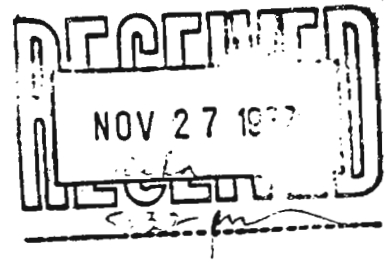




*Territory of Guam*

OFFICE OF THE GOVERNOR  
AGANA, GUAM 96910  
U.S.A.



November 27, 1987

The Honorable Franklin J.A. Quitugua  
Speaker, Nineteenth Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

Dear Mr. Speaker:

Attached, herewith is a copy of Public Law 19-12 Bill No. 546, signed into law on November 27, 1987.

Thank you for your usual cooperation on this matter.

Sincerely,

*Joseph F. Ada*  
JOSEPH F. ADA  
Governor

Attachment

19-398

*Rec'd Legal*  
*11/30/87*  
*8:30 A.M.*  
*[Signature]*

002584

## INTRODUCTION

The Committee on Economic Development, Insurance and Banking held a public hearing on September 1, 1987, at 6:30 p.m. in the Legislative Session Hall, on two bills dealing with procedural matters regarding bond issues. They are:

BILL NO. 297 (COR): AN ACT TO ADD A NEW CHAPTER 13 TO TITLE VII-A OF THE GOVERNMENT CODE REGARDING COMPETITIVE SEALED PROPOSALS FOR BOND ISSUES. *(Introduced by Sen. Joe T. San Agustin)*

and

BILL NO. 546 (LS): NEW 12 GCA §§2103.1 AND 2425 ARE ADDED AND 12 GCA §2425 IS REPEALED AND REENACTED, RELATIVE TO REQUIRING THE GUAM ECONOMIC DEVELOPMENT AUTHORITY TO FOLLOW SPECIFIC PROCEDURES PRIOR TO ISSUING BONDS FOR THE TERRITORY OF GUAM AND TO CHANGE FEES PERTAINING TO QUALIFYING CERTIFICATES. *(Introduced by Sens. John F. Quan and J. George Bamba)*

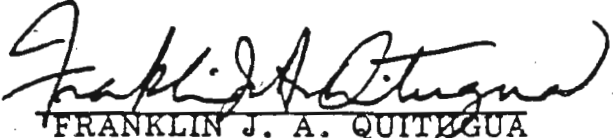
Present at the hearing were Chairman John F. Quan and Senators Marcia K. Hartsock and J. George Bamba.

Sen. Quan remarked that Bill 297, introduced by Sen. Joe T. San Agustin, and Bill 546, introduced by himself and Sen. Bamba, were similar in nature and thus testimony for both bills would be taken and they would be discussed at the same time.

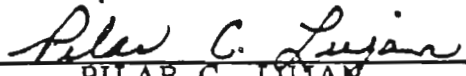
NINETEENTH GUAM LEGISLATURE  
1987 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

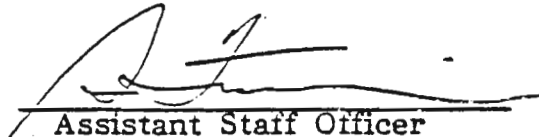
This is to certify that Substitute Bill No. 546 (LS), "NEW 12 GCA §§2103.1, 2103.2 AND 2425 ARE ADDED AND 12 GCA §2424 IS REPEALED AND REENACTED, RELATIVE TO REQUIRING THE GUAM ECONOMIC DEVELOPMENT AUTHORITY TO FOLLOW SPECIFIC PROCEDURES PRIOR TO ISSUING BONDS FOR THE TERRITORY OF GUAM AND TO CHANGE FEES PERTAINING TO QUALIFYING CERTIFICATES," was on the 12th day of November, 1987, duly and regularly passed.

  
FRANKLIN J. A. QUITAGUA  
Speaker

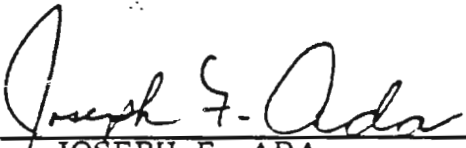
Attested:

  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 16<sup>th</sup> day of Nov., 1987,  
at 1:00 o'clock p.m.

  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
JOSEPH F. ADA  
Governor of Guam

Date: November 27, 1987

Public Law No. 19-12

NINETEENTH GUAM LEGISLATURE  
1987 (FIRST) Regular Session

Bill No. 546 (LS)  
Substitute

Introduced by:

J. F. Quan  
J. T. San Agustin  
J. G. Bamba

---

M. D. A. Manibusan  
E. P. Arriola  
H. D. Dierking  
E. R. Duenas  
M. K. Hartsock  
A. C. Lamorena III  
P. C. Lujan  
J. G. Miles  
T. S. Nelson  
D. Parkinson  
F. J. A. Quitugua  
J. M. Rivera  
M. C. Ruth  
F. R. Santos  
A. J. Shelton

NEW 12 GCA §§ 2103.1, 2103.2 AND 2425 ARE  
ADDED AND 12 GCA §2424 IS REPEALED AND  
REENACTED, RELATIVE TO REQUIRING THE  
GUAM ECONOMIC DEVELOPMENT AUTHORITY  
TO FOLLOW SPECIFIC PROCEDURES  
PRIOR TO ISSUING BONDS FOR THE  
TERRITORY OF GUAM AND TO CHANGE  
FEES PERTAINING TO QUALIFYING  
CERTIFICATES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. A new 12 GCA §2103.1 is added to read:

3 "§2103.1. Procedure for issuing bonds pursuant to 12 GCA §2103  
4 (k). (a) Bond Counsel. An experienced bond counsel shall  
5 be retained for each bond obligation issued by the Authority  
6 following General Services Administration procurement guidelines  
7 dealing with legal services. A bond counsel may be either kept  
8 on retainer or contracted separately for each issue. The  
9 Authority's bond counsel shall represent only the Authority and

1 the government of Guam in each issue and neither the bond  
2 counsel nor any member of counsel's firm shall represent any  
3 other interest in each bond issue. The bond counsel shall be  
4 involved at every level of decision making regarding bond issues.

5 (b) Underwriters. The Authority shall select underwriters  
6 based on the following procedures:

7 (1) Underwriters shall be chosen from replies to  
8 requests for proposals (RFPs) issued by the Authority. A  
9 minimum of five (5) underwriters shall be sent RFPs for each  
10 bond issue. A minimum of two (2) replies to RFPs must be  
11 received or the RFPs shall be cancelled and new RFPs  
12 issued.

13 (2) All of the replies to RFPs shall be received at a  
14 location to be determined by the Authority prior to issuance  
15 of the RFPs and maintained there unopened until the date  
16 set for opening. One (1) person shall be responsible for  
17 the custody of the proposals to ensure the integrity of the  
18 process.

19 (3) The Authority shall designate one (1) person to  
20 handle all communications with underwriters to ensure  
21 continuity of information. All communications with  
22 underwriters shall be channeled through this individual who  
23 shall speak for the Authority. Copies of all communications  
24 to and from the designee and the underwriters shall be made  
25 available to all members of the Board.

26 (4) Members of the Board shall not discuss with  
27 underwriters any proposal currently under consideration.

28 (5) The Authority shall set a date for the opening of  
29 the replies to RFPs from underwriters. The presence of a  
30 quorum of the Board shall be required for the initial opening  
31 of the replies to RFPs and sufficient copies of the replies to  
32 RFPs shall be made available to the Board. After the replies  
33 to RFPs are distributed to the Board, the meeting may be

1 adjourned and reconvened but only within 15 (fifteen)  
2 working days of the opening of the replies to RFPs.

3 (6) Upon selection of an underwriter, the selected and  
4 unselected underwriters shall be immediately notified of the  
5 action. No modifications to the replies of RFPs submitted by  
6 the underwriters shall be allowed after opening, except that,  
7 if the Authority narrows the selection to two (2) or more  
8 underwriters, final presentations by the narrowed group of  
9 underwriters shall be presented to the Board at a time and  
10 place to be determined by the Board, and minor modifications  
11 and clarifications of the proposals will be permitted. If the  
12 selection process is carried over to a meeting outside of  
13 Guam, this final selection process shall either be videotaped  
14 or voice recorded for presentation to the whole Board.  
15 After reviewing the final presentations of the narrowed  
16 group of underwriters, the Board shall, within 10 (ten)  
17 working days of final presentation, select either one (1)  
18 managing underwriter or two (2) co-managing underwriters  
19 for the bond issue.

20 (c) Trustee. Trustees shall be chosen from replies to RFPs  
21 issued by the Authority. RFPs shall be sent to a minimum of  
22 three (3) trustees for each bond issue. The Authority shall  
23 establish a deadline which will give interested parties sufficient  
24 time to prepare replies to RFPs and sufficient time to transmit the  
25 replies to a specified location. Replies shall be opened at a  
26 specified location and time by a specified designee of the Board,  
27 in accordance with Guam's open government laws. A minimum of  
28 two (2) replies to RFPs must be received or the RFPs shall be  
29 cancelled and new RFPs issued.

30 (d) Depository. Depositories shall be chosen from replies  
31 to RFPs issued by the Authority. RFPs shall be sent a minimum  
32 of three (3) depositories for each bond issue. The Authority  
33 shall establish a deadline which will give interested parties

1 sufficient time to prepare replies to RFPs and sufficient time to  
2 transmit their proposals to a specified location. Replies shall be  
3 opened at a specified location and time by a specified designee of  
4 the Board, in accordance with Guam's open government laws. A  
5 minimum of two (2) replies to RFPs must be received or the RFPs  
6 shall be cancelled and new RFPs issued.

7 (e) Municipal Paying Agent. Municipal paying agents shall  
8 be chosen from replies to RFPs issued by the Authority. RFPs  
9 shall be sent to a minimum of three (3) reputable municipal  
10 paying agents for each bond issue. The Authority shall establish  
11 a deadline which will give interested parties sufficient time to  
12 prepare replies to RFPs and sufficient time to transmit the replies  
13 to a specified location. Replies shall be opened at a specified  
14 location and time by a specified designee of the Board, in  
15 accordance with Guam's open government laws. A minimum of two  
16 (2) replies to RFPs must be received or the RFPs shall be  
17 cancelled and new RFPs issued.

18 (f) Financial services. In lieu of the provisions of §2103.1  
19 (c), (d) and (e), the Authority may opt to choose one firm to  
20 perform all financial services described in §2103.1 (c), (d) and  
21 (e). The provider of financial services shall be chosen from  
22 replies to RFPs issued by the Authority. A minimum of five (5)  
23 firms shall be sent RFPs for each bond issue. A minimum of two  
24 (2) replies to RFPs must be received or the RFPs shall be  
25 cancelled and new RFPs issued.

26 §2103.2. Award. Award shall be made to the responsible  
27 offeror whose proposal in writing is the most advantageous to the  
28 territory taking into consideration price and the evaluation factors set  
29 forth in the RFPs. The contract file shall contain the basis on which  
30 the award is made."

31 Section 2. 12 GCA §2424 is repealed and reenacted to read:

32 "§2424. Fees. Upon the effective date of this Act and until  
33 modified pursuant to 12 GCA §2425, the following fees shall be

1 assessed against each corporate applicant and corporate recipient of a  
2 Qualifying Certificate:

|    |                             | Annual           |
|----|-----------------------------|------------------|
|    | Filing Fee                  | Surveillance Fee |
| 3  |                             |                  |
| 4  |                             |                  |
| 5  | Agriculture                 | \$ 50 \$1,000    |
| 6  | Watch Manufacturing         | \$250 \$1,000    |
| 7  | Other Manufacturing         | \$250 \$1,000    |
| 8  | Commercial Fishing          | \$ 50 \$1,000    |
| 9  | Services                    | \$250 \$1,000    |
| 10 | Hotels and Motels           | \$500 \$1,000    |
| 11 | Other Tourist Facilities    | \$500 \$1,000    |
| 12 | Industrial Facilities       | \$500 \$1,000    |
| 13 | Captive Insurance Companies | \$500 \$1,000"   |

14 Section 3. A new 12 GCA §2425 is added to read: .

15 "§2425. Periodic Adjustment of Fees. The Board is authorized to  
16 adjust the fees listed in 12 GCA §2424 on an annual basis, at the  
17 beginning of each calendar year starting with calendar year 1988, upon  
18 demonstration to the Board by the Administrator that the cost of  
19 performing the services covered by the fees is greater than the  
20 amount of the fees. Fee changes shall be made according to the  
21 provisions of the Administrative Adjudication Law."



NINETEENTH GUAM LEGISLATURE

ROLL CALL SHEET

Bill No. 546

DATE: 1/12/87

Res. No. \_\_\_\_\_

QUESTION: \_\_\_\_\_

| SENATOR                   | <u>AYE</u> | <u>NAY</u> | <u>NOT VOTING</u> | <u>ABSENT</u> |
|---------------------------|------------|------------|-------------------|---------------|
| <u>E. P. Arriola</u>      | ✓          |            |                   |               |
| <u>J. G. Bamba</u>        | ✓          |            |                   |               |
| <u>M. Z. Bordallo</u>     |            |            |                   | ✓             |
| <u>H. D. Dierking</u>     | ✓          |            |                   |               |
| <u>E. R. Duenas</u>       | ✓          |            |                   |               |
| <u>E. M. Espaldon</u>     |            |            |                   | ✓             |
| <u>F. J. Gutierrez</u>    |            |            |                   | ✓             |
| <u>M. K. Hartsock</u>     | ✓          |            |                   |               |
| <u>A. C. Lamorena III</u> | ✓          |            |                   |               |
| <u>P. C. Lujan</u>        | ✓          |            |                   |               |
| <u>M. D. A. Manibusan</u> | ✓          |            |                   |               |
| <u>J. G. Miles</u>        | ✓          |            |                   |               |
| <u>T. S. Nelson</u>       | ✓          |            |                   |               |
| <u>D. Parkinson</u>       | ✓          |            |                   |               |
| <u>J. F. Quan</u>         | ✓          |            |                   |               |
| <u>F. J. Quitugua</u>     | ✓          |            |                   |               |
| <u>J. M. Rivera</u>       | ✓          |            |                   |               |
| <u>M. C. Ruth</u>         | ✓          |            |                   |               |
| <u>J. T. San Agustin</u>  | ✓          |            |                   |               |
| <u>F. R. Santos</u>       | ✓          |            |                   |               |
| <u>A. J. Shelton II</u>   | ✓          |            |                   |               |
|                           | 18         |            |                   | 3             |



# 19th Guam Legislature

P.O. Box CB-1 Agana, Guam 96910 • 472-3436, 472-3497, 477-7569

## Senator JOHN F. QUAN

Chairman, Committee on Economic Development, Banking and Insurance

Vice Chairman, Committee on Tourism, Transportation and Communications

Vice Chairman, Committee on Education

Member, Committee on Rules

Member, Committee on Ways and Means

September 14, 1987

Honorable Franklin J. A. Quitugua  
Speaker  
Nineteenth Guam Legislature  
P. O. Box CB-1  
Agana, Guam 96910

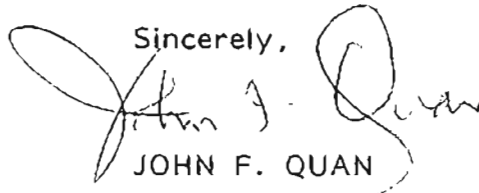
Dear Mr. Speaker:

The Committee on Economic Development, Banking and Insurance, to which Bill No. 546 was referred, wishes to report its findings and recommendations.

The Committee voting record on Bill No. 546, as Substituted is as follows:

|                           |                    |
|---------------------------|--------------------|
| TO PASS                   | <u>    -9-    </u> |
| NOT TO PASS               | <u>    -0-    </u> |
| TO REPORT OUT ONLY        | <u>    -0-    </u> |
| TO PLACE IN INACTIVE FILE | <u>    -0-    </u> |

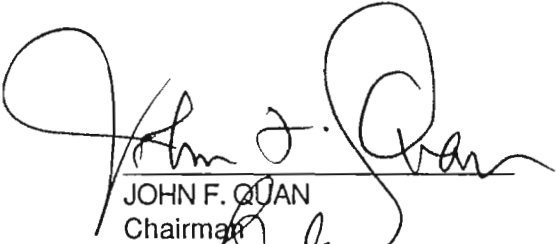
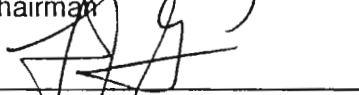
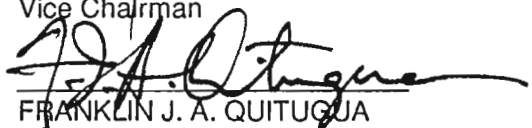
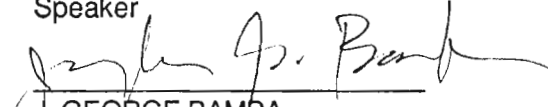


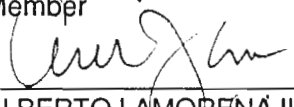

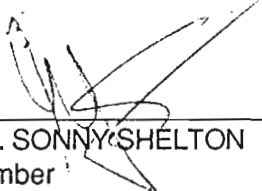
A copy of the report and all other pertinent documents are attached for your information.

Sincerely,  
  
JOHN F. QUAN

Attachments

**VOTING SHEET**  
**COMMITTEE ON ECONOMIC DEVELOPMENT, BANKING AND INSURANCE**

Bill 546: NEW 12 GCA §§2103.1 AND 2425 ARE ADDED AND 12 GCA §2425 IS REPEALED AND REENACTED, RELATIVE TO REQUIRING THE GUAM ECONOMIC DEVELOPMENT AUTHORITY TO FOLLOW SPECIFIC PROCEDURES PRIOR TO ISSUING BONDS FOR THE TERRITORY OF GUAM AND TO CHANGE FEES PERTAINING TO QUALIFYING CERTIFICATES

|   | TO<br>PASS | TO NOT<br>PASS | TO RPT.<br>OUT ONLY | TO PLACE IN<br>INACTIVE FILE |
|---|------------|----------------|---------------------|------------------------------|
| <br>JOHN F. QUAN<br>Chairman                | ✓          |                |                     |                              |
| <br>FRANKLIN J. GUTIERREZ<br>Vice Chairman | ✓          |                |                     |                              |
| <br>FRANKLIN J. A. QUITUGUA<br>Speaker     | ✓          |                |                     |                              |
| <br>J. GEORGE BAMBA<br>Member             | ✓          |                |                     |                              |
| <br>HERMINIA D. DIERKING<br>Member       | ✓          |                |                     |                              |
| <br>MARCIA K. HARTSOCK<br>Member         | ✓          |                |                     |                              |
| <br>ALBERTO LAMORENA III<br>Member       | ✓          |                |                     |                              |
| <br>MARTHA C. RUTH<br>Member             | ✓          |                |                     |                              |
| <br>A. J. SONNY SHELTON<br>Member        | ✓          |                |                     |                              |



# 19th Guam Legislature

P.O. Box CB-1 Agaña, Guam 96910 • 472-3435, 472-3497, 477-7589

Senator **JOHN F. QUAN**

Chairman, Committee on Economic Development, Banking and Insurance

Vice Chairman, Committee on Tourism, Transportation and Communications

Vice Chairman, Committee on Education

Member, Committee on Rules

Member, Committee on Ways and Means

September 14, 1987

Honorable Franklin J. A. Quitugua  
Speaker  
Nineteenth Guam Legislature  
P. O. Box CB-1  
Agaña, Guam 96910

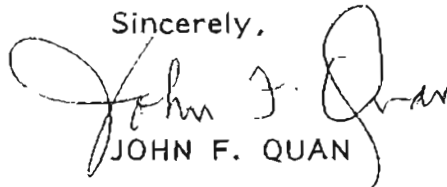
Dear Mr. Speaker:

The Committee on Economic Development, Banking and Insurance, to which Bill No. 297 was referred, wishes to report its findings and recommendations.

The Committee voting record on Bill 297 is as follows:

|                           |            |
|---------------------------|------------|
| TO PASS                   | <u>-1-</u> |
| NOT TO PASS               | <u>-0-</u> |
| TO REPORT OUT ONLY        | <u>-1-</u> |
| TO PLACE IN INACTIVE FILE | <u>-8-</u> |



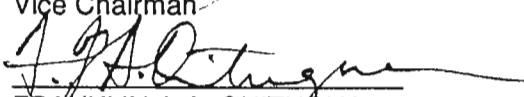
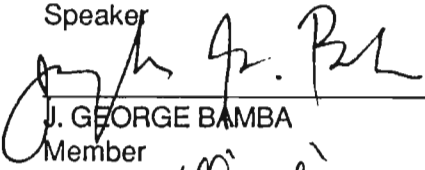
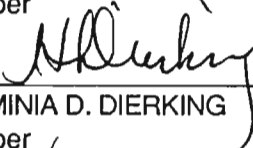
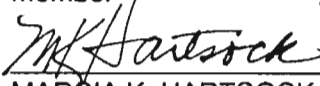
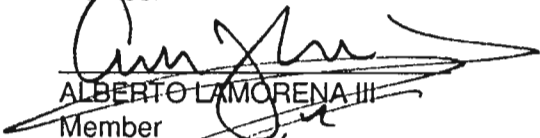
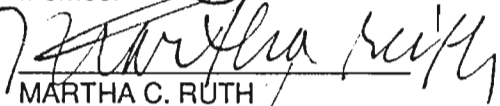
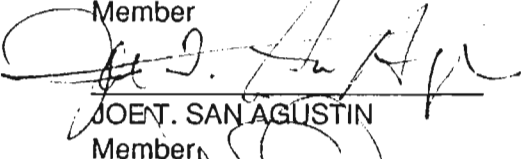

A copy of the report and all other pertinent documents are attached for your information.

Sincerely,  
  
JOHN F. QUAN

Attachments

**VOTING SHEET**  
**COMMITTEE ON ECONOMIC DEVELOPMENT, BANKING AND INSURANCE**

Bill 297: AN ACT TO ADD A NEW CHAPTER 13 TO TITLE VII-A OF THE GOVERNMENT CODE REGARDING COMPETITIVE SEALED PROPOSALS FOR BOND ISSUES

|   | TO PASS | TO NOT PASS | TO RPT. OUT ONLY | TO PLACE IN INACTIVE FILE |
|---|---------|-------------|------------------|---------------------------|
| <br>JOHN F. QUAN<br>Chairman               | _____   | _____       | _____            | ✓                         |
| <br>FRANKLIN J. GUTIERREZ<br>Vice Chairman | _____   | _____       | _____            | ✓                         |
| <br>FRANKLIN J. A. QUITUGUA<br>Speaker     | ✓       | _____       | _____            | ✓                         |
| <br>J. GEORGE BAMBA<br>Member             | _____   | _____       | _____            | ✓                         |
| <br>HERMINIA D. DIERKING<br>Member       | _____   | _____       | _____            | ✓                         |
| <br>MARCIA K. HARTSOCK<br>Member         | _____   | _____       | _____            | ✓                         |
| <br>ALBERTO LAMORENA III<br>Member       | _____   | _____       | _____            | ✓                         |
| <br>MARTHA C. RUTH<br>Member             | _____   | _____       | ✓                | _____                     |
| <br>JOET. SAN AGUSTIN<br>Member          | ✓       | _____       | _____            | _____                     |
| <br>A. J. SONNY SHELTON<br>Member        | _____   | _____       | _____            | ✓                         |

NINETEENTH GUAM LEGISLATURE

# COMMITTEE REPORT

## PUBLIC HEARING

SEPTEMBER 1, 1987  
Legislative Session Hall

Mark Up Meeting, SEPTEMBER 4, 1987

Bill 297: AN ACT TO ADD A NEW CHAPTER 13 TO TITLE  
VII-A OF THE GOVERNMENT CODE REGARDING  
COMPETITIVE SEALED PROPOSALS FOR BOND ISSUES

AND

Bill 546: NEW 12 GCA §§2103.1 AND 2425 ARE ADDED  
AND 12 GCA §2425 IS REPEALED AND REENACTED,  
RELATIVE TO REQUIRING THE GUAM ECONOMIC  
DEVELOPMENT AUTHORITY TO FOLLOW SPECIFIC  
PROCEDURES PRIOR TO ISSUING BONDS FOR  
THE TERRITORY OF GUAM AND TO CHANGE FEES  
PERTAINING TO QUALIFYING CERTIFICATES

COMMITTEE ON ECONOMIC DEVELOPMENT,  
INSURANCE AND BANKING

Sen. John F. Quan, Chairman

Vice Speaker Franklin Gutierrez, Vice Chairman

MEMBERS: Speaker Franklin Qultugua, Senators George Bamba, Herminia Dierking,  
Marcia Hartsock, Alberto Lamorena, Martha Ruth, Joe T. San Agustin, A. J. Sonny Shelton

# CONTENTS

| SUBJECT   | PAGE |
|---|------|
| INTRODUCTION  | ii.  |
| Bills 297 and 546   | 1.   |
| APPENDICES  | 11.  |
| a. Testimony from John S. Martinez                                  | 12.  |
| b. Testimony from Anthony A. Leon Guerrero                          | 15.  |
| c. Excerpt from <i>BusinessWeek</i> , August 17, 1987, page 122     | 16.  |
| d. Letter from Ms. Eloise Baza, President, Guam Chamber of Commerce | 17.  |
| e. Recommendations on amendments to GEDA programs from Chamber      | 18.  |
| f. Bill 297 (COR)   | 19.  |
| g. Bill 546 (LS)  | 21.  |
| h. Bill 546 (LS) As Substituted                                     | 25.  |

## BILLS 297 AND 546

Sen. Quan began the hearing by calling Governor's Assistant for Financial Affairs and Bond Issues Carl Taitano, Acting GEDA Board Chairman Anthony A. Leon Guerrero, Acting GEDA Administrator John Martinez and GEDA Attorney Duncan McCully to the stand.

Mr. Taitano began by stating that his testimony would be oral but he would submit written testimony on behalf of the administration at a later date. He said the administration agreed with the intent of Bill 546 and noted that the bill followed the basic guidelines formulated by the Debt Advisory Council of the Governor's Office. He stated that there were several recommendations he wanted to make which he believed would improve the proposed legislation.

Mr. Taitano's first recommendation was that the guidelines should apply to all of the Government of Guam, and not just the Guam Economic Development Authority. The second recommendation was that the legislation should include all types of debt, including lines of credit and borrowing, and not just bond issues. The third recommendation was that lines 15 to 17 on page 2, which read "...after the replies to RFPs are distributed to the Board, the meeting may be adjourned and reconvened but only within 10 (ten) working days of the opening of the replies to RFPs...", may be too restrictive and not give enough time for proper evaluation. His last recommendation was that there should be some provision for allowing for bidding by firms on a package of banking services, including trustee, depository and municipal paying agent.

Sen. Quan said he would like to hear all of the testimony first and then allow for questioning. He then invited Mr. Martinez to present his testimony.

Mr. Martinez read from a prepared statement. (*Appendix A*) He said that he approved of the intent and content of both bills and was surprised that the content of the bills do not already exist in Guam law. He was pleased that Bill 546 attempts to raise the application and surveillance fees for the Qualifying Certificate program, to bring them more in line with actual costs.

He noted that GEDA was working on a system of assessments for the QC program to help defray some of the expenses involved in performing the required services, and hoped to have draft legislation prepared in a few months. Meanwhile, he felt the provisions of Bill 546 would assist the Authority.



Mr. Leon Guerrero was the next to testify. He submitted written testimony (*Appendix B*) but did not read it into the record. He said that, although there were positive benefits to be gained from making decisions based on price and benefits alone, a thorough cost analysis and community impact should be taken into consideration.

Mr. McCully testified next, speaking in favor of Bill 546. He said he had experience, as a member of the Debt Advisory Council, in dealing with the refunding of the Territorial Highway Bond, and approved of the procedures in Bill 546, which closely parallel the procedures used by the DAC. He suggested that the law include all Government entities and be part of the Guam procurement law. He also suggested that lines 17 and 18 on page 2, "...no modifications to the replies of RFPs submitted by the underwriters shall be allowed after opening...", were too restrictive. He felt that some negotiating be allowed after the competing underwriters are "short listed" or narrowed down to just two or three prospects. Mr. McCully believes the Territory would be able to get a better deal from the underwriters in this manner.

He added that modification of bond issue proposals was standard practice and the potential for a lawsuit filed by a non-winning underwriter would be possible if the "no modifications" clause were allowed to remain in the legislation.

He said that he felt Bills 297 and 546 were similar in nature but that Bill 546 was a little better.

Mr. Leon Guerrero said he agreed with Mr. McCully. He said that as a practical matter it was not unusual for clarifications and modifications to be made to replies to RFPs to insure all aspects of the issue were covered properly and that the needs of the bond issuer were met. Mr. Leon Guerrero said he did not believe it would be proper to allow major modifications, but minor clarifications were almost always necessary when dealing with underwriters that were thousands of miles away. He said that when the short listed underwriters presented their proposals in person, numerous issues and items could arise that would require small modifications of the original proposal.

Sen. Quan stated that significant abuses had occurred in previous bond issues by the territory and he believed there was too much at stake in the future to proceed with further issues without proper guidelines in place. He said the intent of the two bills was to insure fair and equitable treatment of all parties involved, especially the bond counsel and underwriters, while giving the people of Guam the greatest benefit possible under the law.

He stressed that if modifications were to be allowed after the receipt of the proposals, then what was allowable must be spelled out carefully so there could be no mistakes or misinterpretations.

Mr. Leon Guerrero made a point about the potential of future issuance by GEDA of industrial and project revenue bonds which were often prenegotiated between private companies and private institutions. He suggested these may need to be excluded from the legislation.

Sen. Bamba began the questioning by asking about the role that GEDA was playing in the growing debt of the Government of Guam. He mentioned that GEDA had been removed from the refunding of the Highway Bond and the negotiations had been given to the Debt Advisory Council. He also assumed that the Governor's office would be handling the borrowing authority given in Bill 476. He wanted to know what kind of role GEDA was presently playing regarding debt issues by the government, and what their role would be in the future.

Mr. Leon Guerrero said that GEDA had specifically been eliminated from the refunding of the Highway Bond and the borrowing of the \$40 M, but with other issues that were soon to be considered, GEDA would be the agency that would take action. Sen. Bamba asked if another autonomous agency were to enter into negotiations regarding a bond issue, would GEDA be involved? Mr. Leon Guerrero said that was his understanding.

Sen. Bamba asked if the bills were enacted into law, would the other agencies be covered by the new legislation? Mr. McCully said other agencies granted bonding authority by the Legislature would be covered if the bill were modified to cover all government entities.

Sen. Bamba asked Mr. Taitano how closely Bill 546 followed the procedures set up by the Debt Advisory Council. Mr. Taitano said the procedures were pretty much the same. He said they were followed in most cases, but a different approach was taken for bond counsel, they were instead retained on an emergency need basis because of the desire to move on the refunding and the \$40 M borrowing authority. The firm of Carlsmith, Wichman, Case, Murkai and Ichiki was engaged as bond counsel.

Taitano went on to say that the DAC sent proposals to twelve underwriters and received nine responses. The DAC short listed two firms, Cranston Securities and Morgan Stanley. They were invited to make oral presentations. After the presentations, DAC selected Cranston. During the dealings with the underwriters, Mr. Taitano said, one person was assigned to handle all of the correspondence and communications and report to DAC.

Sen. Bamba said he was trying to determine if there was a way the bill could be changed or improved. He asked if there should be specific guidelines or parameters regarding the selection of the underwriters in order to avoid making the same mistakes made in the past. Mr. Taitano said it would be difficult to make a set of parameters that would be applicable in every situation. He said that, for example, based on price, Morgan Stanley would have been the least costly of the firms that bid on the Highway Bond refunding. However there was some risk involved and that eliminated the project. He also noted that another underwriter showed greater savings to the Government of Guam, but that firm was also eliminated because their reputation was not highly thought of and there may have been inaccuracies in their proposal.

Mr. Taitano said that many factors in addition to price needed to be considered, including the background of the underwriters, their reputation, whether or not they are financially capable of handling the issue, if they are under investigation by any alleged improprieties, and so forth.

Sen. Bamba noted that Guam was mentioned in a recent issue of BusinessWeek in connection with Matthews & Wright (*Appendix C*) and he wanted to be sure that legislation that was enacted would accomplish the goal of eliminating the possibility of something like the problems associated with the \$300 M bond from ever happening again. He said he wanted to weed out the carpetbaggers and the only way to do that was to set up stringent parameters. He said it was Guam's reputation in the financial markets that was at stake.

Mr. Taitano said he did not have a good answer. He felt that Sen. Bamba's concern was a legitimate one but that setting up such guidelines would be difficult. He thought that the most plausible answer was to insure good people worked on the issues and offered to work with the Committee in order to find some sort of solution.

Sen. Bamba asked Mr. McCully if he were a bond counsel. Mr. McCully said that he did not have extensive expertise in that area. Sen. Bamba asked if GEDA's former counsel had rendered opinions on the \$300 M issue. Mr. McCully said that GEDA's former counsel, Mr. Robert Keogh, did give some opinions on matters of local law, but on bond matters deferred to GEDA's bond counsel.

Sen. Bamba asked if Mr. Keogh gave an opinion on the taxability or non-taxability of the issue. Mr. McCully said he was not sure which issues were passed on by Mr. Keogh. Sen. Bamba asked if Mr. McCully would act as bond counsel for GEDA in future issues. Mr. McCully said he would recommend what was stated in Bill 546, that an independent bond counsel be hired who did not

represent the underwriter or trustee or anyone else. He said then he would step back on any matters of bond law and defer to the bond counsel.

Sen. Bamba said the language of the bill did not provide for an experienced bond counsel. Mr. McCully agreed and suggested that the word experienced be added. He mentioned that there was a publication called the "Red Book" which listed qualified bond counsels. He said it didn't list them all and there were many who were competent and experienced but not listed.

Mr. McCully went on to suggest that the final paragraph in Bill 297 should be included in the final bill. It reads: "Award. Award shall be made to the responsible offeror whose proposal is in writing to be the most advantageous to the territory taking into consideration price and the evaluation factors set forth in the Request For Proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made." He said that kind of language would insure that the selections made would follow the requests outlined in the RFP.

One change suggested by Mr. Taitano was echoed by Mr. McCully. He agreed that the language on page 2, lines 15-17 of Bill 546 was too strict in limiting the time regarding the opening of RFPs and their evaluation, saying that the time period allowed should be greater if necessary.

Mr. Taitano made a point of information, informing the Committee that the Internal Revenue Service was preparing a listing of bond counsels who were acceptable to the IRS. The IRS based their list, Mr. Taitano said, on the decisions and opinions made by these attorneys and how closely their opinions followed IRS opinions.

Sen. Bamba asked if the administration objected to the "Hold Harmless Clause" that would limit the liability of the Government of Guam. Mr. Taitano felt there would be a number of very reputable firms who would possibly decline doing business with the Territory if such a clause was added to every issue.

Sen. Hartsock asked Mr. Leon Guerrero about the alternative proposals to the QC fee hike in Bill 546 which were mentioned by himself and Mr. Martinez. Mr. Leon Guerrero said the bill proposed fixed fees for applications and surveillance. The alternative fees GEDA was looking at were based on a sliding scale such as the number of rooms in a hotel or amount of profit, and so forth, rather than a fixed amount. He added that the surveillance of manufacturing firms was different than for hotels.

Sen. Hartsock asked if there was a time frame available for the completion of the proposals. Mr. Martinez said he was looking at from six weeks to two months. He added that the compliance department had been completely revamped under his administration and the cost to administer the QC program was approximately \$90 thousand to \$100 thousand dollars. He felt that the fee schedule should allow GEDA to recover its expenses.

Sen. Hartsock said it was helpful to know that it would be just a short time before the GEDA proposal for QC fees would be ready.

Sen. Quan asked Mr. Taitano if the intent of the administration, by asking for greater coverage than currently provided by the bill, was intending GEDA should handle other debt areas. Mr. Taitano said the administration was not. He said other types of debt were acquired by other agencies such as the Airport or the Commercial Port and they could handle that on their own, but they should have guidelines to follow.

Sen. Quan said that he felt that long term borrowing would also fall under the same considerations and perhaps should come under the purview of GEDA which is the financial arm of the Government of Guam and should have the expertise to handle these issues. Mr. Taitano said the long term debt affects all of the Government of Guam and thus all long term debt, regardless of its nature, should be subject to proper bidding procedures. He did not want to comment on which agency should be looking at the debt, but he did feel that all debt should come under the scrutiny of one, central group.

Sen. Quan said that he believed that one of the intentions of the formation of GEDA was to act as a clearing house for all long term debt. He said he felt several agencies may be getting into trouble because they don't have the expertise to properly evaluate the debt they are incurring for all of the Government of Guam. Mr. Leon Guerrero agreed with Sen. Quan, saying that was the intent of GEDA and he saw no reason for it not to continue.

Sen. Quan said he felt long term liabilities for the Territory of Guam should all fall under the same umbrella because they would all be essentially serving the same purpose -- obtaining funds for specific purposes while entering into long term debt. He felt these types of issues should be handled by that entity which has expertise in long term debt issues.

Mr. McCully said that GEDA has experience in handling previous bond issues successfully and has met its statutory requirements in the past, but has also come under fire for the latest bond issue which has caused some problems.

Sen. Quan asked Mr. Taitano about his proposal to combine the banking services. Mr. Taitano said he did not intend to include bond counsel or underwriters in that proposal, saying those should be separate from all others. Banking services, however, may be obtainable at a savings to the territory, he suggested. Sen. Quan asked if the underwriters were now providing depository services. Mr. Taitano said they were not but would often recommend depositories or trustees.

Sen. Quan asked about the recommendation that replies to RFPs be modifiable after they are received. He said that as a member of the Debt Advisory Council he was able to experience the process of selecting from among the RFPs. He also remembered them being adamant in their position of what was asked for. When the narrowing down stage was reached, at least one underwriter asked to be able to change their proposal and was not allowed to do so. He wanted to insure that the firm chosen by the government was able to make minor changes to better meet the needs and requirements of the Territory without changing the initial request. He asked Mr. Taitano if he had any suggestions on how this could be accomplished. Mr. Taitano said modification doesn't necessarily mean change. He suggested that proposals could be enhanced by giving greater clarification to the individual parts of each proposal. He said that enhancement or clarification or expansion of certain language or sections of proposals was necessary because of the complicated nature of bond issues, but that major modifications should not be permitted in order to be fair to other underwriters and to protect Guam's name in the bond markets.

Mr. McCully said that the opportunity should be available for Guam to negotiate one-on-one with the short listed underwriters for the best possible deal, including changing some of the basic parts of the underwriters' proposals if necessary to save the Territory some money.

Mr. Leon Guerrero said underwriters frequently will negotiate and change their fee structure during the course of discussions with their prospective clients. He felt that the RFPs needed to be as complete as possible and to be worded very carefully when they are first issued to insure that the underwriters can be compared equally and also to protect the Government of Guam from legal action. In relation to the bill, he said, he suggested some wording be provided that would allow for the RFP to contain the exact details and provisions that the government wants addressed.

Mr. Taitano said he agreed and that it should be noted that the cost of the money was not the only consideration. He said there was a myriad of ways to finance different things, but there should be an allowance to the underwriters to be creative and provide alternative ways to obtain the financing needed.

Sen. Quan pointed out the final paragraph in Bill 546 (lines 2-7 on page 4 which reads: "Periodic Adjustment of Fees. The Board is authorized to adjust the fees listed in 12 GCA §2424 on an annual basis, at the beginning of each fiscal year starting with fiscal year 1989, upon demonstration to the Board by Administrator that the cost of performing the services covered by the fees is greater than the amount of the fees. Fee changes shall be made according to the provisions of the Administrative Adjudication Law."). He said that would allow the Authority to adjust its fees to better meet its requirements on an annual basis.

There being no further questions or testimony, Sen. Quan noted the Guam Chamber of Commerce had submitted written testimony on the two bills (*Appendix D*) which would be included for the record. The hearing was then concluded.

### MEETING WITH CHAMBER OF COMMERCE ON SEPT. 3, 1987

Chamber of Commerce President Eloise Baza requested that a staff member of the Committee meet with Chamber members so their comments on the bills could be presented. She explained that their testimony was not ready for the public hearing and apologized.

At 2 p.m. on Thursday, September 3, 1987, Committee on Economic Development, Banking and Insurance staff member Bill Phillips met with Ms. Baza, Mr. Taitano, William K. Wofford of Peat, Marwick, Mitchell & Co., and Joe Arnett of Touche, Ross & Co. at the Chamber of Commerce offices.

Recommendations on possible amendments to Bills 297 and 546 were presented (*Appendix E*) and discussed. The conclusions reached at that meeting concerning the Chamber's suggestions are listed briefly below.

1. Require that more than one response to RFPs be received. If only one is received, the process should be started from the beginning.

2. Leave out the word "reputable" in line 16, page 1, unless an adequate definition of the word can be agreed upon.

3. Provide that administrative procedures be developed for handling of bond and other debt issues and that these become Rules and Regulations as per the Territory's Administrative Adjudication Law.

4. Provide sanctions for violations. Suggestions were made that they include one year of suspension from doing business with the Government of Guam in any

fashion. The Chamber is attempting to obtain model legislation for the Committee's purview.

5. Provide a permanent, technical staff to consider debt issues.
  - A. Make them classified personnel. The positions should have well-defined job descriptions and require a specified minimum of expertise. They should be part of a Government of Guam line agency instead of GEDA, perhaps the Department of Administration or the Department of Revenue and Taxation (see item C below).
  - B. An alternative, which would not necessarily give the Territory a sufficient amount of expertise or protection, would be to create the Debt Advisory Council as a permanent body.
  - C. A number of changes would have to be made to GEDA to allow it to continue to serve as the lead agency in debt issues:
    - 1) their personnel would have to be made classified (they are all unclassified at this time); and
    - 2) There would either have to be a minimum of expertise required of Board members because they have final say regarding whatever decisions are made at the Authority, or matters of territorial debt would have to be made exempt from Board consideration.

6. The fee schedule for QCs seems minimal and appears to lack a systematic adjustment of fees. (The schedule to be presented by GEDA in the next six to eight weeks would seem to answer these questions.)

## RECOMMENDATIONS

At the Mark Up meeting held by the Committee on Economic Development, Insurance and Banking on September 4, 1987, a quorum of the Committee was present, including Chairman Sen. John F. Quan, Vice Chairman and Vice Speaker Franklin J. Gutierrez and members Sens. Marcia K. Hartsock, Martha C. Ruth and A. J. Sonny Shelton.

The Committee discussed changes that were suggested to be made in the two bills. they decided that the intent and one provision of Bill 297 would be incorporated into Bill 546 , which is lines 12-17 on page 2, as suggested by Mr. McCully.

Other changes that were accepted by the Committee as amendments to the bill were:

1. The Administration's suggestion that a sufficient amount of time be allowed for evaluation of the replies to RFPs;



2. The Administration's suggestion that an allowance be made for firms to bid on a package of banking services;
3. Mr. McCully's suggestion that the bond counsel be experienced;
4. Mr. McCully's, Mr. Leon Guerrero's and Mr. Taitano's suggestion that some minor amendments and clarification to replies to RFPs be allowed to those firms which have been "short listed";
5. The Chamber of Commerce's suggestion that more than one reply to RFPs be received;
6. The Chamber of Commerce's suggestion that the word "reputable" in line 16, page 1, Bill 546, be eliminated;
7. Mr. Martinez' and Mr. Leon Guerrero's suggestion that the QC fee schedule be amended to follow guidelines which they are developing.

Suggestions which would be developed into follow-up legislation were those that include all of the Government of Guam and all types of debt in the procedures; those which call for permanent positions in the Government to evaluate these proposals; those which call for specific rules and regulations for procedures to be followed; and those which call for specific sanctions for persons who violate any of the provisions.

There being no objections, the Committee voted to recommend to the Nineteenth Guam Legislature that Bill 546 as substituted be passed.

## APPENDICES

|    | <b>SUBJECT</b>   | <b>PAGE</b> |
|----|--|-------------|
| a. | Testimony from John S. Martinez                                  | 12.         |
| b. | Testimony from Anthony A. Leon Guerrero                          | 15.         |
| c. | Excerpt from <i>BusinessWeek</i> , August 17, 1987, page 122     | 16.         |
| d. | Letter from Ms. Eloise Baza, President, Guam Chamber of Commerce | 17.         |
| e. | Recommendations on amendments to GEDA programs from Chamber      | 18.         |
| f. | Bill 297 (COR)   | 19.         |
| g. | Bill 546 (LS)  | 21.         |
| h. | Bill 546 (LS) As Substituted                                     | 25.         |

## APPENDIX A

### TESTIMONY REGARDING BILLS 297 AND 546 ACTS REGARDING PROCEDURAL MATTERS IN ISSUING BONDS

Again, good evening, Mr. Chairman and distinguished Members of the Committee. My name is John Martinez. As Acting Administrator of the Guam Economic Development Authority, I am here to testify regarding Bills 297 and 546. Although these Bills are different in content, their subjects and my position on them are sufficiently similar that I have chosen to testify on them simultaneously; I hope that this meets with the Committee's approval.

Regarding Bill 297, I am fully in favor of its provisions. I find them to be eminently reasonable and sound, and, in fact, I am somewhat surprised that they do not already exist in Guam's law. With respect to Bill 546, although some of its requirements seem unnecessary and even trite, the Bill is generally sound and its intent commendable. I have no objection whatsoever to either Bill.

I note with satisfaction and some surprise that Bill 546 raises the application fees and surveillance fees for the Qualifying Certificate program. Most people view GEDA as a "deep pocket", and agency with unlimited funds that can spend

freely, without a thought for tomorrow. This, of course, is not accurate. As you know, GEDA has suffered many losses and setbacks over the years, yet the agency's operations are costly. Our operations are financed through interest on loans, the occasional revenues from bond issuances, and the nominal fees associated with our various programs. With regard to our QC surveillance activities, the existing fees are so inadequate as to be almost laughable. This move to increase fees, bringing them more in line with the actual costs of our surveillance operations, is something which we gratefully recognize and appreciate.

As you may be aware, the Authority has recently encountered some financial difficulties. In addressing these problems, we have been working on a system of assessments for the QC program to help defray some of the expenses involved. We are basing these proposed assessments on the net profitability of QC recipients, and hope to have draft legislation available to you within the next few months. In the meantime, though, the reform of the fee structure proposed in Bill 546 will certainly help.

In all, I am fully supportive of Bills 297 and 546,

both as the Acting Administrator of GEDA and as a citizen and resident of Guam. I applaud the efforts of the Legislature in formulating these two Bills, and look forward to more valuable legislation of this type in the years to come.

If you have any questions to ask of me at this time, please proceed.

JOHN S. MARTINEZ

## APPENDIX B

### TESTIMONY ON BILL NOS. 297 & 546

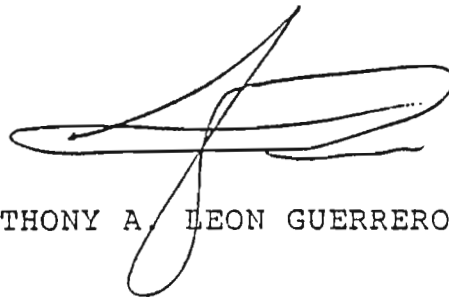
Good evening, Mr. Chairman and members of the Committee. My name is Anthony A. Leon Guerero and I am the Acting Chairman of the Guam Economic Development Authority. Again, I come before you to briefly speak as a Board member and not on behalf of the entire Board.

I would like to state for the record that the substantive contents of the two subject bills have long been overdue. I agree that the procedures which were elaborated relative to the analysis, choosing of agents and issuance of bonds should be implemented. However, if I may make a suggestion rather than legislate this, it maybe more appropriate for the GEDA Board to adopt this as a part of their operating procedures in its capacity as the financial consultant to the Government of Guam. I, however, don't have any strong feelings against legislation on this subject matter.

In regards to the application fees and surveillance fees for the Q.C. program, the step taken on Bill 546 is definitely a step in the right direction. There are alternative proposals, however, which GEDA should be submitting for your consideration shortly.

I thank you for giving me this opportunity to testify on the subject matter.

If you have any questions, I'll be more than willing to answer them.



ANTHONY A. LEON GUERRERO

## Personal Business

## Smart Money

HOW 'TAX-FREE'  
ARE THESE BONDS?

**B**etter check to see if any of your municipal bonds were underwritten in the past couple of years by Matthews & Wright, a small New York brokerage. The Securities & Exchange Commission, Internal Revenue Service, and other agencies are trying to determine if tax rules on tax-exempt bonds were sidestepped. If so, the IRS could declare interest from the bonds taxable retroactively.

The firm declines to comment. But among other things, the feds appear to be looking into the possibility that the bond proceeds weren't really aimed at building multifamily housing. Instead, they may have been

If IRS rules were broken, interest could still be taxed

invested in Treasury bonds with a yield significantly higher than the interest owed to the bondholders. In that case, the difference becomes profit to the issuer—and the bonds' tax-exempt status may be revoked by the IRS.

Reports of the probes, along with a Moody's Investors Service review of 30 bond issues sold by Matthews & Wright, sent the prices of the bonds tumbling by as much as 15%. The lower prices reflect the higher yields of taxable bonds.

More than a dozen of the worrisome issues you should look for in your portfolio came out late in 1985, ostensibly for multifamily housing, resource recovery, and industrial development. They were issued by such municipi-

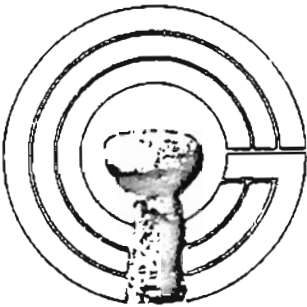
palities as East St. Louis, Ill., Provo City, Utah, Chattanooga, Tenn., and Guam. But the scope of the investigation isn't clear, and two to three times as many municipal bond issues may be involved. In the confusion and uncertainty, the price of other bonds that the market thinks might also be tainted slumped as well.

**EARLY CALL?** Even if the suspicions prove true about funds being diverted for pure investment purposes, you needn't worry that issuers of the bonds on Moody's list may default. The issues in question are expected to keep paying interest and principal in normal fashion, says George Friedlander, head muni bond analyst at Smith Barney.

Still, in addition to the possibility that your "tax-free" income might not be that at all, here's something to consider: If some or all of the bonds are declared taxable, the issuer might call them prematurely. If that happens, not enough funds may be on hand to pay you and the other holders 100¢ on the dollar.

That said, Friedlander is among those who suggest keeping the depressed bonds (unless you are a very nervous type or under other pressure to sell). But stay close to your broker and determine whether your bonds are among the tainted ones by checking their trading range since they were issued. (Watch for ones issued in December, 1985, and August, 1986, to beat new tax code deadlines.) Some traders already see a chance to speculate and pick up depressed bonds. If you are tempted to speculate, remember you could be buying problems. *David Zigas*

# APPENDIX D



## **GUAM CHAMBER OF COMMERCE** **PARTNERS IN PROGRESS**

September 1, 1987

Senator John F. Quan  
Chairman, Committee on Economic Development,  
Banking and Insurance  
Nineteenth Guam Legislature  
P. O. Box CD-1  
Agana, Guam 96910

Dear Senator Quan and Members of the Committee:

Thank you for the opportunity to present comments on Bill Numbers 28, 40 and 546.

Our immediate observation with regard to these various Bills is that they appear to represent a sincere effort on the part of Senators to comprehensively examine the programs administered by the Guam Economic Development Authority; institute policies that will enhance the economic benefits of such programs to our community; and strengthen existing safeguards to preclude abuse. The Chamber of Commerce has long supported such an effort and is therefore generally supportive of the Legislative intent expressed in these Bills.

Please note however that we have had less than one week to review these Bills prior to today's scheduled hearing. Given the complexity of the issues which they address and the importance which the Legislature is placing on their review, we respectfully request the opportunity to submit more comprehensive comments on all three Bills at a later date.

We thank you again for this opportunity and look forward to further communication with you on the aforementioned measures.

Sincerely yours,

ELOISE R. BAZA  
President



# APPENDIX E

## RECOMMENDATIONS ON AMENDMENTS TO GEDA PROGRAMS

### BILL 546: AMENDMENTS TO BOND ISSUANCE PROCEDURES AND QUALIFYING CERTIFICATE FEES:

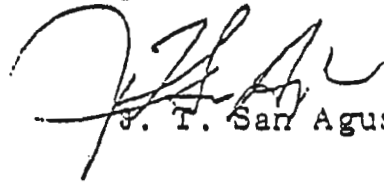
1. Requirements for selecting underwriters, trustees, depositaries and municipal paying agents from replies to Request for Proposals (RFPs) raise some logistical and feasibility concerns:
  - bond underwriters do not typically respond to RFPs; in the case of recent bonds, underwriters performed much of the groundwork involved first (i. e. hired all experts needed to do required research and bond counsel) then sold their development ideas to government officials; while the intent may be a good one, requiring RFPs seems unfeasible--bond underwriters generally will not respond if they have not been involved in the development process; if provision must be retained, recommend a solicitation of interest first, then preparation of an RFP based on replies; and
  - if RFPs are to be conducted, GEDA will need internal expertise to conduct the initial research required and evaluate proposals from the various respondents.
2. Section 2103.1 (b)(1) requires that five "reputable" underwriters be sent RFPs for each bond issue; no basis to determine what constitutes a "reputable" underwriter however is addressed.
3. Section 2103.1 (b)(3) seems to require a technical position within GEDA; if so, position should merit some minimal qualification requirements.
4. Section 2424 - fees for Qualifying Certificates seem minimal; Section 2425 appears to lack a systematic adjustment of fees (i. e. poker machine fees recently escalated from \$50 to \$4,500); basis of fees should be actual cost of administration.
5. The Bill also lacks sanctions for violations which may occur; would recommend reference to model legislation to evaluate how state/municipal county bonds are issued in other jurisdictions and determine whether Bill is feasible (consultation underway via John Lee); also recommend further consultation with legal firms with bond counsel expertise (i. e. Don Williams or Carlsmith Los Angeles Office).

# APPENDIX F

## NINETEENTH GUAM LEGISLATURE 1987 (FIRST) Regular Session

Bill No. 297(COR)

Introduced by:

  
J. T. San Agustin

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### AN ACT TO ADD A NEW CHAPTER 13 TO TITLE VII-A OF THE GOVERNMENT CODE REGARDING COMPETITIVE SEALED PROPOSALS FOR BOND ISSUES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. A new Chapter 13 is added to Title VII-A of the  
3 Government Code to read:

4 "§6984. Competitive Sealed Proposals for Bond Issues. (a)  
5 Conditions for use. Whenever any bonds are issued by any entity of  
6 the government of Guam, the services of any trustee, co-trustee, bond  
7 counsel, underwriter, insurance agent, manager, co-manager, paying  
8 agent, depository and any other party involved in the transaction,  
9 shall be entered into by competitive sealed proposals.

10 (b) Request for Proposals. Proposals shall be solicited through  
11 a Request for Proposals.

12 (c) Public Notice. Adequate public notice of the Request for  
13 Proposals shall be given in the same manner as provided in §6959.1(c)  
14 of this Title.

15 (d) Receipt of Proposals. Proposals shall be opened so as to  
16 avoid disclosure of contents to competing offerors during the process  
17 of negotiation. A Register of Proposals shall be prepared in  
18 accordance with regulations promulgated by the Policy Office, and shall  
19 be open for public inspection after contract award.

20 (e) Evaluation Factors. The Request for Proposals shall state  
21 the relative importance of price and other evaluation factors.

22 (f) Discussion with Responsible Offerors and Revisions to  
23 Proposals. As provided in the Request for Proposals, and under

1 regulations promulgated by the Policy Office, discussions may be  
2 conducted with responsible offerors who submit proposals determined to  
3 be reasonably susceptible of being selected for award for the purpose  
4 of clarification to assure full understanding of, and responsiveness to  
5 the solicitation requirements. Offerors shall be accorded fair and  
6 equal treatment with respect to any opportunity for discussion and  
7 revision of proposals, and such revisions may be permitted after  
8 submissions and prior to award for the purpose of obtaining best and  
9 final offers. In conducting discussions, there shall be no disclosure  
10 of any information derived from proposals submitted by competing  
11 offerors.

12 (g) Award. Award shall be made to the responsible offeror  
13 whose proposal is in writing to be the most advantageous to the  
14 territory taking into consideration price and the evaluation factors set  
15 forth in the Request for Proposals. No other factors or criteria shall  
16 be used in the evaluation. The contract file shall contain the basis on  
17 which the award is made."

# APPENDIX G

NINETEENTH GUAM LEGISLATURE  
1987 (FIRST) Regular Session

Bill No. 546 (LS)

Introduced by:

J. F. Quan  
*J. G. Bamba*

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NEW 12 GCA §§2103.1 AND 2425 ARE ADDED  
AND 12 GCA §2425 IS REPEALED AND  
REENACTED, RELATIVE TO REQUIRING THE  
GUAM ECONOMIC DEVELOPMENT AUTHORITY  
TO FOLLOW SPECIFIC PROCEDURES PRIOR  
TO ISSUING BONDS FOR THE TERRITORY  
OF GUAM AND TO CHANGE FEES  
PERTAINING TO QUALIFYING CERTIFICATES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. A new 12 GCA §2103.1 is added to read:

3 "§2103.1. Procedure for issuing bonds pursuant to 12 GCA §2103 (k).

4 (a) Bond Counsel. A bond counsel shall be retained for each  
5 bond obligation issued by the Authority following General Services  
6 Administration procurement guidelines dealing with legal services. A bond  
7 counsel may be either kept on retainer or contracted separately for each  
8 issue. The Authority's bond counsel shall represent only the Authority and  
9 the government of Guam in each issue and neither the bond counsel nor any  
10 member of counsel's firm shall represent any other interest in each bond  
11 issue. The bond counsel shall be involved at every level of decision  
12 making regarding bond issues.

13 (b) Underwriters. The Authority shall select underwriters based  
14 on the following procedures:

15 (1) Underwriters shall be chosen from replies to requests for  
16 proposals (RFPs) issued by the Authority. A minimum of five (5) reputable  
17 underwriters shall be sent RFPs for each bond issue.

18 (2) All of the replies to RFP's shall be received at a location  
19 to be determined by the Authority prior to issuance of the RFP's and  
20 maintained there unopened until the date set for opening. One (1) person

1 shall be responsible for the custody of the proposals to ensure the integrity  
2 of the process.

3 (3) The Authority shall designate one (1) person to handle  
4 all communications with underwriters to ensure continuity of information.  
5 All communications with underwriters shall be channeled through this  
6 individual who shall speak for the Authority. Copies of all communications  
7 to and from the designee and the underwriters shall be made available to all  
8 members of the Board.

9 (4) Members of the Board shall not discuss with  
10 underwriters any proposal currently under consideration.

11 (5) The Authority shall set a date for the opening of the  
12 replies to RFPs from underwriters. The presence of a quorum of the Board  
13 shall be required for the initial opening of the replies to RFPs and  
14 sufficient copies of the replies to RFPs shall be made available to the  
15 Board. After the replies to RFPs are distributed to the Board, the meeting  
16 may be adjourned and reconvened but only within 10 (ten) working days of  
17 the opening of the replies to RFPs. No modifications to the replies of RFPs  
18 submitted by the underwriters shall be allowed after opening.

19 (6) Upon selection of an underwriter, the selected and  
20 unselected underwriters shall be immediately notified of the action. If the  
21 Authority narrows the selection to two (2) or more underwriters, final  
22 presentations by the narrowed group of underwriters shall be presented to  
23 the Board at a time and place to be determined by the Board. If the  
24 selection process is carried over to a meeting outside of Guam, this final  
25 selection process shall either be videotaped or voice recorded for  
26 presentation to the whole Board. After reviewing the final presentations of  
27 the narrowed group of underwriters, the Board shall, within 10 (ten)  
28 working days of final presentation, select either one (1) managing  
29 underwriter or two (2) co-managing underwriters for the bond issue.

30 (c) Trustee. Trustees shall be chosen from replies to RFPs  
31 issued by the Authority. RFPs shall be sent to a minimum of three (3)  
32 reputable trustees for each bond issue. The Authority shall establish a  
33 deadline which will give interested parties sufficient time to prepare replies  
34 to RFPs and sufficient time to transmit the replies to a specified location.

1 Replies shall be opened at a specified location and time by a specified  
2 designee of the Board, in accordance with Guam's open government laws.

3 (d) Depository. Depositories shall be chosen from replies to  
4 RFPs issued by the Authority. RFP's shall be sent to a minimum of three  
5 (3) reputable depositories for each bond issue. The Authority shall  
6 establish a deadline which will give interested parties sufficient time to  
7 prepare replies to RFPs and sufficient time to transmit the replies to a  
8 specified location. Replies shall be opened at a specified location and time  
9 by a specified designee of the board, in accordance with Guam's open  
10 government laws.

11 (e) Municipal Paying Agent. Municipal paying agents shall be  
12 chosen from replies to RFPs issued by the Authority. RFP's shall be sent  
13 to a minimum of three (3) reputable municipal paying agents for each bond  
14 issue. The Authority shall establish a deadline which will give interested  
15 parties sufficient time to prepare replies to RFPs and sufficient time to  
16 transmit the replies to a specified location. Replies shall be opened at a  
17 specified location and time by a specified designee of the Board, in  
18 accordance with Guam's open government laws."

19 Section 2. 12 GCA §2424 is repealed and reenacted to read:

20 "§2424. Fees. Upon the effective date of this Act and until modified  
21 pursuant to 12 GCA §2425, the following fees shall be assessed against each  
22 corporate applicant and corporate recipient of a Qualifying Certificate:

|                                | Annual     |                  |
|--------------------------------|------------|------------------|
|                                | Filing Fee | Surveillance Fee |
| 25 Agriculture                 | \$ 50      | \$1,000          |
| 26 Watch Manufacturing         | 250        | 1,000            |
| 27 Other Manufacturing         | 250        | 1,000            |
| 28 Commercial Fishing          | 50         | 1,000            |
| 29 Services                    | 250        | 1,000            |
| 30 Hotels and Motels           | 500        | 1,000            |
| 31 Other Tourist Facilities    | 500        | 1,000            |
| 32 Industrial Facilities       | 500        | 1,000            |
| 33 Captive Insurance Companies | 500        | 1,000 "          |

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Section 3. A new 12 GCA §2425 is added to read:

"§2425. Periodic Adjustment of Fees. The Board is authorized to adjust the fees listed in 12 GCA §2424 on an annual basis, at the beginning of each fiscal year starting with fiscal year 1989, upon demonstration to the Board by Administrator that the cost of performing the services covered by the fees is greater than the amount of the fees. Fee changes shall be made according to the provisions of the Administrative Adjudication Law."

JUL 28 '87

NINETEENTH GUAM LEGISLATURE  
1987 (FIRST) Regular Session

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Introduced by:

*J. F. Quan*  
*J. G. BARRERA JB*  
*MK HARTSOCK MKH*

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