
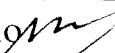



**I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2012 (SECOND) Regular Session**

2012 JUN 11 PM 2:00m  
1:12

Bill No. 472-31 (COR)

Introduced by:

T. C. Ada   
R. J. Respicio   
A. B. Palacios, Sr. 

**AN ACT TO AUTHORIZE AND APPROVE THE  
TERMS AND CONDITIONS OF GOVERNMENT  
OF GUAM GRANT ANTICIPATION REVENUE  
VEHICLE BONDS (GARVEE BONDS) FOR THE  
PURPOSE OF FINANCING HIGHWAY  
IMPROVEMENTS, AND TO AUTHORIZE THE  
PLEDGE OF FEDERAL GRANT PROCEEDS TO  
SECURE THE OBLIGATION TO REPAY THE  
BONDS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* hereby  
3 finds as follows:

4 (a) Federal law authorizes states and territories to issue Grant  
5 Anticipation Revenue Vehicle (GARVEE) bonds, which are payable from  
6 expected Title 23 Federal-aid grants from the U.S. Department of Transportation.

7 (b) Utilizing GARVEE bonds to finance highway construction projects  
8 eligible for Title 23 funding from the Federal Highway Administration (FHWA)  
9 can result in significant cost savings since projects can be completed at present-

1 day costs, allows Guam to maintain its local highway construction capability by  
2 keeping it actively employed, and enables Guam to avoid the potential cost  
3 inflation that may accompany the military build-up.

4 (c) Funding transportation projects with grant anticipation bonds will  
5 also enable completion of highway construction projects, or preliminary  
6 components thereof, during this lull prior to the military build-up.

7 (d) The borrowing rates for grant anticipation bonds are near their all-  
8 time historical lows, presenting Guam with a unique opportunity to fund its  
9 transportation projects at a favorable cost of capital.

10 (e) Bonds to be repaid solely with the proceeds of special purpose  
11 federal grants are not “public indebtedness” within the meaning of the debt  
12 limitation provisions of the Guam Organic Act, 48 U.S.C. § 1423a.

13 (f) Therefore, it is in the best interest of Guam to develop these  
14 innovative methods for funding and accelerating critical transportation  
15 infrastructure projects.

16 **Section 2.** Section \_\_\_\_ of Title \_\_, Guam Code Annotated is hereby  
17 added to read as follows:

18 § \_\_\_\_ **. Grant Anticipation Revenue Vehicle (GARVEE) Bonds for**  
19 **Highways**

20 (a) Authorization of Issuance of GARVEE Bonds. The Governor of  
21 Guam is authorized to issue one or more series of grant anticipation notes or  
22 bonds of the government of Guam in an aggregate principal amount not to exceed  
23 Seventy-Five Million Dollars (\$75,000,000) for the purpose of implementing the  
24 Capital Improvement Highway Projects described in subsection (k) of this  
25 Section, funding debt service reserves and paying expenses incurred in  
26 connection with the issuance of such bonds; provided, however, that the issuance

1 of the notes or bonds shall not cause a violation of the debt limitation provisions  
2 of 48 U.S.C. § 1423a.

3 (b) Terms and Conditions Determined by Indenture. As hereafter used  
4 in this section, the term “bonds” includes notes, bonds and other evidences of  
5 indebtedness. The terms and conditions of the bonds shall be as determined by  
6 the Governor by the execution of an indenture securing the bonds upon or prior to  
7 the issuance of the bonds. The indenture shall contain such terms and conditions  
8 as are consistent with this Section.

9 (c) Valid and Binding Obligation. Any bonds authorized by this  
10 Section shall constitute the valid and legally binding limited obligations of the  
11 government of Guam payable solely from and secured by a pledge of the  
12 revenues pledged pursuant to subsection (d) of this Section. The validity of any  
13 such bonds shall not be affected by the validity or regularity of any proceedings  
14 for the implementation of Capital Improvement Highway Projects funded by the  
15 new bonds.

16 (d) Pledge of Grant Revenues; Not a General Obligation. All or any  
17 part of amounts apportioned to the government of Guam by the United States  
18 Department of Transportation or its successor may be pledged to secure the  
19 repayment of any bonds issued under this Section and to pay costs incurred in  
20 connection with the issuance or administration of the bonds. Pledged revenues  
21 may include, but are not limited to, amounts paid to the government of Guam  
22 pursuant to Chapter 1 of Title 23, United States Code, Highways, as amended and  
23 supplemented from time to time (“Title 23”), any successor to or replacement of  
24 Title 23, and any other provision of federal law authorizing federal funding of  
25 highways in Guam. Any pledge made to secure the bonds shall be valid and  
26 binding from the time the pledge is made. The revenues pledged and thereafter  
27 received by the government of Guam or by any trustee, depository or custodian

1 shall be deposited in a separate account and shall be immediately subject to the  
2 lien of such pledge without any physical delivery thereof or further act, and the  
3 lien of such pledge shall be valid and binding against all parties having claims of  
4 any kind in tort, contract or otherwise against the government of Guam or such  
5 trustee, depository or custodian, irrespective of whether the parties have notice  
6 thereof. The indenture or agreement by which such pledge is created need not be  
7 recorded. All such revenues, to the extent so pledged, are hereby continuously  
8 appropriated for such purpose. The bonds shall not be, and shall state on their  
9 face that they are not, general obligations of the government of Guam.

10 (e) Authorization of Memorandum of Understanding. *I Maga'laha*  
11 *Guåhan* may enter into one or more memoranda of understanding on behalf of  
12 the government with the Federal Highway Administration, which would, among  
13 other things, identify the projects to be financed with proceeds of the bonds and  
14 set forth the procedures for calculation, request and payment of pledged revenues  
15 to the trustee, depository or custodian.

16 (f) Waiver of Immunity. Notwithstanding any substantive or  
17 procedural provision of Chapter 6 of Title 5 of the Guam Code Annotated the  
18 government of Guam waives immunity from any suit or action in contract on the  
19 bonds, but does not waive sovereign immunity as to the personal liability of  
20 elected officials and employees of the government of Guam.

21 (g) Form of Bonds; Covenants; Appointment of Fiduciaries. The  
22 technical form and language of the bonds, including provisions for execution,  
23 exchange, transfer, registration, paying agency, lost or mutilated bonds,  
24 negotiability, cancellation and other terms or conditions not inconsistent with this  
25 Section, including covenants relating to the administration of grant programs and  
26 the handling of revenues, shall be as specified in the indenture approved by the  
27 Governor, authorizing the issuance of the bonds. The indenture may appoint one

1 or more trustees or other fiduciaries authorized to receive and hold in trust the  
2 proceeds of the bonds and revenues relating thereto, to protect the rights of  
3 bondholders and to perform such other duties as may be specified in the  
4 indenture. The Governor is also authorized to execute, on behalf of the  
5 government of Guam, any appropriate agreements, certificates or other  
6 instruments relating to the bonds and the sale thereof.

7 (h) Authorization for Credit Enhancement. The Governor is authorized  
8 to enter into such contracts or agreements with such banks, insurance companies  
9 or other financial institutions as he determines are necessary or desirable to  
10 improve the security and marketability of the bonds issued under this Section.  
11 Such contracts or agreements may contain an obligation to reimburse, with  
12 interest, any such banks, insurance companies or other financial institutions for  
13 advances used to pay principal or interest on the bonds. Any such reimbursement  
14 obligation shall be payable solely from, and may be secured by a pledge of, the  
15 revenues described in subsection (d) of this Section.

16 (i) Use of Proceeds from the Sale of the Bonds. Proceeds from the sale  
17 of the bonds shall be used solely to implement the Capital Improvement Highway  
18 Projects described in subsection (k) of this Section, to fund a debt service reserve  
19 fund, if any, and to pay expenses relating to the authorization, sale and issuance  
20 of the bonds, including, without limitation, printing costs, costs of reproducing  
21 documents, credit enhancement fees, if any, underwriting, legal and accounting  
22 fees and charges, costs of credit ratings and other costs, charges and fees in  
23 connection with the issuance, sale and delivery of the bonds.

24 (j) No Personal Liability. No employee or elected official of the  
25 government of Guam shall be individually or personally liable for the payment of  
26 any amounts due on any bonds issued under this Section, or for any other liability  
27 arising in connection with the bonds; *provided, however*, that nothing in this

1 Section shall relieve any employee or elected official from the performance of  
2 any ministerial duty required by law.

3 (k) Expenditure of Proceeds.

4 i. **Project Groups.** The 2030 Guam Transportation Plan (GTP)  
5 identifies highway projects that need to be undertaken to improve  
6 Guam’s highway infrastructure. Highway projects to be funded  
7 under this Chapter are categorized into two (2) groups: Group 1  
8 and Group 2.

9 a. Group 1: eligible highway projects identified in the 2030  
10 GTP that are deemed high priority and require funding  
11 immediately. *(The projects are listed in alphanumeric*  
12 *order as a matter of form, and the Group 1 list is not to be*  
13 *construed as an order of implementation priority).*

14 b. Group 2: eligible highway projects identified in the 2030  
15 GTP that may be undertaken using:

16 i. excess fund balances from completed Group 1  
17 projects and not needed or insufficient for the  
18 completion of remaining Group 1 project(s), or

19 ii. funds reprogrammed from a Group 1 project that  
20 cannot be completed within a reasonable time due to  
21 technical or regulatory constraints.

22 ii. The proceeds shall be expended for the following Capital  
23 Improvement Highway Projects:

24 **GROUP 1**

25 a. **Route 14B (Ypao Road) – Reconstruction and Widening:**

26 i. Phase 1, From Rte-1 to Carmen Memorial Drive  
27 (near SDA),

1 ii. Phase 2, from Carmen Memorial Drive to Rte-  
2 14B/Rte-14 (San Vitores Road).

3 **b. Route 27** (*aka Adrian Sanchez Rd or Hamburger Rd*) –  
4 Reconstruction, Widening, and Drainage Improvements  
5 from Rte-1 to Rte 16, and signalization at Rte-1/Rte-27  
6 intersection.

7 **c. Tiyan Parkway** – Construction, Phase 1 (from old GPD  
8 Headquarters, westward to Rte-8 vic. Cars Plus).

9 **GROUP 2**

10 **a. Route 10A** (*Airport Road*) – Reconstruction and  
11 Widening.

12 **b. Route 14** (*Chalan San Antonio, Rte-1 to Archbishop*  
13 *Felixberto Flores Circle*) – Resurfacing

14 **c. Route 17** (*Cross-island Road*) - Rehabilitation and  
15 widening, Phase 2B (Rte-5/Rte-17 to Rte-17/Rte-4A  
16 intersections).

17 **d. Route 26** (*Macheche Hill*) – Reconstruction and Widening  
18 from Rte-1 to Rte 15.

19 **e. Mass transit improvements.**

20 In the event that one or more of the Capital Improvement Highway Projects listed  
21 in Group 1 or Group 2 of this subsection (k) is completed at a cost that is lower  
22 than current estimates, or that logistics in construction or other events cause one  
23 or more other Capital Improvement Highway Projects to be ready for  
24 construction prior to the Capital Improvement Highway Projects listed above in  
25 Group 1 or Group 2 of this subsection (k), then the proceeds of the bonds may  
26 also be expended on such other or additional Capital Improvement Highway

1 Projects as are approved by the Federal Highway Administration for financing  
2 with proceeds of the bonds pursuant to a new or amended memorandum of  
3 understanding (as described in subsection (e) of this Section) with *I Maga'laha*  
4 *Guåhan*. Any earnings derived from the investment of bond proceeds, and any  
5 bond proceeds not required for the completion of all of the Capital Improvement  
6 Highway Projects, shall be used as required or permitted by federal law on  
7 transportation related projects, subject to an appropriation by the Legislature.

8 (l) Approval by Guam Economic Development Authority. Subsection  
9 (k) of Section 50103 of Title 12 of the Guam Code Annotated provides that  
10 agencies and instrumentalities of the Government shall issue bonds and other  
11 obligations only by means of and through the agency of the Guam Economic  
12 Development Authority ('GEDA'). No issue of bonds authorized by this Section  
13 shall be sold until the board of directors of GEDA has adopted a resolution  
14 approving the sale of such issue.

15 (m) Approval by Legislature of Government of Guam Grant  
16 Anticipation Bonds. *I Liheslaturan Guåhan*, pursuant to subsection (k) of  
17 Section 50103 of Title 12 of the Guam Code Annotated, hereby approves the  
18 issuance and sale by the government of Guam of bonds pursuant to this Section  
19 in one or more series or issues; *provided* that such notes or bonds shall have an  
20 aggregate principal amount not to exceed Seventy-Five Million Dollars  
21 (\$75,000,000), shall have a final maturity not later than twenty (20) years from  
22 their date of initial issuance, shall bear interest at such rate or rates and shall be  
23 sold for such price or prices as shall result in a net yield to the bondholders not  
24 exceeding seven percent (7.0%) per annum, shall be issued and sold in the  
25 manner, for the purposes and subject to the requirements and limitations provided  
26 in this Section. Net yield to the bondholders shall be calculated by subtracting  
27 interest subsidy amounts, if any, to be received from the United States in



1 connection with such bonds from the amount of interest to be paid to  
2 bondholders.