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I MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

Bill No. 334(FC)

Introduced by:

Edward J.B. Calvo *EJC*

AN ACT TO ADD SECTION 22435 TO CHAPTER 22 OF TITLE 5, GUAM CODE ANNOTATED AND TO AMEND SUBSECTION (I) OF SECTION 22425 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GOVERNOR OF GUAM, *IMAGA'LAHEN GUÅHAN*, TO ISSUE GOVERNMENT OF GUAM GENERAL OBLIGATION BONDS FOR THE PURPOSE OF REFINANCING CERTAIN GENERAL FUND OBLIGATIONS AND FINANCING CERTAIN CAPITAL IMPROVEMENTS TO THE GUAM PUBLIC SCHOOL SYSTEM AND THE UNIVERSITY OF GUAM.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* hereby finds that it is necessary and desirable for the prudent management of the fiscal affairs of the Government of Guam to refinance the Government of Guam General Obligation Bonds, 1993 Series A, and that vital and immediate capital improvements to the Guam Public School System in order to comply with the "Every Child Is Entitled To An Adequate Public Education Act" and the capital improvements of the University of Guam, are needed. *I Liheslaturan Guåhan* finds that an opportunity to refinance the Government of Guam General Obligation Bonds, 1993, Series A would allow for cash flow relief of approximately Eight Million Three Hundred Thousand Dollars (\$8,300,000) in Fiscal Year 2007, provide Thirty Five Million Dollars (\$35,000,000) in new money, as well as approximately Two Hundred Fifty Thousand Dollars (\$250,000) in annual debt service saving until 2018. This financing would provide approximately \$43,300,000 for the capital needs of Guam's Public Educational Facilities in Fiscal Year 2007.

I Liheslaturan Guåhan also finds that it would be fiscally responsible to accelerate the repayment of the refinanced Government of Guam bonds by committing Fifty Percent (50%) of any amount in excess of One Hundred Million Dollars (\$100,000,000) received in Section 30 revenues to redeem the

1 bonds.

2 *I Liheslaturan Guåhan* therefore hereby authorizes the issuance of general obligation bonds as
3 provided herein, provides for said bonds to be used to refinance all or a portion of said 1993 Series A
4 Bonds and to finance capital improvements to the Guam Public School System and the University of
5 Guam.

6 **Section 2.** A new Section 22435 is hereby added to Chapter 22 of Title 5, Guam Code
7 Annotated, to read as follows:

8 **“§ 22435. Authorization to Issue Bonds for Refinancing 1993 Series A Bonds and**
9 **Capital Expenses of School Facilities.**

10 (a) **Authorization of Issuance of Bonds.** *I Maga'lahaen Guåhan* is authorized to
11 issue one or more series of bonds of the government of Guam as provided in this Section,
12 in an aggregate principal amount necessary to provide proceeds sufficient to fund an
13 escrow for the refinancing of the General Fund obligations listed in subsection (k)(i) and
14 in an aggregate principal amount not to exceed the amount necessary to provide Thirty
15 Five Million Dollars (\$35,000,000) for the payment of the General Fund expenses listed
16 in subsection (k)(ii), and in each case to fund necessary reserves and to pay expenses
17 incurred in connection with the issuance of such bonds not already included in an existing
18 appropriation for or the regular budget of any government agency or instrumentality or
19 public corporation providing any service in connection with the issuance of such bonds;
20 provided, however, that bonds may not be issued in an amount that would cause a
21 violation of the debt limitation provisions of 48 USC 1423a (§11 of the Organic Act of
22 Guam).

23 (b) **Terms and Conditions Determined by Certificate or Indenture.** The terms
24 and conditions of the bonds shall be as determined by *I Maga'lahaen Guåhan* by the
25 execution of a certificate or indenture authorizing the issuance of the bonds upon or prior
26 to the issuance of the bonds; provided, however, that such terms and conditions shall be
27 consistent with this Section, and that the bonds shall mature not later than the year 2028,
28 and shall bear interest at such rates and be sold for such price or prices as shall result in a

1 yield to the bondholders not exceeding six and ninety five hundredths percent (6.95%)
2 per annum.

3 (c) **Valid and Binding General Obligations.** The bonds authorized by this
4 Section shall constitute the valid and binding general obligations of the government of
5 Guam. The government of Guam pledges its full faith and credit for the punctual
6 payment of both principal of and interest on the bonds. There shall be collected annually
7 in the same manner and at the same time as government revenue for other purposes is
8 collected, such sum as is required to pay the principal of and interest on the bonds. All
9 officers charged by law with any duty in the collection of the revenues of the government
10 from which debt service on the bonds will be payable shall do every lawful thing
11 necessary to collect such sum. The validity of any such bonds shall not be affected by the
12 validity or regularity of any proceedings for the payment of the General Fund expenses
13 paid or to be paid with the proceeds of the bonds.

14 (d) **Appropriations from the General Fund.** There are hereby appropriated
15 from the General Fund such sums as will equal in each year the amount of money
16 necessary to pay the principal and interest on such bonds.

17 (e) **Additional Bonds.** Nothing in this Section shall be construed to prevent the
18 government of Guam from issuing, after appropriate enabling legislation, other
19 obligations of the government secured by the general obligation of the government on a
20 parity with or subordinate to the bonds authorized by this Section on such terms as may
21 be provided by the indenture or certificate pursuant to which the bonds are issued.
22 Nothing in this Section shall be construed to prevent the government of Guam from
23 issuing, after appropriate enabling legislation, other obligations of the government
24 secured by Real Property Tax Revenues on a parity with or subordinate to the bonds
25 authorized by this Section on such terms as may be provided by the indenture or
26 certificate pursuant to which the bonds are issued.

27 (f) **Waiver of Immunity; Submission to Jurisdiction.** Notwithstanding any
28 substantive or procedural provision of Chapter 6 of Title 5, Guam Code Annotated, the

1 government of Guam waives immunity from any suit or action in contract on the bonds,
2 but does not waive sovereign immunity as to the personal liability of elected officials and
3 employees of the government of Guam. The government hereby submits to jurisdiction
4 of the Federal District Court for the District of Guam for purposes of any such suit or
5 action in contract on the bonds.

6 (g) **No Personal Liability.** No employee or elected official of the government of
7 Guam shall be individually or personally liable for the payment of any amounts due on
8 any bonds issued under this Section, or for any other liability arising in connection with
9 the bonds; provided, however, that nothing in this Section shall relieve any employee or
10 elected official from the performance of any ministerial duty required by law.

11 (h) **Form of Bonds; Covenants; Appointment of Fiduciaries.** The technical
12 form and language of the bonds, including provisions for execution, exchange, transfer,
13 registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other
14 terms or conditions not inconsistent with this Section, including covenants relating to the
15 collection of revenues, shall be as specified in the certificate or indenture executed by
16 *I Maga'lahañ Guåhan* authorizing the issuance of the bonds. The certificate or indenture
17 shall appoint one or more trustees, co-trustees or other fiduciaries authorized to receive
18 and hold in trust the proceeds of the bonds, the revenues and other moneys relating
19 thereto, to protect the rights of bondholders and to perform such other duties as may be
20 specified in the indenture. *I Maga'lahañ Guåhan* is also authorized to execute, on behalf
21 of the government of Guam, any appropriate agreements, certificates or other instruments
22 relating to the bonds and the sale of bonds.

23 (i) **Authorization for Credit Enhancement.** *I Maga'lahañ Guåhan* is
24 authorized to enter into such contracts or agreements with such banks, insurance
25 companies or other financial institutions as he determines are necessary or desirable to
26 improve the security and marketability of the bonds issued under this Section. Such
27 contracts or agreements may contain an obligation to reimburse, with interest, any such
28 banks, insurance companies or other financial institutions for advances used to pay

1 principal of or interest on the bonds and to indemnify any such banks, insurance
2 companies or other financial institutions for costs and expenses incurred in connection
3 with any such advance. Any such reimbursement obligation and any other obligations of
4 the government under such contracts or agreements shall be general obligations of the
5 government of Guam and any such advance, if necessary, shall be treated for Organic Act
6 purposes as creating an obligation issued to refund the bonds.

7 (j) **Use of Proceeds from the Sale of the Bonds.** The proceeds from the sale of
8 the bonds shall be used and are hereby appropriated to (i) refinance the General Fund
9 obligations and fund the capital projects described in subsection (k) of this Section,
10 (ii) establish necessary reserves, (iii) pay expenses relating to the authorization, sale and
11 issuance of the bonds, including, without limitation, printing costs, costs of reproducing
12 documents, credit enhancement fees, underwriting, legal, financial advisory and
13 accounting fees and charges, fees paid to banks or other financial institutions providing
14 credit enhancement, costs of credit ratings and other costs, charges and fees in connection
15 with the issuance, sale and delivery of the bonds, and (iv) fund capitalized interest on the
16 bonds issued for the purposes described in subsection (k)(i) of this Section for a period
17 ending not later than thirty (30) months.

18 (k) **Use of Proceeds of Bonds.** The expenditures authorized to be financed with
19 the proceeds of the bonds are as follows:

20 (i) to fund an escrow to pay debt service on all or a portion of the
21 Government of Guam General Obligation Bonds, 1993 Series A at a maturity not
22 later than the year 2028, provided that the annual debt service for any of said 1993
23 Series A bonds to remain outstanding, together with the annual debt service on the
24 bonds authorized pursuant to this Section, for a given year shall not exceed the
25 aggregate annual debt service for said bonds for the previous year or the next
26 succeeding year by more than one percent (1.0%).

27 (ii) **Thirty Three Million dollars (\$33,000,000)** to fund the capital
28 expenses of the Guam Public School System as listed in **Attachment A.**

1 (iii) **Two Million dollars (\$2,000,000)** to fund the capital expenses of
2 the University of Guam as listed in **Attachment B**.

3 (l) **Permitted Investments.** The proceeds of the bonds, and any revenues
4 relating to such bonds, may be invested in, but only in, the types of investments permitted
5 by the certificate or indenture pursuant to which such bonds are issued.

6 (m)**Approval by Guam Economic Development and Commerce Authority.**
7 § 50103(k), Title 12, Guam Code Annotated, provides that agencies and instrumentalities
8 of the Government of Guam shall issue bonds and other obligations only by means of and
9 through the agency of the Guam Economic Development and Commerce Authority
10 (“GEDCA”). No issue of bonds authorized by this Section shall be sold until the board
11 of directors of GEDCA has adopted a resolution approving the sale of such issue.

12 (n) **Approval of Voters Not Required.** Notwithstanding §§ 17311 and 17312,
13 Title 3, Guam Code Annotated, the issuance of the bonds authorized by this Section shall
14 not be required to be subject to the approval of, or placed before, the voters of Guam.”

15 **Section 3.** Subsection (l) of Section 22425, Chapter 22 of Title 5, Guam Code Annotated, is
16 hereby amended to read as follows:

17 “(l) **Territorial Educational Facilities Fund.** There is continued in
18 existence, separate and apart from other funds of the government of Guam, a fund known
19 as the “Territorial Education Facilities Fund” (the “TEF Fund”). The TEF Fund shall not
20 be commingled with the General Fund or any other fund of the government of Guam.
21 The TEF Fund shall be held in an account or accounts at a Guam financial institution or
22 institutions separate and apart from all other accounts and funds of the government of
23 Guam. All real property tax revenues received by or on behalf of the government of
24 Guam pursuant to § 24103, Title 11, Guam Code Annotated, shall be deposited in the
25 TEF Fund and shall be accounted for and used periodically only for the following
26 purposes and in the following order:

27 (1) On the dates on which monies are remitted from the General Fund to any
28 trustee, co-trustee or paying agent for the bonds issued pursuant to this Section or

1 pursuant to § 22435, Chapter 22 of Title 5, Guam Code Annotated, for the
2 purpose of either (A) paying the principal of and interest on the bonds designated
3 as having been issued for the capital projects enumerated in items (1), (2), (3), (4),
4 (6) and (7) of subsection (m) of this Section and for the payment of general fund
5 expenses, or paying the principal of and interest on the bonds issued pursuant to
6 § 22435, Chapter 22 of Title 5, Guam Code Annotated, or (B) accumulating the
7 amounts necessary to pay the principal of or interest on such bonds, there shall be
8 transferred from the TEF Fund to the General Fund amounts equal to, but not in
9 excess of, the amounts remitted from the General Fund for such purposes, and in
10 the event that the amount so transferred on any such date is insufficient to fully
11 reimburse the amount so remitted, the amount of the insufficiency shall be
12 transferred as soon thereafter as it becomes available in the TEF Fund, together
13 with interest from such remittance date to such date of transfer at a rate equal to
14 the yield on the bonds.

15 (2) On the dates on which monies are transferred to the General Fund
16 pursuant to paragraph (1) of this subsection (l) of this Section, if such transfer is
17 sufficient to fully reimburse the General Fund, (with interest, if required), the
18 balance remaining in the TEF Fund shall remain in the TEF Fund and shall only
19 be appropriated by *I Liheslatura* for the purpose of constructing, refurbishing,
20 replacing and funding educational facilities and to fund the operations of the
21 Guam Community College.

22 (3) The repayment obligation of the University of Guam as described in
23 §22425 Chapter 22 of Title 5, Guam Code Annotated, which establishes the
24 University of Guam Bond Fund shall continue.

25 Such tax collections shall *not* be pledged to the payment of amounts due on such
26 bonds, and this subsection (l) may be amended at any time by subsequent act of
27 *I Liheslatura*. Nothing in this Section or § 22435, Chapter 22 of Title 5, Guam Code
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1 Annotated shall be construed to prevent the government of Guam from issuing, after
2 appropriate enabling legislation, for the benefit of the government of Guam other general
3 obligations or revenue obligations of the government secured by such real property tax
4 revenues on a parity with the bonds authorized by this Section or § 22435, Chapter 22 of
5 Title 5, Guam Code Annotated.”

6 **Section 4. Local Sales of Bonds.** *I Maga'lahaen Guåhan* shall undertake his best efforts to
7 cause a portion of any bonds issued pursuant to Section 2 of this Act (§ 22435, Title 5, Guam Code
8 Annotated), to be offered for sale to residents of Guam, as well as to residents of other jurisdictions, if
9 and to the extent that such offer and any sales resulting from such offer do not increase the costs to the
10 government of Guam of issuing and repaying such bonds.

11 **Section 5. Approval of Bonds.** *I Liheslaturan Guåhan*, pursuant to § 50103(k), Title 12, Guam
12 Code Annotated, hereby approves the issuance and sale by the government of Guam of bonds for the
13 purposes and in the principal amounts not to exceed the purpose and limits set forth in Section 2 of this
14 Act; *provided* that the conditions to the issuance of such bonds shall have been met, such bonds have a
15 final maturity date not later than thirty (30) years after their date of issuance, bear interest at such rate
16 and are sold for such price or prices as shall result in a yield to the bondholders not exceeding seven and
17 one-half percent (7.5%) per annum, and are issued and sold in the manner, for the purposes and subject
18 to the requirements and limitations provided in § 22435, Title 5, Guam Code Annotated. This approval
19 shall supersede the approval contained in Public Law 27-19 and the terms and conditions of Public
20 Law 27-19 shall not apply.

21 **Section 6. Approval of Indenture.** In accordance with § 22435, Title 5, Guam Code
22 Annotated, the terms and conditions of such bonds shall be as determined by *I Maga'lahaen Guåhan* by
23 execution of an Indenture which is hereby approved by *I Liheslaturan Guåhan*, subject to the
24 requirements of said § 22435 and Section 4 of this Act.

25 **Section 7. Early Redemption of Bonds.** The Indenture described in Section 6 of this Act
26 shall contain a provision authorizing the Early Redemption of the Bonds described in Section 2 of this
27 Act. Fifty Percent (50%) of any amount in excess of One Hundred Million Dollars (\$100,000,000)
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1 received in Section 30 revenues payable to the Government of Guam by the Government of the United
2 States pursuant to Section 30 of the Organic Act, 48, U.S. Code §41421h, shall be utilized for the Early
3 Redemption of the Bonds described in this Act.

4 **Section 8. Bond Proceeds Not Subject to Transfer Authority.** The proceeds of the bonds
5 approved by Section 5 of this Act shall not be subject to any transfer authority of *I Maga'lahaen Guåhan*.

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GPSS CIPs and Other Capital Expenses

Air-conditioning Requirements	1,517,060
Asbestos Removal/Renovation	1,080,000
Bell System	882,500
Bleachers & benches	63,985
Bookshelves, Student Lockers, Cubbies & Cabinets	365,102
Cafeteria Equipment & Capital Outlay	479,538
Canopies for schools	441,506
Carts	94,072
Chairs - various	25,803
Classroom Equipment & Band Equipment/Instruments	80,801
Computers/Laptop/hardware	956,909
Fencing	138,000
Fire Alarm System	2,340,000
Floor buffer, Pressure washer, Water Blaster, Blower, Fans	37,525
Hazard Mitigation *	654,000
Home Economics Equipment	25,350
Intercom System	1,550,000
Library painting/shelving/counter	150,202
Lightings/Wirings	151,650
Maintenance and Repairs - Supplies & Materials *	800,000
PA System/Laminating machine/Binding machine	32,000
Painting	363,955
PE/Playground/Sports Equipment	398,506
Printers	56,000
Projectors	144,515
Science Laboratory Equipment	87,999
Student chairs	173,586
Student desks	375,643
Tables - various	359,433
Teacher's chairs	36,151
Teacher's desks	71,005
Termite Treatment & General Pest/Rodent Control	2,048,000
Toilets & Urinals, Sink Replacement	226,650
Tools - cutting tools, saw, drills, vice grip, crimper	53,750
TV/VCR/DVD/CD-Cassette Player/Camera	106,968
Various capital outlay - elevator, water tank, water pressure booster, recovery couch, cable tester, container	292,220
Various Construction Projects	1,998,100
Various Renovation/Repair/Resurfacing Projects	2,438,255
Vehicles	378,000
Washing machine & Clothes dryer & Vacuum & Refrigerator	41,738
Whiteboards/Bulletin boards/Chalkboards	107,960
Sub-total	21,624,437
Other Facilities/Infrastructure Projects	11,375,563
Total Capital Outlay and Capital Improvement Projects	33,000,000

UOG CIPs and Other Capital Expenses

Fumehood Motor/Casing Replacement @ \$4,800ea (Stainless Steel) 10 units TRD: ALS	20,000
Roof Sealing: Field House	230,000
Exterior Painting: Field House	300,000
Large Equipment: Fork Lift & Utility vehicle: Maintenance Shop	25,000
UV Lighting: EC, Lecture Hall & HSS	25,000
Renovation: Nursung, HSB	200,000
Building Painting: SOE	120,000
Campus-Wide Structural/Crack Repairs	125,000
Deferred Maintenance (Campus-wide)	300,000
ADA Compliance improvement (automatic doors)	75,000
Campus-Wide HVAC	50,000
FEMA Projects	75,000
Capital Outlay for Library and related IT	455,000
Total Capital Outlay and Capital Improvement Projects	2,000,000