

MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

Bill No. 203 (Ec)

Introduced by:

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Adolpho B. Palacios, Sr.

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AN ACT TO RE-ENACT CHAPTER 6 OF TITLE 12
GCA, AND TO AMEND §4105 OF CHAPTER 4 OF
TITLE 4 GCA RELATIVE TO RE-ESTABLISHING
THE GUAM MASS TRANSIT AUTHORITY.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings. *I Liheslaturan Guåhan* finds that the
3 freedom to move about as one so chooses is a basic freedom that all in the
4 community should be able to enjoy and appreciate. *I Liheslaturan Guåhan*
5 further finds that Public Law 26-76, which abolished the Guam Mass Transit
6 Authority, may have done more to hamper the community's transportation
7 needs than help.

8 Since Public Law 26-76 was enacted into law, the administration of
9 Public Transportation has been conducted by a small staff within the
10 Department of Administration. This staff, working with the most basic

1 understanding of transportation needs and extremely limited resources, has
2 done all that they could to administer the public transit system on Guam. *I*
3 *Liheslatura* finds that despite the hard work and dedication of the people at the
4 Department of Administration, limitations on resources and capabilities
5 within the law have hampered their ability to meet the growing
6 transportation needs of our island.

7 *I Liheslatura* finds that the outsourcing of certain services such as
8 maintenance and operation of vehicles has its place in mass transit systems,
9 however there are certain operational requirements that should be under the
10 government's control. *I Liheslatura* finds that the government must operate
11 dispatch of vehicles, customer service, and data collection.

12 Therefore, it is the intent of *I Liheslaturan Guåhan* to re-establish the
13 Guam Mass Transit Authority to devote full attention to the transportation
14 needs to the people of Guam.

15 **Section 2.** Chapter 6 of Title 12 of the Guam Code Annotated is hereby
16 re-enacted to read as follows:

17 **"Chapter 6. Guam Mass Transit Authority**

18 **Article 1. General Provisions.**

19 **Article 2. Government.**

20
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22 **Article 1. General Provisions.**

23 **§ 6101. Title.**

1 **§ 6102. Creation.**

2 **§ 6103. Definitions.**

3 **§ 6104. Purposes.**

4 **§ 6105. Powers.**

5

6

7 **§ 6101. Title.**

8 This Chapter shall be hereby cited as the Guam Mass Transit Authority
9 Act of 2008.

10 **§ 6102. Creation.**

11 There is hereby created the Guam Mass Transit Authority, a public
12 corporation.

13 **§ 6103. Definitions.**

14 As used in this Chapter, unless otherwise indicated:

15 (a) *Authority* means the Guam Mass Transit Authority.

16 (b) *Board* means the Board of Directors of the Authority.

17 (c) *Director* means a member of the Board.

18 (d) *Executive Manager* means the person employed by the Board to
19 supervise the administration of the Authority.

20 **§ 6104. Purposes.**

21 The purposes for which the Authority is created are to establish,
22 develop, promote and/or operate public transportation systems within the
23 territory of Guam together with incidental and related facilities and services

1 in order to provide adequate public transportation for persons residing in or
2 visiting the territory of Guam.

3 **§ 6105. Powers.**

4 The Authority may:

- 5 (a) Acquire, construct, reconstruct, purchase, better, extend,
6 improve operate and maintain facilities for the purpose of
7 carrying out its mandate.
- 8 (b) Acquire by grant, purchase, gift, devise, lease, or permit in
9 accordance with the provisions and subject to the limitations of
10 laws of Guam including 5 GCA Chapter 5, and hold and use
11 any real and personal property necessary, convenient or useful
12 for the carrying out of any of its powers pursuant to the
13 provisions of this Chapter, and to dispose of the same.
- 14 (c) To make and enter into contracts, leases, concession
15 agreements and permits and to execute all instruments
16 necessary or convenient in the exercise of its powers, including
17 without limitation, the purchase of liability and casualty
18 insurance for Authority purposes, adopt a seal and sue or be
19 sued in its own corporate name.
- 20 (d) Employ agents and retain or contract for the services of
21 qualified consultants, specialists or experts, as individuals or as

1 organizations, to advise and assist the Authority and its
2 employees, all of which may be accomplished without regard
3 to the portion of the Personnel Laws relative to compensation.

4 (e) Impose, prescribe, revise and collect fees for the purposes of
5 carrying commercial advertisement on or around Authority
6 property.

7 (f) Establish schedules and fares to control the operation of the
8 Authority and such schedules and fares may be altered or
9 modified only after public hearing on any proposed changes,
10 said hearing to comply with the provisions of the
11 Administrative Adjudication Law and other legal requirements
12 of Guam.

13 (g) Adopt such rules and regulations, pursuant to the
14 Administrative Adjudication Law, as may be necessary for the
15 exercise of powers and performance of the duties conferred or
16 imposed upon the Authority or the Board.

17 (h) Do any and all things necessary to exercise the above powers.

18 (i) Employ an attorney, enter into contract for legal services, or
19 enter into contract with the Attorney General to address legal
20 issues.

21 The Authority shall:

1 (j) Operate the dispatching of vehicles.

2 (k) Monitor customer comments and respond to customer
3 comments in a reasonable and timely manner.

4 (l) Collect and record data pertaining to the consumers of the
5 mass transit services. Such data shall be made available to *I*
6 *Liheslaturan Guåhan* on a quarterly basis. Such data shall
7 include, but not be limited to:

8 (1) the amount of consumers utilizing the transit system,

9 (2) the type of services used by consumers.

10 Nothing contained in this Section, or by implication in this Chapter shall
11 be construed to be in any way in derogation or limitation of powers conferred
12 upon or existing in the Authority or in the Board by virtue of the Organic Act,
13 the laws of Guam or the Government Code.

14
15 **Article 2. Government.**

16 **§ 6201. Board of Directors.**

17 **§ 6202. Executive Manager.**

18 **§ 6203. Personnel.**

19 **§ 6204. Mass Transit Fund.**

20 **§ 6205. Limited Liability.**

21
22 **§ 6201. Board of Directors.**

23 (a) The Board shall consist of seven (7) directors appointed by the

1 Governor of Guam, with the advice and consent of the Legislature.
2 Each director shall serve a term of three (3) years from the
3 expiration of the term for which such director's predecessor was
4 appointed, and until a successor is appointed and qualified, or in
5 the case of a director appointed to a newly created membership in
6 the Board, such director shall serve a term of three (3) years from
7 the date of initial appointment, and until a successor is appointed
8 and qualified. All vacancies occurring in the office of director
9 shall be filled by the Governor in the same manner as for full-term
10 appointments, but only for the unexpired term of the director
11 whose vacancy is being filled.

12 (b) Four (4) directors shall constitute a quorum of the Board for the
13 transaction of business. The Board may adopt rules and
14 regulations governing the conduct of its affairs. It shall elect a
15 chairman and vice-chairman from among its members. It shall
16 appoint a secretary who shall maintain all records and minutes of
17 the Board.

18 (c) Each director shall receive the sum of Fifty Dollars (\$50.00) for his
19 attendance at any meeting of the Board, but such compensation
20 shall not apply to more than two meetings in any one calendar
21 month. No director shall receive any other compensation, but

1 shall be reimbursed for actual travel, subsistence and out-of-
2 pocket expenses incurred in the discharge of his responsibilities,
3 including authorized attendance at meetings held away from
4 Guam.

5 **§ 6202. Executive Manager**

- 6 (a) The Board shall appoint an Executive Manager, who shall be its
7 chief executive officer. The Executive Manager shall serve at the
8 pleasure of the Board, which shall fix his compensation.
- 9 (b) The powers of the Executive Manager include:
- 10 (1) To enforce all rules and regulations of the Authority.
 - 11 (2) To attend, unless excused by the Board, all meetings of the
12 Board and to submit reports on the affairs of the Authority
13 as required by the Board.
 - 14 (3) To keep the Board advised on the needs of the Authority
15 and to approve demands for payment of obligations within
16 the purposes and amounts authorized by the Board.
 - 17 (4) To devote his entire time to the business of the Authority, to
18 select and appoint the employees of the Authority, except as
19 otherwise provided in this Chapter, and to plan, organize,
20 coordinate and control the services of such employees in the
21 exercise of the powers of the Authority under the general

1 direction of the Board.

2 (5) To perform such other and additional duties as the Board
3 may require.

4 **§ 6203. Personnel**

5 (a) The Board, pursuant to 4 GCA Chapter 4, shall establish rules and
6 regulations governing the selection, promotion, performance
7 evaluation, demotion, suspension, dismissal and other
8 disciplinary action for employees of the Authority.

9 (b) The Executive Manager shall be an unclassified employee. No
10 person employed by the Authority on a limited term contract shall
11 be a classified employee. All other employees of the Authority are
12 classified employees.

13 (c) Each employee of the Authority shall be eligible to become a
14 member of the Government of Guam Retirement Fund pursuant
15 to 4 GCA §8105(d).

16 (d) Each employee of the Authority shall be eligible to participate in
17 any government of Guam health and life insurance plan.

18 (e) The employer's contribution to the Government of Guam
19 Retirement Fund that is assessed by the Fund's Board of Trustees
20 for the benefit of Authority employees who are members of the
21 Fund shall be paid by the Authority.

- 1 (f) The employer's contribution to the Worker's Compensation Fund
2 that is assessed by the Worker's Compensation Commission for
3 the benefit of Authority employees shall be paid by the Authority.

4 **§ 6204. Guam Mass Transit Authority Fund.**

- 5 (a) The Board shall adopt and maintain a system of accounting which
6 is in accordance with generally accepted accounting principles
7 applicable to transportation authorities.

- 8 (b) There is established a fund to be known as the "Guam Mass
9 Transit Authority Fund" which the Authority shall maintain
10 separate and apart from other funds of the government of Guam,
11 and independent records and accounts shall be maintained in
12 connection therewith. The Guam Mass Transit Authority Fund
13 shall be audited annually by an independent certified public
14 accountant or by the Office of the Public Auditor.

- 15 (c) All monies received by the Authority from whatever source
16 derived shall be deposited in the Guam Mass Transit Authority
17 Fund.

- 18 (d) All expenditures, except as otherwise provided by law, shall be
19 made from said Guam Mass Transit Authority Fund.

- 20 (e) The Board shall report to the Governor and to the Legislature
21 concerning the administration of the affairs of the Authority. It

1 shall present an annual report within one hundred twenty (120)
2 days after the end of each fiscal year and, if requested by the
3 Governor or the Legislature, shall present special reports within
4 thirty (30) days after the end of each intervening quarter. The
5 financial information presented in such reports shall be in
6 accordance with the system of accounts adopted by the Board.

7 **§ 6205. Limited Liability.**

- 8 (a) To the extent that any liability of the government of Guam or of
9 the Authority is covered by a policy or policies of insurance, the
10 Government waives the limitation of liability found in 5 GCA
11 §6301; provided, that the Government shall not be liable in
12 damages for tort in any amount which exceeds the coverage of
13 insurance and the limitation of liability contained in §6500.13 of
14 the Government Code.
- 15 (b) All claims made against any policy of insurance purchased by the
16 Authority shall be made in accordance with the procedures and
17 time limitations set forth in the Government Claims Act, except
18 that all claims not in excess of the face amount of the policy shall
19 be presented to the Executive Manager of the Authority, who shall
20 present the same to the insurance carrier, carriers or to their
21 designated agents for processing.

1 (c) If a claim is in excess of the applicable insurance coverage, then
2 the Executive Manager of the Authority shall also present a copy
3 of the claim to the Attorney General, who shall then coordinate the
4 claim as between the Government and the insurance carriers, and
5 who shall represent the Government in the event of a dispute
6 between the Government and the insurance carriers. In the event
7 of said dispute, the Attorney for the Authority shall represent the
8 interests of the Authority.

9 (d) Each policy of insurance written covering the Authority or its
10 interest shall contain a clause waiving any defense of sovereign
11 immunity which may be raised against the payment of the claim
12 by carrier.

13 (e) The Executive Manager shall publish, in a newspaper of general
14 circulation in Guam, within ten (10) days after the effective date of
15 any policy of insurance purchased, a statement indicating the
16 existence of any such policy and a notice informing the public
17 where claims may be filed.”

18 **Section 3.** §4105(a) and §4105(b) of Chapter 4 of Title 4 of the Guam
19 Code Annotated is hereby amended to read:

20 (a) Rules subject to criteria established by this Chapter governing the
21 selection, promotion, performance, evaluation, demotion,

1 suspension and other disciplinary action of classified employees
2 shall be adopted by the Board of Directors of the Antonio B. Won
3 Pat International Airport Authority, Guam; the Board of Directors
4 of the Guam Economic Development and Commerce Authority ;
5 the Board of Directors of the Guam Housing Corporation; the
6 Board of Commissioners of the Guam Housing and Urban
7 Renewal Authority; the Guam Judicial Council; the Board of
8 Directors of the Jose D. Leon Guerrero Commercial Port; the
9 Guam Education Policy Board; the Board of Regents of the
10 University of Guam; the Guam Community College Board of
11 Trustees; the Board of Directors of the Guam Mass Transit
12 Authority; the Board of Trustees of the Guam Memorial Hospital
13 Authority; the Board of Directors of the Guam Visitors Bureau;
14 and the Consolidated Commission on Utilities on behalf of the
15 Guam Waterworks Authority and the Guam Power Authority,
16 with respect to personnel matters within their respective Branches,
17 agencies, public corporations or departments, and by the Director
18 of Administration as to all other Executive Branch employment.

- 19 (b) Such rules shall, to the extent practicable, provide standard
20 conditions for entry into and the other matters concerning the
21 government service. The personnel rules adopted for the Guam

1 Economic Development and Commerce Authority, the Guam
2 Housing Corporation, the Guam Housing and Urban Renewal
3 Authority, the University of Guam, the Guam Community
4 College, the Antonio B. Won Pat International Airport Authority,
5 Guam, the Jose D. Leon Guerrero Commercial Port, the Guam
6 Public School System, the Guam Mass Transit Authority, the
7 Guam Memorial Hospital Authority, by the Director of
8 Administration and by the Consolidated Commission on Utilities
9 shall require that all their classified employee appeals, except
10 academic personnel of the Guam Community College and the
11 University of Guam in conformance with Title 4 GCA § 4403(h), be
12 heard by the Civil Service Commission ('Commission').

13 **Section 4. Transfer of Funds.**

14 The total amount in the Public Transit Fund at the time of this act's
15 effective date shall be transferred to the Guam Mass Transit Authority Fund.

16 **Section 5. Transfer of Records, Equipment, Designation as State**
17 **Agency.**

- 18 (a) Upon the effective date of this act, the Department of
19 Administration shall transfer possession of all books, records,
20 papers, maps, plans, documents, offices, equipment, supplies,
21 money, funds, appropriations, licenses, permits, agreements,

1 contracts, claims, judgments, land, and other property, real or
2 personal, connected with the administration of, or held for the
3 benefit or use of, the former GMTA to the newly reinstated Guam
4 Mass Transit Authority.

- 5 (b) For the purposes of receiving federal funding for the operations of
6 the mass transit system, the designation of State Agency is hereby
7 designated to be within the Guam Mass Transit Authority.

8 **Section 6. Appropriation.**

9 The sum of four million, five hundred thousand dollars (\$4,500,000) is
10 hereby appropriated from the Guam Highway Fund to the Guam Mass
11 Transit Authority Fund for the purpose of providing initial funding for the
12 Guam Mass Transit Authority facilities, personnel and operations.

13 **Section 7. Severability.**

14 *If* any provision of this Law or its application to any person or
15 circumstance is found to be invalid or contrary to law, such invalidity shall *not*
16 affect other provisions or applications of this Law which can be given effect
17 without the invalid provisions or application, and to this end the provisions of
18 this Law are severable.

19