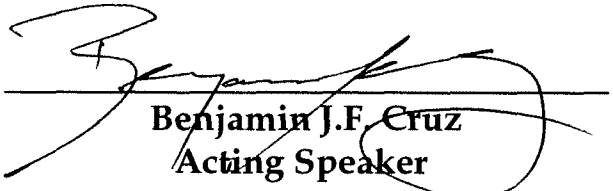



I MINA'TRENTA NA LIHESLATURAN GUÅHAN  
2009 (FIRST) Regular Session

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

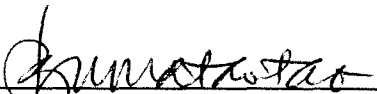
This is to certify that **Substitute Bill No. 175-30 (COR)**, "AN ACT TO ADD NEW SUBSECTIONS (14) AND (15) TO §8104 OF CHAPTER 8; TO ADD NEW SUBSECTIONS (n) AND (o) TO §14104 OF CHAPTER 14; AND TO AMEND §14104.1 AND §14404 OF CHAPTER 14, ALL OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PERMITTING THE GUAM POWER AUTHORITY AND THE GUAM WATERWORKS AUTHORITY TO ENTER INTO LONG TERM CONTRACTS," was on the 13<sup>th</sup> day of November, 2009, duly and regularly passed.

  
Benjamin J.F. Cruz  
Acting Speaker

Attested:

  
Rory J. Respicio  
Acting Legislative Secretary

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This Act was received by *I Maga'lahaen Guåhan* this 17 day of Nov., 2009, at 4:25 o'clock P.M.

  
Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:

\_\_\_\_\_  
FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

***I MINA'TRENTA NA LIHESLATURAN GUÅHAN***  
**2009 (FIRST) Regular Session**

**Bill No. 175-30 (COR)**

As substituted by the Committee on Utilities,  
Transportation, Public Works, and Veterans Affairs,  
and amended on the Floor.

Introduced by:

T. C. Ada  
F. B. Aguon, Jr.  
F. F. Blas, Jr.  
T. R. Muña Barnes  
E. J.B. Calvo  
B. J.F. Cruz  
J. V. Espaldon  
Judith P. Guthertz, DPA  
Adolpho B. Palacios, Sr.  
v. c. pangelinan  
M. J. Rector  
R. J. Respicio  
Ray Tenorio  
Telo Taitague  
Judith T. Won Pat, Ed.D.

**AN ACT TO *ADD* NEW SUBSECTIONS (14) AND (15) TO §8104 OF CHAPTER 8; TO *ADD* NEW SUBSECTIONS (n) AND (o) TO §14104 OF CHAPTER 14; AND TO *AMEND* §14104.1 AND §14404 OF CHAPTER 14, ALL OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PERMITTING THE GUAM POWER AUTHORITY AND THE GUAM WATERWORKS AUTHORITY TO ENTER INTO LONG TERM CONTRACTS.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that it has previously authorized the Guam Power Authority to enter into

1 performance management contracts, contracts with independent power producers,  
2 and other private-public partnerships that enabled private entities to build,  
3 rehabilitate, operate, and manage various parts of the island-wide power system to  
4 achieve the quality level of services demanded by GPA's rate payers. Such  
5 contracts have proven to be an invaluable tool which enabled the Guam Power  
6 Authority to end load shedding, reducing the expensive use of fast track generators  
7 to save ratepayers over One Hundred Ten Million Dollars (\$110,000,000) in  
8 avoided fuel costs since 2003.

9 *I Liheslaturan Guåhan* finds that the island-wide power system and Guam's  
10 drinking and wastewater systems face new challenges in the form of the impending  
11 buildup of U.S. military forces on Guam and the ever-rising cost of fossil fuels  
12 used to power Guam's infrastructure.

13 *I Liheslaturan Guåhan* finds that an effective tool to enable the GPA and  
14 GWA (Public Utilities) to expand the infrastructure needed, and to operate and  
15 maintain their respective systems, would be to authorize the use of public-private  
16 partnerships between private entities and the Public Utilities. *I Liheslaturan*  
17 *Guåhan* finds that allowing the Public Utilities to enter into appropriate long-term  
18 contracts has proven to serve ratepayers well through lower costs, effective  
19 operations and management, and operations reliability.

20 **Section 2.** A new subsection (14) of §8104 of Article 1, Chapter 8 of Title  
21 12, Guam Code Annotated, is hereby *added* to read:

22 “(14) The Guam Power Authority may enter into long term contracts  
23 for a period up to and *not exceeding* thirty (30) years for renewable energy  
24 contracts, purchased power agreements, refurbish-operate-maintain  
25 contracts, and build-operate-transfer contracts that cost Thirty Million  
26 Dollars (\$30,000,000) *or* more. Nothing herein *shall* repeal, limit, *or*

1 otherwise prohibit any law *or* regulation authorizing the Authority to enter  
2 into any contract for a longer period.”

3 **Section 3.** A new subsection (15) of §8104 of Article 1, Chapter 8 of Title  
4 12, Guam Code Annotated, is hereby *added* to read:

5 “(15) The Guam Power Authority may enter into performance  
6 management contracts (PMC) to manage any part of the island wide power  
7 system with a base period up to five (5) years and *no more than* two (2) five  
8 (5) year renewal option periods, *not exceeding* a total of fifteen (15) years,  
9 including the base period and all option periods. Nothing herein *shall* repeal,  
10 limit, *or* otherwise prohibit any law *or* regulation authorizing the Authority  
11 to enter into any contract for a longer period.”

12 **Section 4.** A new subsection (n) of §14104 of Article 1, Chapter 14 of  
13 Title 12, Guam Code Annotated, is hereby *added* to read:

14 “(n) The Guam Waterworks Authority may enter into long term  
15 contracts for a period up to and *not exceeding* thirty (30) years for refurbish-  
16 operate-maintain contracts, and build-operate-transfer contracts that cost  
17 Thirty Million Dollars (\$30,000,000) *or* more related to the Guam  
18 Waterworks Authority’s wastewater treatment facilities and the construction  
19 of water wells. Nothing herein *shall* repeal, limit, *or* otherwise prohibit any  
20 law *or* regulation authorizing the Authority to enter into any contract for a  
21 longer period.”

22 **Section 5.** A new subsection (o) of §14104 of Article 1, Chapter 14 of  
23 Title 12, Guam Code Annotated, is hereby *added* to read:

24 “(o) The Guam Waterworks Authority may enter into performance  
25 management contracts to manage any part of Guam’s Drinking Water *or*  
26 Wastewater Systems with a base period up to five (5) years and *no more*  
27 *than* two five (5) year option periods, *not exceeding* a total of fifteen (15)

1 years, including the base period and all option periods. Nothing herein *shall*  
2 repeal, limit, *or* otherwise prohibit any law *or* regulation authorizing the  
3 Authority to enter into any contract for a longer period.

4 The Office of the Attorney General *shall* hereby oversee the process  
5 for bidding and negotiation of any performance management contract to be  
6 entered into under the provisions of this Section and *shall* certify, in writing,  
7 that this process was conducted in compliance with any applicable laws,  
8 rules and regulations *prior* to approval.”

9 **Section 6.** §14104.1 of Article 1, Chapter 14 of Title 12, Guam Code  
10 Annotated, is hereby *amended* to read:

11 **“§14104.1. Contractual Restrictions.** Any contract by the  
12 Authority to contract maintenance services relative to sewage pumps,  
13 booster pumps, and all pumps and other facilities directly associated with  
14 water wells *shall* be subject to the following provisions:

15 (a) any procurement of service or goods, *shall* be entirely  
16 subject to the procurement laws of Guam, and all related rules and  
17 regulations;

18 (b) all successful bidders must have a minimum of three (3)  
19 years of demonstrated expertise in the maintenance of  
20 electromechanical pump devices; and

21 (c) a contract for service awarded must include provisions for  
22 periodic and timely inspections of all facilities whose maintenance is  
23 contracted, with provisions for the revocation of contracts, without  
24 penalty to the Authority, for any breach of contract or failure to  
25 provide adequate service, as contracted.”

26 **Section 7.** §14404 of Chapter 14 of Article 1, Title 12, Guam Code  
27 Annotated, is hereby *amended* to read:

1                   **“§14404. Contract Performance Reviews.** All contracts awarded  
2 subject to the provisions of this Act must contain performance reviews at  
3 least annually, and provisions for contract termination *or* penalty based upon  
4 such review.”

5                   **Section 8.** *No* contract *shall* be awarded by GWA and/or GPA under the  
6 authorization granted herein containing terms authorized herein in *any* solicitation  
7 issued *prior* to the passage of this Act.

8                   **Section 9. Severability.** *If* any provisions of this Act or its application to  
9 any person or circumstance is found to be invalid or contrary to law, such  
10 invalidity shall *not* affect other provisions or applications of this Act which can be  
11 given effect without the invalid provisions or applications, and to this end the  
12 provisions of this Act are severable.