


I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. AB 45

Introduced by:

B. J.F. Cruz 

**AN ACT TO AMEND §80104 OF ARTICLE 1, CHAPTER 80, 10
GCA AFFECTING THE POWERS OF THE GUAM MEMORIAL
HOSPITAL AUTHORITY.**

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

2 **Section 1. §80104 of Title 10 Guam Code Annotated is hereby**
3 ***amended to read:***

4 **“§80104. Powers. ~~The hospital~~ Guam Memorial Hospital Authority**
5 **shall have and exercise each and all of the following powers:**

6 **(a) Maintain and operate a facility providing acute, chronic and all other**
7 **health care services, including those services specifically provided by**
8 **contract for the Department of Mental Health and Substance Abuse, for**
9 **the people of the Territory.**

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1 (b) Establish a schedule of fees, in accordance with 10 GCA §80105, to be
2 charged for care and services at or by the hospital. The schedule of fees
3 shall be sufficient to recover the operating costs and fixed costs and to
4 generate such revenue as is necessary to make the hospital self-
5 sustaining. The cost of medical care and services rendered to any person
6 under the Old Age Assistance for the Aged Program, Aid to the Blind
7 Program, and Aid to the Permanently and Totally Disabled Program of
8 the Social Security Act, as well as those persons considered medically
9 indigent as the term is defined in Chapter 2 of this Title shall be paid by
10 the Department of Public Health and Social Services.

11
12 ~~(c) Acquire, subject to the laws of Guam, by grant, purchase, gift, devise~~
13 ~~or lease, and hold and use any real property necessary or convenient or~~
14 ~~useful for the carrying on of any of its powers pursuant to the~~
15 ~~provisions of this Article; To own, purchase, lease, exchange, receive by~~
16 ~~grant, gift, devise, forfeiture, foreclosure or condemnation, or otherwise~~
17 ~~acquire property, whether real, personal or mixed, tangible or~~

1 intangible, and of any interest therein, in the name of the Guam
2 Memorial Hospital Authority, to be owned and controlled by the Guam
3 Memorial Hospital Authority and not by the Government of Guam.

4 Furthermore, the Guam Memorial Hospital Authority may maintain,
5 improve, pledge, mortgage, sell, lease, or otherwise hold or dispose of
6 property, whether real, personal or mixed, tangible or intangible, and of
7 any interest therein, at any time and manner, in furtherance of the
8 purposes and missions of the Guam Memorial Hospital Authority;

9 however, upon written certification of the Administrator, countersigned
10 by the Chairman of the Board, ~~that specified and specialized~~ if medical
11 equipment and related supplies are needed immediately for the health
12 and welfare of the patients of the Hospital in particular, and the people
13 of Guam in general, the Guam Memorial Hospital Authority shall be
14 exempt from the provisions of §§5210 and 5211 of Title 5, Guam Code
15 Annotated, in the acquisition of the medical equipment and related
16 supplies specified in such written certification of the Administrator;
17 provided, that the Hospital shall use its best judgment and efforts to

1 secure the best equipment and supplies at the lowest cost, ~~utilizing~~
2 ~~businesses licensed to do business on Guam whenever possible.~~

3
4 (d) Establish its internal organization and management;

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6 (e) Perform such acts as may be reasonably necessary to accomplish the
7 purpose for which it was formed, ~~subject, however, to the following~~
8 ~~conditions:~~

9 ~~(1) The purchase of all supplies and materials and the construction of all~~
10 ~~works shall be subject to the provisions of §80111 of this Article;~~

11 ~~(2) No contract requiring an expenditure of more than Ten Thousand~~
12 ~~Dollars (\$10,000) shall be entered unless the Attorney General shall have~~
13 ~~approved its form and found that its purpose is within the powers of the~~
14 ~~hospital;~~

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16 (f) Adopt a seal;

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- 1 (g) Sue or be sued in its own corporate name;
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- 3 (h) Employ, retain or contract for the services of qualified managers,
4 specialists or as individuals or as organizations;
- 5
- 6 (i) Adopt such rules and regulations pursuant to the Administrative
7 Adjudication Act as may be necessary for the exercise of the hospital's
8 powers, performance of its duties and administration of its operations,
9 including but not limited to, personnel and procurement regulations;
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- 11 (j) Adopt and maintain a uniform system of accounting;
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- 13 (k) Adopt and maintain a travel authorization policy notwithstanding
14 any law to the contrary;
- 15
- 16 (l) [Repealed by P.L. 16-98.]
- 17

1 (m) Do any and all other things necessary to the full and convenient
2 exercise of the above powers;

3
4 ~~(n) Contract with a corporation to exercise any or all the powers of the~~
5 ~~Administrator and of those officers authorized by §80108 of this Article,~~
6 ~~if the Board so chooses. Any such contract shall be subject to the~~
7 ~~provisions of Subsection (e)(2) of this Section;~~ Enter into and perform
8 any contracts, leases, cooperative agreements, or other transactions
9 whatsoever that may be necessary or appropriate in the performance of
10 its purposes and responsibilities, and on terms it may deem appropriate,
11 with either:

12
13 (1) Any agency or instrumentality of the United States, or with any
14 state, territory, commonwealth or possession, or with any
15 subdivision thereof; or

1 (2) any person, firm, association, or corporation, whether operated
2 on a for-profit or not-for-profit basis;

3
4 provided that the transaction furthers the public interest;

5
6 (o) Arrange a line of credit not to exceed Three Million Dollars
7 (\$3,000,000) with banks or other lending institutions licensed on Guam.

8 All terms of the line of credit agreement shall be negotiated by the
9 Authority in the best interests of the people of Guam. The terms of the
10 line of credit agreement shall include the following:

11
12 (1) The line of credit shall be used by the Authority when a cash
13 shortage which hampers the operation of the hospital is imminent,
14 provided that the line of credit shall not be used to finance capital
15 improvements or non-health care professionals.

1 (2) No charge shall be levied by a lender for opening the line of
2 credit.

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4 (3) The interest rate shall be subjected to negotiation between the
5 Authority and the lender. Such interest rate shall be computed on
6 a monthly average and based on the actual amount extended to
7 the Authority.

8
9 (4) Interest earned by the lender shall be exempt from taxation by
10 the government of Guam.

11
12 (5) The Authority may pledge only its revenues as a security for
13 repayment of the loan.

14
15 (6) Any money borrowed shall be repaid within three (3) years. In
16 no case shall any amount borrowed be refinanced permitting
17 repayment more than three (3) years after the loan is made.

1
2 (p) Acquire in accordance with the Procurement Law (5 GCA Chapter 5)
3 and hold and use any personal property or construct any projects
4 necessary or convenient or useful for carrying on of any of its powers
5 pursuant to the provisions of this Article. However, Guam Memorial
6 Hospital Authority is exempted from the Procurement Law contained in
7 5 G.C.A. Chapter 5 when participating in any group purchasing
8 arrangement for hospital and medical supplies as provided in
9 subsection (u)(3) of this section.

10
11 (q) Arrange a line of credit not to exceed Five Million Dollars
12 (\$5,000,000) with banks or other lending institutions licensed on Guam
13 for the purchase of medical equipment. The terms of the line of credit
14 shall be identical to the provisions of items (2) through (4) of subsection
15 (o) of this Section. Any money borrowed shall be repaid within five (5)
16 years. As part of any loan agreement the Board shall identify the source
17 of the repayment and such source shall constitute a trust fund of the

1 Authority which shall be used for no purpose other than repayment
2 until the sum borrowed is repaid in full.

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4 (r) Arrange, with the consent of the Governor, a loan not to exceed
5 Twenty-seven Million Dollars (\$27,000,000). The loan shall be upon such
6 terms and conditions as established by a Loan Agreement, and such
7 other documents and instruments as are executed by the Authority with
8 the approval of the Governor containing such terms as are consistent
9 with this Subsection. The Governor, on behalf of the government of
10 Guam, is authorized to guaranty the loan and to grant the pledge of
11 Section 30 revenues as provided below as security for repayment of the
12 loan.

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14 (1) The loan shall be for such term, not to exceed twelve (12) years,
15 and upon such conditions as to maturity and repayment as agreed
16 by the Lender and the Authority with the approval of the
17 Governor. The rate of interest upon the loan shall be as negotiated

1 between the Lender and the Authority and approved by the
2 Governor.

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4 (2) Interest shall be computed upon the declining balance of
5 principal outstanding from time to time upon the loan.

6
7 (3) Prepaid charges shall not be levied by the Lender for making
8 the loan. The Lender may charge and be paid either from the loan
9 funds or other funds of the Authority or of the government of
10 Guam its expenses incurred in making the loan, including legal
11 fees, recording, title insurance and appraisal fees, and like
12 expenses.

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14 (4) Interest earned by the Lender shall be exempt from taxation by
15 the government of Guam, including without limitation taxation
16 under the Guam Gross Receipts Tax and Guam Territorial Income
17 Tax.

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(5) The government of Guam waives immunity from suit as to the government of Guam, the Guam Memorial Hospital Authority and any other agency or instrumentality of the government of Guam making any mortgage, pledge, security agreement or other instrument in connection with the loan.

(6) The provisions of Title 10 Guam Code Annotated §80104(e)(2) shall be inapplicable to the loan and to all documents given in connection therewith.

(7) The provisions of Title 12 Guam Code Annotated §2103(k) shall be inapplicable to the loan.

(8) The loan may be secured by:

1 (i) pledge of revenues of the Guam Memorial Hospital
2 Authority;

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4 (ii) a guaranty of the government of Guam;

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6 (iii) pledge of all or any part of the revenues derived by the
7 government of Guam under Section 30 of the Organic Act
8 (Any such pledge shall be made by a certificate approved by
9 the Governor authorizing the pledge and the terms and
10 conditions thereof. The Governor may appoint a trustee
11 authorized to receive revenues derived by the government
12 of Guam under Section 30 of the Organic Act, and after
13 applying such revenues to obligations under prior loans or
14 bonds issued by the government of Guam and secured
15 thereby, applying them to obligations under the loan. Any
16 such pledge shall be valid and binding from the time the
17 pledge is made, subject to prior pledges upon such revenues.

1 The revenues pledged and thereafter received by the
2 government of Guam or by any trustee appointed pursuant
3 hereto shall upon receipt immediately be subject to the lien
4 of the pledge without any physical delivery thereof or
5 further act, and the lien of such pledge shall be valid and
6 binding against all parties having claims of any kind in tort,
7 contract, or otherwise against the government of Guam
8 irrespective of whether the parties have notice thereof.); and
9 (iv) mortgage upon and security interest in the real property,
10 improvements and related facilities known as the Guam
11 Memorial Hospital, and the equipment, furniture, fixtures
12 located thereat. In furtherance of the mortgage, any agency
13 or instrumentality of the government of Guam having an
14 interest in the Guam Memorial Hospital facility, including
15 without limitation the Authority and the Chamorro Land
16 Trust Commission, shall, upon the authorization of the
17 Governor, enter into and join in such mortgage. The Lender

1 is authorized to enforce the mortgage in accordance with its
2 terms, and in the event of default, title may be conveyed in
3 accordance with the terms of the mortgage.

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5 (9) There are appropriated from any pledged revenues of the
6 Authority, the pledged Section 30 funds, and from the
7 General Fund such sums as will in each year equal the
8 amount of money necessary to pay the principal and interest
9 and other obligations upon the loan.

10
11 (s) With the concurrence Negotiate with appropriate Federal official
12 (Secretary of Defense, officials of Tripler Army Hospital, etc.) for the
13 implementation of §105(k) of the Compact of Free Association Act of
14 1985 with the Freely Associated States of Micronesia. All terms of the
15 agreement shall be negotiated by the Guam Memorial Hospital
16 Authority in the best interests of the people of Guam. The agreement
17 must be submitted to the Governor for his review and approval.

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(t) Arrange a line of credit not to exceed Twelve Million Dollars (\$12,000,000) with banks or other lending institutions licensed on Guam. All terms of the line of credit agreement shall be negotiated by the Authority and I Maga'lahaen Guåhan [Governor] in the best interests of the people of Guam. The terms of the line of credit shall include the following:

(1) the line of credit shall be used by the Authority when a cash shortage threatens the operation of the Hospital, and provided that the loan shall not be used to finance capital improvements or the hiring of non-health care professionals not involved with providing direct patient care or patient care support, except for funding of the Guam Memorial Hospital Authority long-term care facility in Barrigada Heights;

(2) no charge shall be levied by a lender for making the loan;

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(3) the interest rate shall be subjected to negotiation between the Authority, I Maga'láhen Guåhan and the lender; such interest rate shall be computed on a monthly average and based on the actual amount extended to the Authority; and

(4) interest earned by the lender shall be exempt from taxation by the government of Guam.

I Maga'láhen Guåhan is authorized to pledge funds which Guam shall receive from the State Attorneys General Tobacco Litigation, as provided by Public Law Number 24-174, or the General Fund, or both funds in any combination, as a security for repayment of the loan, in addition to any revenues which may be pledged by the Authority. I Maga'láhen Guåhan and the Authority is hereby authorized to execute the loan agreement and other necessary documentation. The line of credit authorized in this Act shall not be used in the calculation for rate

1 relief in any rate methodology for any rate case before the Public
2 Utilities Commission.

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4 (u) To conduct activities and enter into business relationships as the
5 Board of Trustees deems necessary or appropriate, including but not
6 limited to:

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8 (1) Creating not-for-profit corporations, including but not limited
9 to charitable fund-raising foundations, to be controlled wholly
10 by the Board or jointly with others;

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12 (2) entering into partnerships and other joint venture
13 arrangements provided that any partnership, joint venture, or
14 similar relationship entered into under this section furthers the
15 public interest;

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1 (3) participating in group purchasing alliances, purchasing
2 consortia, group purchasing associations, or other cooperative
3 arrangements, with any public or private entity, for medical
4 and hospital supplies, provided that any such group
5 purchasing relationship entered into under this section furthers
6 the public interest; and

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8 (4) Providing health and medical services for the public directly or
9 by agreement or lease with any person, firm, or private or
10 public corporation or association through or in the physical
11 facilities of the Guam Memorial Hospital Authority, or
12 otherwise.

13
14 (v) To purchase insurance, create a captive insurance scheme or
15 irrevocable insurance trusts that inure to the benefit of the Guam
16 Memorial Hospital Authority, in any arrangement deemed by the Board
17 to be in the best interests of the Guam Memorial Hospital Authority,

1 including but not limited to, funding and payment of deductibles and

2 the purchase of reinsurance.

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