



FILE COPY

**MINA' TRENTA NA LIHESLATURAN GUÅHAN**  
THIRTIETH GUAM LEGISLATURE  
155 Hessler Place, Hagåtña, Guam 96910

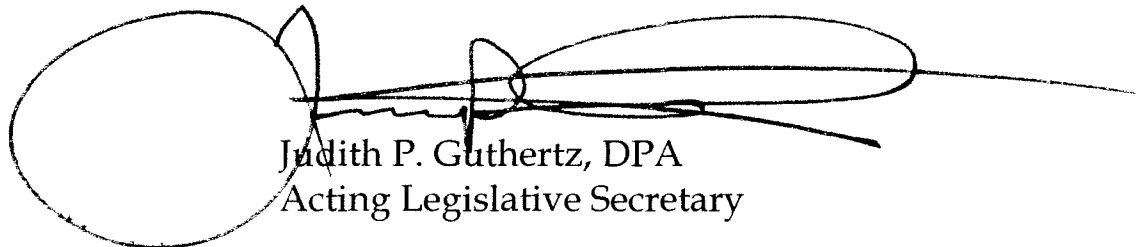
July 30, 2010

The Honorable Felix P. Camacho  
*I Maga'lahaen Guåhan*  
*Ufisinan I Maga'lahi*  
*Hagåtña, Guam 96910*

Dear *Maga'lahi* Camacho:

Transmitted herewith is Bill No. 1(5-S) which was passed by *I Mina' Trenta Na Liheslaturan Guåhan* on July 29, 2010.

Sincerely,



Judith P. Guthertz, DPA  
Acting Legislative Secretary

Enclosure (1)

**OFFICE OF THE GOVERNOR**  
**CENTRAL FILES**

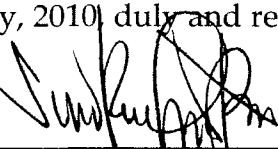
*Tomás Merao*  
RECEIVED BY  
TIME 3:00pm DATE 7 30 10

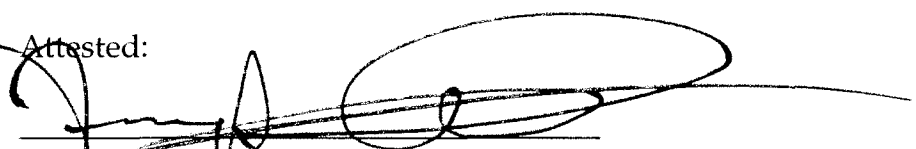
FILE COPY

I MINA'TRENTA NA LIHESLATURAN GUÁHAN  
2010 (FIFTH) Special Session


CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÁHAN

This is to certify that Bill No. 1 (5-S), "AN ACT TO AMEND §§ 58A105, 58A108 AND 58A109 OF CHAPTER 58A OF TITLE 5, GUAM CODE ANNOTATED", was on the 29<sup>th</sup> day of July, 2010, duly and regularly passed.

  
\_\_\_\_\_  
Tina Rose Muña Barnes  
Acting Speaker

Attested:  
  
\_\_\_\_\_  
Judith P. Guthertz, DPA  
Acting Legislative Secretary

This Act was received by I Maga'lahaen Guáhan this 30 day of July, 2010, at 3 o'clock P.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
Maga'laha's Office

APPROVED:  
  
\_\_\_\_\_  
FELIX P. CAMACHO  
I Maga'lahaen Guáhan

Date: \_\_\_\_\_  
Public Law No. \_\_\_\_\_

***I MINA'TRENTA NA LIHESLATURAN GUÅHAN***  
**2010 (FIFTH) Special Session**

**Bill No. 1 (5-S)**

As amended on the Floor.

Introduced by:

Committee on Rules, Natural Resources, and Federal, Foreign & Micronesian Affairs

by request of *I Maga'lahaen Guåhan* in accordance with the Organic Act of Guam.

**AN ACT TO AMEND §§ 58A105, 58A108 AND 58A109 OF CHAPTER 58A OF TITLE 5, GUAM CODE ANNOTATED.**

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that in order to purchase the tax-exempt obligations or other financial instruments to be sold to finance the Education Facility (a replacement high school to be located on the existing site of John F. Kennedy High School in *Tumon*) pursuant to Chapter 58A of Title 5, Guam Code Annotated, investors require certainty that the Lease, Lease-Back, Contract and other agreements relating to the design, construction, maintenance and financing of the Education Facility will be valid and binding obligations when executed and delivered. *I Liheslatura* hereby finds and determines that providing such certainty is in the best interest of Guam in expeditiously providing safe and modern facilities for the education of its high school population. *I Liheslatura* hereby declares pursuant to §702 of Chapter 7, Title 1, Guam Code Annotated, that if and to the extent that Section 2 of this Act must be given retroactive effect to enable the procurement process existing as of the date of enactment of this Act to proceed to completion, such retroactive effect is intended.

1           **Section 2.** §58A105 of Chapter 58A of Title 5, Guam Code Annotated, is  
2 hereby *amended* to read:

3           “**§58A105. Procurement.** (a) Subject to the approval of *I*  
4 *Liheslaturan Guåhan*, the government of Guam or an Education Agency  
5 may solicit Requests for Proposals (‘RFP’) through the Department of  
6 Public Works, in compliance with the Guam Procurement Law, for the  
7 financing, design and construction of the Education Facility, together with  
8 maintenance of the Education Facility over the term of the Lease-Back,  
9 according to the needs of the Education Agency and consistent with this  
10 Chapter. Notwithstanding the foregoing, in connection with any  
11 amendments to an existing Lease or Lease-Back, the Contractor with respect  
12 to such amendments *shall* be the Contractor with respect to the existing  
13 Lease or Lease-Back. The RFP *shall* be issued within thirty (30) days of  
14 enactment of this Act for replacement of the John F. Kennedy High School  
15 Facility on the existing site; may include demolition of such portions of the  
16 existing facility as necessary; and *shall* include a requirement that  
17 occupancy of the JFK facility take place *no later than* nine (9) months after  
18 execution of the Contract.

19           (b) Upon the execution and delivery by the Education Agency of  
20 the Contract, the Lease, the Lease-Back and any other agreements relating to  
21 the design, construction, maintenance and financing of the Education  
22 Facility, the Contract, Lease, Lease-Back and such other agreements *shall* be  
23 valid and binding obligations of the Education Agency, enforceable in  
24 accordance with their respective terms, and there shall be no power to  
25 terminate or declare null and void the Contract, Lease, Lease-back, or such  
26 other agreement pursuant to §5452 of Title 5, Guam Code Annotated.

1           (c) The Contractor selected through Subsection (a) of this Section  
2 *shall* be deemed disqualified if funding is *not* secured within ninety (90)  
3 calendar days from the enactment of this Act that adds this Subsection. *If*  
4 funding is *not* secured as required by this Subsection, the Department of  
5 Public Works *shall* proceed as provided in §3114(l) (4) of Chapter 3 of  
6 Division 4 of Title 2 of GAR.”

7       **Section 3.** §58A109 of Chapter 58A of Title 5, Guam Code Annotated, is  
8 hereby *amended* to read:

9           “**§58A109. Pledge of Section 30 Revenue.** Rental payments under  
10 the Lease and the Lease-Back may be secured by a pledge or other  
11 reservation of revenues received by or on behalf of the government of Guam  
12 from the United States of America pursuant to Section 30 of the Guam  
13 Organic Act (48 U.S.C.A. Section 1421h). Any pledge or reservation of  
14 Section 30 revenues authorized by the Act *shall* be subordinate *only* to the  
15 existing lien securing the Government of Guam Limited Obligation (Section  
16 30) Bonds, Series 2001A. Any such pledge or reservation authorized  
17 hereunder *shall* be valid and binding from the time the pledge or reservation  
18 is made and *shall* be limited to Six Million Nine Hundred Thousand Dollars  
19 (\$6,900,000) per year during the Lease-Back Period. The remainder of the  
20 funds from the existing lien, *supra*, *shall* be used for the expansion of  
21 *Okkodo* High School to fund the expansion of classrooms to accommodate  
22 the overcrowding, restroom facilities at all outdoor sports fields, additional  
23 restrooms required by public health due to the increase in student  
24 population, solar panels, the culinary arts building, signalization, the track  
25 and field track with proper turf, and other projects needed to facilitate the  
26 expansion to accommodate the increase in student population. The Section  
27 30 revenues pledged or reserved and thereafter received by the government

1 of Guam or by any trustee, depository or custodian *shall* be deposited in a  
2 separate account and *shall* be immediately subject to such reservation or the  
3 lien of such pledge without any physical delivery thereof or further act, and  
4 such reservation or the lien of such pledge *shall* be valid and binding against  
5 all parties having claims of any kind in tort, contract or otherwise against the  
6 government of Guam or such trustee, depository or custodian, irrespective of  
7 whether the parties have notice thereof. The instrument by which such  
8 pledge or reservation is created need *not* be recorded.”

9 **Section 4.** §58A108 of Chapter 58A of Title 5, Guam Code Annotated, is  
10 hereby *amended* to read:

11 **“§58A108. Use of Tax-Exempt Bonds for Financing.** To minimize  
12 the financing cost to the Education Agency, financing utilized by the  
13 Contractor to fund the design and construction of an Education Facility *shall*  
14 be through tax-exempt obligations *or* other financial instruments *provided*  
15 such financing is available at an interest rate of *no more than* eight and a half  
16 percent (8.50%). Alternatively, the Contractor may use an alternative  
17 method of financing, including, but *not limited to*, a short term debt,  
18 mortgage, loan, federally guaranteed loan *or* loan by an instrumentality of  
19 the United States of America *if* such financing will better serve the needs of  
20 the people of Guam. Such alternative financing *shall* be approved by *I*  
21 *Liheslaturan Guåhan*. The purpose for the requirements of this Section is to  
22 assure the Education Agency pays the lowest possible interest rate so that  
23 the cost to the Education Agency of financing the design and construction of  
24 an Education Facility, amortized through the Lease-Back payments from the  
25 Education Agency to the Contractor, will be lower than regular commercial  
26 rates.”