

FILE 3077

**I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session**

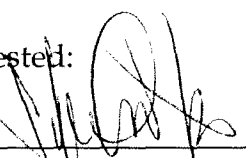
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 345-30 (LS), "AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 30 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE OFFICE OF THE ATTORNEY GENERAL TO RECOVER COSTS ASSOCIATED WITH PROVIDING STATUTORILY MANDATED LEGAL SERVICES TO AGENCIES AND PROGRAMS THAT ARE NOT SUPPORTED BY THE TAX-BASE OF THE GOVERNMENT OF GUAM"**, was on the 16th day of August, 2010, duly and regularly passed.



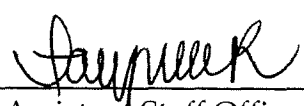
**Judith T. Won Pat, Ed. D.
Speaker**

Attested:



**Tina Rose Muña Barnes
Legislative Secretary**

This Act was received by *I Maga'lahaen Guåhan* this 17th day of Aug., 2010, at 4:40 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 GUÁHAN
2010 (SECOND) Regular Session

Bill No. 345-30 (LS)

As substituted by the Committee on Appropriations,
Taxation, Banking, Insurance Retirement & Land,
and amended on the Floor.

Introduced by:

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

**AN ACT TO *ADD* A NEW ARTICLE 2 TO CHAPTER 30
OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE
TO AUTHORIZING THE OFFICE OF THE ATTORNEY
GENERAL TO RECOVER COSTS ASSOCIATED WITH
PROVIDING STATUTORILY MANDATED LEGAL
SERVICES TO AGENCIES AND PROGRAMS THAT
ARE NOT SUPPORTED BY THE TAX-BASE OF THE
GOVERNMENT OF GUAM.**

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

2 **Section 1.** A new Article 2 is *added* to Chapter 30 of Title 5, Guam Code
3 Annotated, to read as follows:

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“Article 2

**Legal Fees and Costs for Certain Non-General Fund/ Special Fund
Supported Activities**

§30201. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the operations of the Attorney General’s Office are fiscally supported by the revenues of the General Fund and the various special funds of the government of Guam. As such, the Attorney General is expected to provide legal services to those agencies that also are fiscally supported by the tax-base of the government of Guam. Public law and federal law also place mandates on the Office of the Attorney General that include (1) review of all contracts, including those originating from agencies that are fiscally autonomous from the tax-base of the government of Guam; (2) review of contracts that are funded by federal sources; and (3) most recently, review of all procurement documents where the cost of the procurement is expected to exceed Five Hundred Thousand Dollars (\$500,000).

I Liheslatura further finds that such mandates *do not* constitute a need for the Office of the Attorney General to dedicate an attorney to each autonomous agency or federal program to fulfill the Office’s statutory obligations to those agencies and programs but, rather, maintain a pool of staff attorneys to perform such reviews as the need arises. *I Liheslatura* further finds that the ability to maintain such a pool of qualified attorneys or solicitors is contingent upon the Office of the Attorney General to cover the cost of salaries and overhead for these additional attorneys or solicitors.

I Liheslatura further finds that the private practice of law provides a business model that may be utilized by the Office of the Attorney General to recover the cost of providing statutorily mandated services for agencies and

1 programs that are *not* supported by the tax-base of the government of Guam.
2 This model includes *billable hours* for legal services and *legal cost* billing
3 for definable external expenses, such as postage, copying, notary fees and
4 process service. In recent hearings before *I Liheslaturan Guåhan*, witnesses
5 have testified that private law firms currently bill their clients from Two
6 Hundred Dollars (\$200) to Three Hundred Fifty Dollars (\$350) per hour.

7 It is the intent of *I Liheslatura* to provide the Office of the Attorney
8 General with the means to recover the cost of providing statutorily mandated
9 services to agencies and programs that are *not* funded by the General Fund
10 and Special Fund revenues of the government of Guam.

11 **§30202. Legal Fees for Certain Non-General Fund/ Special Fund**
12 **Supported Activities.** The Office of the Attorney General is authorized to
13 bill and recover from agencies, autonomous and semi-autonomous
14 instrumentalities and public corporations of the government of Guam its
15 legal services and *related costs* (1) for the review of contracts where public
16 law and/or federal law require the review and approval of the Attorney
17 General as to form and legality; and (2) for its legal services and costs
18 involving related administrative hearings or litigation and review of the
19 procedures, documents and instruments relating to the requirements of Title
20 5 GCA §5150; provided that for both (1) and (2) the sources of funding for
21 the contract or procurement, or for reimbursing the legal services and costs
22 of the Office of the Attorney General, are *not* the General Fund or a Special
23 Fund of the government of Guam line agencies. The billable hourly rate of
24 the Office of the Attorney General for recovery of its legal services and costs
25 *shall* be Two Hundred Dollars (\$200.00) per hour.

26 **§30203. Legal Services and Related Costs.** The Office of the
27 Attorney General is authorized to bill agencies for the actual costs related to

1 the legal services rendered under the provisions of §30202 of this Article.
2 Such legal services and costs include, but are *not* limited to, work conducted
3 by the staff of the Office of the Attorney General, such as an attorney,
4 paralegal, legal secretary and/or investigator, as well as postage, copying and
5 reproduction charges, transcription, notary fees, process service and other
6 actual costs necessary in performing the tasks required by the provisions of
7 §30202 of this Article.

8 **§30204. Agency Obligation.** An agency or autonomous or semi-
9 autonomous instrumentality or public corporation of the government of
10 Guam billed pursuant to this Article by the Attorney General *shall* make
11 payments within sixty (60) days after receipt of the invoice. The Attorney
12 General and each agency or autonomous or semi-autonomous
13 instrumentality or public corporation of the government of Guam may create
14 a Memorandum of Understanding (MOU) or Memorandum of Agreement
15 (MOA) to govern the relationship created by this Article.

16 **§30205. Special Fund Created.** Notwithstanding any law to the
17 contrary, there *shall* be established a fund called “The Office of the Attorney
18 General Special Fund” (the Fund). The Fund *shall* be maintained separate
19 and apart from other funds of the government of Guam by the Department of
20 Administration. All funds generated under this Article *shall* be deposited
21 into the Fund. The Fund *shall* be used by the Attorney General for the
22 reimbursement or recovery of the costs of its legal services and other related
23 costs, including, but *not* limited to, funding the employment and assignment
24 of an assistant attorney general and other staff to an agency, autonomous or
25 semi-autonomous instrumentality or public corporation of the government of
26 Guam. The Fund *shall not* be subject to *I Maga’lahi’s* transfer authority,
27 and any lapses in the Fund will carry over into the next fiscal year.”