropriations and Adjudication.	**Speaker Antonio R. Unpingco Legislative Session Hall** **January 26, 2018**					
NAME	**Aye**	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**	**Excused**
Senator Thomas C. **ADA**	√					
Senator FRANK B. **AGUON, JR.**	√					
Senator William M. **CASTRO**	√					
Speaker Benjamin J.F. **CRUZ**	√					
Senator James V. **ESPALDON**	√					
Senator Fernando Barcinas **ESTEVES**	√					
Senator Régine Biscoe **LEE**	√					
Senator Tommy **MORRISON**	√					
Senator Louise B. **MUÑA**	√					
Senator Telena Cruz **NELSON**	√					
Senator Dennis G. **RODRIGUEZ, JR.**	√					
Senator Joe S. **SAN AGUSTIN**	√					
Senator Michael F.Q. **SAN NICOLAS**	√					
Vice Speaker Therese M. **TERLAJE**		√				
Senator Mary Camacho **TORRES**	√					
TOTAL:	**14**	**1**				
	Aye	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**	**Excused**

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

I = Pass

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. 168-34 (COR)
As corrected by the Prime Sponsor;
amended by the Committee on Appropriations
and Adjudication; and further amended on
the Floor.

*

Introduced by: Tommy Morrison
B. J.F. Cruz
William M. Castro

AN ACT TO *REPEAL* ARTICLE 2 OF CHAPTER 20, DIVISION 2, TITLE 5, GUAM CODE ANNOTATED; AND TO *ADD* A NEW ARTICLE 11 TO CHAPTER 1 OF DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE OFFICE OF TECHNOLOGY AS AN AGENCY OF THE GOVERNMENT OF GUAM.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Article 2 of Chapter 20, Division 2, Title 5, Guam Code Annotated, is hereby *repealed*.

Section 2. A new Article 11 is hereby *added* to Chapter 1 of Division 1, Title 5, Guam Code Annotated, to read as follows:

"**ARTICLE 11**

OFFICE OF TECHNOLOGY

§ 1935. Findings and Purposes.

§ 1936. Scope of Authority.

§ 1937. Definitions.

§ 1938. Office of Technology; Chief Technology Officer; Appointment and Qualifications.

§ 1939. Powers and Duties of the Chief Technology Officer; Generally.

§ 1940. Duties of the Chief Technology Officer Relating to Security of Government Information.

§ 1941. Project Management Duties of the Chief Technology Officer.

§ 1942. Major Information Technology Projects Proposals and the Establishment of Steering Committees.

§ 1943. Notice of Request for Proposals by Agencies/Programs Required to Make Purchases Through the Guam General Services Agency.

§ 1944. Notice of Request for Proposals by an Agency/Program Exempted from Submitting Purchases to the Guam General Services Agency.

§ 1945. Exemptions.

§ 1946. Voluntary Assistance.

§ 1947. Applicability of Succession of Article.

§ 1948. Semi-Annual Reporting.

§ 1935. Findings and Purposes.

I Liheslaturan Guåhan finds and declares that information technology is essential to finding practical solutions to the everyday problems of government, and that the management goals and purposes of government are furthered by the development of compatible, linked information systems across government. Therefore, it is the purpose of this Article to create the Office of Technology with the authority to advise and make recommendations to all local governmental units on their information systems, and to have the authority to oversee coordination of the government's technical infrastructure.

§ 1936. Scope of Authority.

This Article *shall* apply to all agencies of the executive branch of the government of Guam, not including the autonomous agencies as defined by 12 GCA. This Article *shall not* apply to the legislative and judicial branches of the government of Guam.

§ 1937. Definitions.

As used in this Article:

(a) *information systems* means computer-based information equipment and related services designed for the automated transmission, storage, manipulation and retrieval of data by electronic or mechanical means;

(b) *information technology* means data processing and telecommunications hardware, software, services, supplies, personnel, maintenance, and training, and includes the programs and routines used to employ and control the capabilities of data processing hardware;

(c) *information equipment* includes central processing units, front-end processing units, microprocessors and related peripheral equipment, including data storage devices, networking equipment, services, routers, document scanners, data entry equipment, terminal controllers, data terminal equipment, and computer-based word processing systems, other than memory typewriters;

(d) *related services* includes feasibility studies, systems design, software development and time-sharing services, whether provided by government of Guam employees or others;

(e) *telecommunications* means any transmission, emission or reception of signs, signals, writings, images, or sounds of intelligence of any nature by wire, radio, or other electromagnetic or optical systems. The term includes all facilities and equipment performing those functions that are owned, leased or used by the executive agencies of the government;

(f) *Chief Technology Officer* means the person holding the position created in § 1938 of this Article, and vested with the authority to oversee agencies/programs in planning and coordinating information systems that serve the effectiveness and efficiency of the government and individual agencies/programs, and further the overall management goals and purposes of government;

(g) *technical infrastructure* means all information systems, information technology, information equipment, telecommunications, and related services, as defined in this Section;

(h) *information technology project* means the process by which telecommunications, automated data processing, databases, the internet, management information systems and related information, equipment, goods and services are planned, procured and implemented;

(i) *major information technology project* means any information technology project estimated to cost more than One Hundred Thousand Dollars ($100,000), or require more than three hundred (300) man hours to complete; and

(j) *steering committee* means an internal agency oversight committee established jointly by the Chief Technology Officer and the agency requesting the project, which *shall* include representatives from the Office of Technology and at least one (1) representative from the agency requesting the project.

§ 1938. Office of Technology; Chief Technology Officer; Appointment and Qualifications.

(a) There is within the Executive Branch an agency of the government of Guam known as the Office of Technology. The head of the Office of Technology *shall* be the Chief Technology Officer who *shall* be appointed by *I Maga'låhen Guåhan* (the Governor) with the advice and consent of *I*

Liheslaturan Guåhan (the Legislature). *I Maga'låhen Guåhan* may create and empanel an advisory council within the Office of Technology to provide guidance and expertise to the Chief Technology Officer and the Office of Technology staff. The Chief Technology Officer *shall* have knowledge in the field of information technology, experience in the design and management of information systems and an understanding of the special demands upon government with respect to budgetary constraints, the protection of privacy interests, and federal and local standards of accountability. The Chief Technology Officer *shall* be responsible for the administration of this Article and *shall* supervise the staff of the Office of Technology. The staff *shall* be organized into such divisions, sections, or units as are sufficient to perform the responsibilities outlined in this Article.

(b) The candidate for the position of Chief Technology Officer *shall* have at least five (5) years of managerial experience in the field of information technology, management information systems, financial information systems, or closely related field, in a company or governmental agency with revenues in excess of Ten Million Dollars ($10,000,000).

§ 1939. Powers and Duties of the Chief Technology Officer; Generally.

(a) With respect to all agencies/programs, the Chief Technology Officer may:

(1) develop an organized approach to information resource management for the government of Guam;

(2) provide, with the assistance of the information/technology/communications services of the Department of Administration, technical assistance to the administrators of the various agencies/programs in the design and management of information systems;

(3) evaluate, in conjunction with the Information Services and Communications Division, the economic justification, system design and suitability of information equipment and related services, and review and make recommendations on the purchase, lease or acquisition of information equipment, and contracts for related services by the agencies/programs;

(4) develop a mechanism for identifying those instances where systems of paper forms should be replaced by direct use of information equipment, and those instances where applicable government of Guam or federal standards of accountability demand retention of some paper processes;

(5) develop a mechanism for identifying those instances where information systems should be linked and information shared, while providing for appropriate limitations on access and the security of information;

(6) create new technologies to be used in government, convene conferences, and develop incentive packages to encourage the utilization of technology;

(7) engage in any other activities as directed by *I Maga'låhen Guåhan*;

(8) monitor trends and advances in information technology and technical infrastructure;

(9) direct the formulation and promulgation of policies, guidelines, standards and specifications for the development and maintenance of information technology and technical infrastructure, including, but not limited to:

(A) standards to support the government of Guam and the exchange, acquisition, storage, use, sharing and distribution of electronic information;

(B) standards concerning the development of electronic transactions, including the use of electronic signatures;

(C) standards necessary to support a unified approach to information technology across the totality of the government of Guam, thereby assuring that the residents and businesses of Guam receive the greatest possible security, value and convenience from investments made in technology;

(D) guidelines directing the establishment of government-wide standards for the efficient exchange of electronic information and technology, including technical infrastructure, between the public and private sectors;

(E) technical and data standards for information technology and related systems to promote efficiency and uniformity;

(F) technical and data standards for the connectivity, priorities and interoperability of technical infrastructure used for homeland security, public safety and health, and systems reliability necessary to provide continuity of government operations in times of disaster or emergency; and

(G) technical and data standards for the coordinated development of infrastructure related to deployment of electronic government services;

(10) periodically evaluate the feasibility of subcontracting information technology resources and services, and to subcontract only

those resources that are feasible and beneficial to the government of Guam;

(11) direct the compilation and maintenance of an inventory of information technology and technical infrastructure, which may include personnel, facilities, equipment, goods and contracts for services, wireless tower facilities, geographic information systems, and any technical infrastructure or technology that is used for law enforcement, homeland security, or emergency services;

(12) develop job descriptions and qualifications necessary to perform duties related to information technology as outlined in this Article;

(13) periodically evaluate government-wide public safety/homeland security communications system/network requirements, inclusive of the "911" system, and report findings and recommendations to *I Maga'låhen Guåhan* and *I Liheslaturan Guåhan*, and provide support for the procurement, installation and operation of such systems/networks; and

(14) promulgate rules as may be necessary to standardize and make effective the administration of the provisions of Article 6 of Chapter 20 of Title 5 of the Guam Code Annotated.

(b) With respect to executive agencies, the Chief Technology Officer may:

(1) develop a unified and integrated structure for information systems for all executive agencies, consistent with respective Standard Operating Procedures, local and federal regulations, and industry standards;

(2) establish, based on need and opportunity, priorities and timelines for addressing the information technology requirements of the various executive agencies of the government of Guam;

(3) exercise authority delegated by *I Maga'låhi* (the Governor) by executive order to overrule and supersede decisions made by the administrators of the various executive agencies of government with respect to the design and management of information systems and the purchase, lease or acquisition of information equipment and contracts for related services;

(4) draw upon staff of other executive agencies for advice and assistance in the formulation and implementation of administrative and operational plans and policies; and

(5) recommend to *I Maga'låhi* (the Governor) transfers of equipment and human resources from any executive agency, and the most effective and efficient uses of the fiscal resources of executive agencies, to consolidate or centralize information-processing operations.

(c) The Chief Technology Officer may employ the personnel necessary to carry out the work of the Office of Technology, and may approve reimbursement of costs incurred by employees to obtain education and training.

(d) The Chief Technology Officer *shall* oversee telecommunications services used by agencies/programs for the purpose of maximizing efficiency to the fullest possible extent. The Chief Technology Officer may establish microwave or other networks and hops; audit telecommunications services and usage; recommend and develop strategies for the discontinuance of obsolete or excessive utilization; participate in the renegotiation of telecommunications contracts; and encourage the use of technology and take other actions necessary to provide the greatest value to the government of Guam.

§ 1940. Duties of the Chief Technology Officer Relating to Security of Government Information.

(a) The Chief Technology Officer *shall* ensure the security of government information and the data communications infrastructure from unauthorized uses, intrusions, or other security threats. At a minimum, these policies, procedures and standards *shall* identify and require the adoption of practices to safeguard information systems, data and communications infrastructures, as well as define the scope and regularity of security audits, and which bodies are authorized to conduct security audits. The audits may include reviews of physical security practices.

(b) Annual Audits.

(1) The Chief Technology Officer *shall*, at least annually, perform security audits of all executive branch agencies regarding the protection of government databases and data communications.

(2) Security audits may include, but are not limited to, on-site audits, as well as reviews of all written security procedures and documented practices.

(c) The Chief Technology Officer may contract with a private firm, or firms, that specialize in conducting these audits.

(d) All public bodies subject to the audits required by this Section *shall* fully cooperate with the entity designated to perform the audit.

(e) The Chief Technology Officer may direct specific remediation actions to mitigate findings of insufficient administrative, technical and physical controls necessary to protect government information or data communication infrastructures.

(f) The Chief Technology Officer *shall* promulgate rules to minimize vulnerability to threats and to regularly assess security risks, determine

appropriate security measures, and perform security audits of government information systems and data communications infrastructures.

(g) The Chief Technology Officer *shall* ensure compliance with confidentiality restrictions and other security guidelines applicable to law enforcement agencies, emergency response personnel, and emergency management operations.

(h) The provisions of this Section *shall not* infringe upon the responsibilities assigned to the Public Auditor, or other statutory requirements.

(i) In consultation with the Adjutant General, the Chief of Police, the Fire Chief, and the Director of the Division of Homeland Security, the Chief Technology Officer is responsible for the development and maintenance of an information systems disaster recovery system for the government of Guam with redundant sites in two (2) or more locations isolated from reasonably perceived threats to the primary operations of the government of Guam. The Chief Technology Officer *shall* develop specifications, funding mechanisms and participation requirements for all executive branch agencies to protect the government of Guam's essential data, information systems, and critical government services in times of emergency, inoperativeness, or disaster. Each executive branch agency *shall* assist the Chief Technology Officer in planning for its specific needs, and provide to the Chief Technology Officer any information or access to information systems or equipment that may be required in carrying out this purpose. No government-wide or executive branch agency procurement of disaster recovery services may be initiated, let or extended without the expressed consent of the Chief Technology Officer.

§ 1941. Project Management Duties of the Chief Technology Officer.

The Chief Technology Officer *shall* be the project manager for all technology projects of agencies under the jurisdiction of this Article. The Chief Technology Officer may delegate project management duties to an employee or a contract manager in the event that the project's funding sources, such as a grant or specific appropriation, allows funds to be expended for project management.

§ 1942. Major Information Technology Projects Proposals and the Establishment of Steering Committees.

(a) Prior to proceeding with a major information technology project, an agency *shall* submit a project proposal outlining the business need for the project, the proposed technology solution, if known, and an explanation of how the project will support the agency's business objective and the government of Guam's strategic plan for information technology. The project manager may require the submission of additional information as needed to adequately review any proposal.

(b) The proposal will further include:

(1) a detailed business case plan, including a cost-benefit analysis;

(2) a business process analysis, if applicable;

(3) system requirements, if known;

(4) a proposed development plan and project management structure;

(5) business goals and measurement criteria, as appropriate; and

(6) a proposed resource or funding plan.

(c) The project manager assigned to review the project development proposal *shall* recommend its approval or rejection to the Chief Technology Officer. If the Chief Technology Officer approves the proposal, then he or she *shall* notify the agency of its approval.

(d) Whenever an agency has received approval from the Chief Technology Officer to proceed with the development and acquisition of a major information technology project, the Chief Technology Officer *shall* establish a steering committee.

(e) The steering committee *shall* provide ongoing oversight for the major information technology project, and have the authority to approve or reject any changes to the project's scope, schedule or budget.

(f) The Chief Technology Officer *shall* ensure that the major information technology project has in place adequate project management and oversight structures for addressing the project's scope, schedule or budget, and *shall* address issues that cannot be resolved by the steering committee.

§ 1943. Notice of Request for Proposals by Agencies/Programs Required to Make Purchases Through the Guam General Services Agency.

Any agency/program that pursues an information technology purchase that does not meet the definition of a "major information technology project," and that is required to submit a request for proposal to the Guam General Services Agency prior to purchasing goods or services, *shall* obtain the approval of the Chief Technology Officer, in writing, of any proposed purchase of goods or services related to its information technology and telecommunications systems. The notice *shall* contain a brief description of the goods and services to be purchased. The agency/program *shall* provide the notice to the Chief Technology Officer prior to the time it submits its request for proposal to the Guam General Services Agency.

§ 1944. Notice of Request for Proposals by an Agency/Program Exempted from Submitting Purchases to the Guam General Services Agency.

(a) Any agency/program that is not required to submit a request for proposal to the Guam General Services Agency prior to purchasing goods or services *shall* notify the Chief Technology Officer, in writing, of any proposed purchase of goods or services related to its information technology or telecommunications systems. The notice *shall* contain a detailed description of the goods and services to be purchased. The agency/program *shall* provide the notice to the Chief Technology Officer a minimum of ten (10) days prior to the time it requests bids on the provision of the goods or services.

(b) If the Chief Technology Officer evaluates the suitability of the information technology and telecommunications equipment and related services under the provisions of § 1939(a)(3) of this Article, and determines that the goods or services to be purchased are not suitable, he or she *shall*, within ten (10) days of receiving the notice from the agency/program, notify the agency/program, in writing, of any recommendations he or she has regarding the proposed purchase of the goods or services. If the agency/program receives a written notice from the Chief Technology Officer within the time period required by this Section, the agency/program *shall not* put the goods or services out for bid less than fifteen (15) days following receipt of the notice from the Chief Technology Officer.

§ 1945. Exemptions.

(a) The provisions of this Article *shall not* apply to autonomous agencies as defined by 12 GCA, *I Liheslaturan Guåhan*, the Judiciary, the Public Defender Service Corporation, the Office of Public Accountability, and the Office of the Attorney General.

(b) Notwithstanding any other provision of this Article to the contrary, except for participation in the compilation and maintenance of an inventory of information technology and technical infrastructure of the government of Guam

authorized by § 1939 of this Article, the provisions of this Article *shall not* apply to the Guam Department of Education. The Guam Department of Education may cooperate and collaborate with the Chief Technology Officer to the extent feasible.

(c) *I Maga'låhen Guåhan* may, by executive order, exempt from the provisions of this Article any entity created and organized to facilitate the public and private use of health care information and the use of electronic medical records throughout the government of Guam.

§ 1946. Voluntary Assistance.

Any branch or agency exempt from the provisions of this Article by § 1945(a) of the same, may, by memorandum of understanding, avail itself of any of the services offered by the Office of Technology if such branch or agency determines that acquiring such services is feasible. Such memorandum of understanding may include fees and costs paid by the branch or agency, except that no fees for such services shall be paid by the Office of Attorney General or the Office of Public Accountability. The Chief Technology Officer *shall* create a schedule of fees, rates, and other consideration for services rendered to other government of Guam agencies, departments, public corporations and instrumentalities. Such schedule and any changes to such schedule must be approved by *I Maga'låhen Guåhan* and transmitted to *I Liheslaturan Guåhan* in bill form. The fee schedule and any future changes to the fee schedule *shall* be subject to approval by *I Liheslaturan Guåhan* after the following conditions are met:

(a) at least one (1) public hearing for the affected agencies on the fee schedules is held by the Office of Technology pursuant to Chapter 9 of 5 GCA; and

(b) submission of the fee schedule to *I Liheslaturan Guåhan*, inclusive of the minutes of such hearing(s) on the fee schedules. Prior to initiating services requested by an agency where fees, rates or other consideration are required, the work order for such services must be certified for availability of funds and approved by the agency's approving officer.

§ 1947. Applicability of Succession of Article.

All references to "Automated Data Processing Act," as contained in Article 2, Chapter 20, 5 GCA prior to the enactment of P.L. 32-10 and this Act, *shall* henceforth refer to the Office of Technology. The Compiler of Laws *shall* make appropriate changes in the codification of public law consistent with this Section.

The Office of Technology *shall* assume all personnel, funding, facilities, equipment, supplies, records, and obligations required by contract, memoranda of understanding, rule, regulation and executive order, of the Department of Administration as related to the operation of Article 2, Chapter 20, 5 GCA prior to the enactment of P.L. 32-10. All personnel, funding, facilities, equipment, supplies, records, and obligations required by contract, memoranda of understanding, rule, regulation and executive order, of the Office of Technology following the enactment of P.L. 32-10 *shall* also be transferred from the Department of Administration to the Office of Technology as established by this Article.

§ 1948. Semi-Annual Reporting. The Chief Technology Officer *shall* submit a report to *I Liheslaturan Guåhan* every six (6) months on the activities of the Office of Technology."

Section 3. Reorganization Plan. The Chief Technology Officer of the Office of Technology *shall* within one hundred eighty (180) days of enactment

of this Act, and as part of each budget preparation of this Office, transmit a proposed reorganization plan for the Office of Technology and a Technology Master Plan of the government of Guam to *I Liheslaturan Guåhan* and *I Maga'låhen Guåhan* for consideration, of any and all divisions within the government of Guam to unify the necessary purposes and functions of this Office throughout the government of Guam.

Section 4. Effective Date. This Act *shall* become effective October 1, 2018. The Office of Technology and the Department of Administration *shall* complete all transition requirements no later than December 31, 2018.

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