



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

Honorable Judith T. Won Pat, Ed.D
Speaker
I Mina Trenta Na Liheslaturan Guahan
155 Hessler Street
Hagatna Guam 96910

08 MAY 2009
30-09-05 96
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date: [Signature]
Time: 5:00
Received by: [Signature]

2009 MAY 11 AM 9:14 AM

Dear Speaker Won Pat:

Transmitted herewith Bill No. 37 (COR), AN ACT TO RE-ENACT CHAPTER 6 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO RE-ESTABLISHING THE GUAM REGIONAL TRANSIT AUTHORITY," which was signed on March 13, 2009 as Public Law No. 30-05.

Public Law 26-76 abolished the Guam Mass Transit Authority and transferred administration of the public mass transit system to the Department of Administration ("DOA"). Since 2003, DOA and the public mass transit system have been stymied by litigation and limitations on resources. Bill 37 attempts to address the public transportation needs of our people by establishing the Guam Regional Transit Authority. Unfortunately, a gap of time has been created by this legislation between the enactment of the Act and the confirmation of a quorum of the new GRTA Board of Directors ("GRTA Board"). During this gap, there is no entity or agency responsible for the contracts and expenditures involved in administering the mass transit system.

To address this dilemma, an executive order declaring an emergency was issued to ensure the public mass transit system continues to operate and function pending the confirmation of a quorum of the GRTA Board and the transfer of control of the operations and management, currently being handled by the DOA Transportation Division, to the GRTA Board. This necessary action helped prevent any detriment to individuals who rely on the public mass transit system to bring them to their doctors, work, medical treatments, and other important meetings they may have.

Sinseru yan Magâhet,

MICHAEL W. CRUZ, M.D.
I Maga 'låhen Guåhan, para pa'go
Acting Governor of Guam

0604

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

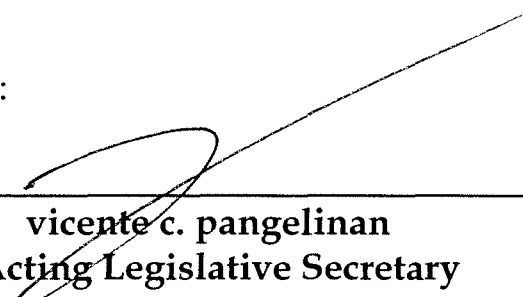
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 37 (COR), "AN ACT TO RE-ENACT CHAPTER 6 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO RE-ESTABLISHING THE GUAM REGIONAL TRANSIT AUTHORITY," was on the 27th day of February, 2009, duly and regularly passed.



Judith T. Won Pat, Ed. D.
Speaker

Attested:



vicente c. pangelinan
Acting Legislative Secretary

This Act was received by I Maga'lahaen Guåhan this 3 day of MAR, 2009, at
4:04 o'clock P.M.



A. RACHULAP
Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 13 MARCH 2009

Public Law No. 30-6

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

Bill No. 37 (COR)

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

Introduced by:

Adolpho B. Palacios, Sr.

T. R. Muña Barnes

T. C. Ada

Judith T. Won Pat, Ed.D.

Judith P. Guthertz, DPA

F. B. Aguon, Jr.

F. F. Blas, Jr.

E. J.B. Calvo

B. J.F. Cruz

J. V. Espaldon

v. c. pangelinan

M. J. Rector

R. J. Respicio

Telo Taitague

Ray Tenorio

**AN ACT TO *RE-ENACT* CHAPTER 6 OF TITLE 12, GUAM
CODE ANNOTATED, RELATIVE TO RE-ESTABLISHING
THE GUAM REGIONAL TRANSIT AUTHORITY.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
3 mobility is a basic privilege all in the community should be able to enjoy and
4 appreciate.

5 *I Liheslaturan Guåhan* finds that many households in our community depend
6 on public transit to travel between home, school, work, medical appointments, and
7 various social and cultural activities. On an island where land is limited, traffic

1 congestion caused by a growing population cannot reasonably be addressed by
2 continually expanding roadways. Hence, public transportation provides enhanced
3 mobility within our community, while simultaneously relieving traffic congestion.
4 The availability of adequate public transit services may redirect consumer spending
5 from the purchase, operation, maintenance, and insurance of automobiles to savings,
6 investments, and discretionary consumer expenditures in the local economy. With the
7 benefit of a public mass transit service, many in our community will have improved
8 access to jobs, education, health care, social and cultural activities.

9 *I Liheslaturan Guåhan* finds that an important component of the Department of
10 Public Works' 2030 Guam Transportation Plan is the establishment of an integrated
11 public transit system to meet the mobility needs of Guam through 2030. This system
12 includes an expanded bus service that is regularly available and open to the public and
13 meets the requirements of the Americans with Disabilities Act of 1990.

14 *I Liheslatura* finds that the management and governance of this public transit
15 service requires the establishment of a dedicated organization, the Guam Regional
16 Transit Authority (GRTA). Such an organization, as outlined in this Act, is designed
17 to facilitate the planning, deployment and operation of public transit services in an
18 effective, efficient and timely manner.

19 Pursuant to Public Law 26-76, the administration of Public Transportation has
20 been conducted by a small staff within the Department of Administration. *I*
21 *Liheslatura* finds that despite the hard work and dedication of the people at the
22 Department of Administration, limitations on resources and capabilities within the law
23 have hampered their ability to meet the growing and diverse transportation needs of
24 our island.

25 Therefore, it is the intent of *I Liheslaturan Guåhan* to establish the Guam
26 Regional Transit Authority to effectively and efficiently address the public transit

1 needs for the people of Guam.

2 **Section 2.** Chapter 6 of Title 12, Guam Code Annotated, is hereby *re-enacted*
3 and *amended* to read as follows:

4 **“Chapter 6**

5 **Guam Regional Transit Authority**

6 **Article 1. General Provisions.**

7 **§6101. Title.**

8 **§6102. Creation.**

9 **§6103. Definitions.**

10 **§6104. Purposes.**

11 **§6105. Powers.**

12 **§6101. Title.** This Chapter *shall* be hereby cited as the ‘Guam Regional
13 Transit Authority Act of 2009’.

14 **§6102. Creation.** There is hereby created the Guam Regional Transit
15 Authority, a public corporation. The Guam Regional Transit Authority
16 (GRTA) *shall* have the exclusive franchise for the furnishing of public
17 transportation within Guam and on its roads and highways. *Except* for private
18 parking facilities, and parking facilities maintained and operated by the J. D.
19 Leon Guerrero Commercial Port of Guam and the A. B. Won Pat International
20 Airport Authority, Guam, GRTA *shall* have the exclusive franchise within the
21 government of Guam to collect and administer fees for the furnishing, operation
22 and maintenance of public parking on Guam.

23 **§6103. Definitions.** As used in this Chapter, unless otherwise indicated:

- 24 (a) *Authority* means the Guam Regional Transit Authority.
- 25 (b) *Board* means the Board of Directors of the Authority.
- 26 (c) *Director* means a member of the Board.
- 27 (d) *Public Parking* means any on-street and off-street parking

1 owned and operated by the government of Guam for purposes of
2 temporary storage of passenger conveyances such as automobiles, pick-
3 up trucks, motorcycles, and vans.

4 (e) *Employee* means any person employed by the Guam
5 Regional Transit Authority and as defined by the Civil Service
6 Commission. This definition *does not* include independent consultants,
7 persons who require legislative confirmation, deputy directors, *or* elected
8 officials.

9 (f) *Executive Manager* means the person employed by the
10 Board to supervise the administration of the Authority.

11 **§6104. Purposes.** The Authority is created to plan services, establish,
12 develop, coordinate, promote, own and operate facilities and services that
13 support public transportation and public parking within Guam.

14 **§6105. Powers.** (a) The Authority *may*:

15 (1) Enter into contracts, leases, concession agreements and
16 permits and to execute all instruments necessary or convenient in the
17 exercise of its purpose and powers, including, without limitation, the
18 purchase of liability and casualty insurance for Authority purposes, adopt
19 a seal and sue *or* be sued in its own corporate name.

20 (2) Plan public transit services, devise and follow schedules,
21 operate facilities and terminals, and otherwise engage in the necessary
22 actions to provide public transit service and public parking management.

23 (3) Acquire personal and real property through negotiation, grant,
24 gift, lease, *or* permit in accordance with the provisions and subject to the
25 limitations of laws of Guam, including Chapter 5, Title 5, GCA, and hold
26 and use any real and personal property necessary, convenient *or* useful

1 for the carrying out of any of its powers pursuant to the provisions of this
2 Chapter, and to dispose of the same.

3 (4) Receive and disburse Federal funds, submit project grant
4 applications, program of projects to Federal agencies, and enter into
5 formal agreements concerning projects with Federal agencies.

6 (5) Employ agents and retain *or* contract for the services of
7 qualified consultants, specialists *or* experts, as individuals *or* as
8 organizations, to advise and assist the Authority and its employees, all of
9 which may be accomplished without regard to the portion of the
10 Personnel Laws relative to compensation.

11 (6) Impose, prescribe, revise policies and collect fees for the
12 purposes of carrying commercial advertisement on real and personal
13 property owned by the Authority *or* used in the provision of transit
14 services pursuant to this statute.

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

19 (8) *Shall* enter into contract with the Attorney General to address
20 legal issues.

21 (b) The Authority *shall*:

22 (1) Operate a system of public transportation.

23 (2) Establish routes, schedules, fares and policies consistent with
24 the purpose of the Authority. Such services may be altered *or*
25 modified pursuant to the Administrative Adjudication Law only
26 after adequate public notice has been given on proposed changes.

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

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

- 7 (i) the number of consumers utilizing the transit system;
8 and
9 (ii) the types of services used by consumers.

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

14 **Article 2.**

15 **Government.**

16 **§6201. Board of Directors.**

17 **§6202. Executive Manager.**

18 **§6203. Personnel.**

19 **§6204. Guam Regional Transit Authority Fund.**

20 **§6205. Limited Liability.**

21 **§6201. Board of Directors.** (a) The Board *shall* consist of seven (7)
22 Directors. Of these seven (7) Directors, two (2) *shall* be selected by and from
23 the membership of the Mayor's Council of Guam, and three (3) *shall* be
24 appointed by *I Maga'lahaen Guåhan* with the advice and consent of *I*
25 *Liheslatura*. These five (5) Directors *shall* recommend to the Governor the
26 names of at least four (4) additional candidates for the Board of Directors, two
27 (2) who are representative of mass transit riders, and two (2) who are advocates

1 for the rights of disabled passengers. In order to recommend an individual to
2 the Governor, a majority of the Board must vote to support said candidate (with
3 four (4) Directors constituting a quorum for said vote). From these
4 recommendations, two (2) Directors *shall* be appointed by *I Maga'laha*
5 *Guåhan* with the advice and consent of *I Liheslatura*. One (1) of the Directors
6 *shall* be a representative of the Senior Citizen of Guam.

7 Each director *shall* serve a term of four (4) years. All vacancies
8 occurring on the Board *shall* be filled by their respective appointing entity and
9 in the manner outlined in this Section, for the balance of the term.

10 All members *shall* be citizens of the United States and must have been
11 residents of Guam for *not less than* five (5) years preceding the date of
12 appointment. All appointments, *except* the appointments of members appointed
13 from the Mayor's Council, *shall* be subject to the advice and consent of *I*
14 *Liheslatura*.

15 (b) Four (4) Directors *shall* constitute a quorum of the Board for the
16 transaction of business. The Board may adopt rules and regulations governing
17 the conduct of its affairs. It *shall* elect a Chairman, Vice-Chairman and
18 Secretary from among its members. The Board may employ one (1)
19 unclassified administrative assistant who *shall* maintain all records,
20 transactions, and minutes of the Board.

21 (c) Each Director *shall* receive the sum of One Hundred Dollars
22 (\$100.00) for attendance at any one (1) meeting of the Board, but such
23 compensation *shall not* apply to more than one (1) meeting in any one (1)
24 calendar month. *No* Director *shall* receive any other compensation for board
25 duties, but *shall* be reimbursed for actual travel, subsistence and out-of-pocket
26 expenses incurred in the discharge of his responsibilities, including authorized

1 attendance at meetings held away from Guam.

2 **§6202. Executive Manager.**

3 (a) The Board *shall* appoint an Executive Manager, who *shall* be
4 its chief executive officer. The Executive Manager *shall* serve at the
5 pleasure of the Board, and the Board *shall* establish the compensation.
6 The Executive Manager *shall*, at a minimum, possess the following
7 qualifications:

- 8 (1) a combined minimum of ten (10) years of documented
9 experience successfully managing a public *or* private
10 transit system, *or* business activity similar to *or* greater
11 in scope and size to the Authority; and
12 (2) possess, at a minimum, from an accredited institution, a
13 Bachelors degree, preferably in the field of business
14 administration, city planning, urban planning,
15 engineering, engineering technology, public
16 administration *or* closely related field *or* discipline.

17 (b) The powers and duties of the Executive Manager include:

- 18 (1) To enforce all rules and regulations of the Authority.
19 (2) To attend, unless excused by the Board, all meetings of
20 the Board and to submit reports on the affairs of the
21 Authority as required by the Board.
22 (3) To keep the Board advised on the needs of the
23 Authority and to approve demands for payment of
24 obligations within the purposes and amounts authorized
25 by the Board.
26 (4) To devote full employment attention to the business of

1 the Authority, to select and appoint the employees of
2 the Authority, *except* as otherwise provided in this
3 Chapter, and to plan, organize, coordinate and control
4 the services of such employees in the exercise of the
5 powers of the Authority under the general direction of
6 the Board.

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

9 **§6203. Personnel.** (a) The Board, pursuant to Chapter 4, Title 4,
10 GCA, *shall* establish rules and regulations governing the selection, promotion,
11 performance evaluation, demotion, suspension, dismissal and other disciplinary
12 action for employees of the Authority. Until such rules and regulations are
13 established by the Board, the personnel rules and regulations of the government
14 of Guam *shall* be followed.

15 (b) The Executive Manager *shall* be an unclassified employee.
16 All other employees of the Authority *shall* be classified employees.

17 (c) Each employee of the Authority, *shall* be eligible to become a
18 member of the Government of Guam Retirement Fund pursuant to
19 §8105(d), Title 4, GCA.

20 (d) Each employee of the Authority, *shall* be eligible to participate
21 in government of Guam health and life insurance plans.

22 (e) The employer's contribution to the Government of Guam
23 Retirement Fund that is assessed by the Fund's Board of Trustees for the
24 benefit of Authority employees who are members of the Fund *shall* be
25 paid by the Authority.

26 (f) The employer's contribution to the Worker's Compensation

1 Fund that is assessed by the Worker's Compensation Commission for the
2 benefit of Authority employees *shall* be paid by the Authority.

3 **§6204. Guam Regional Transit Authority Fund.** (a) The Board *shall*
4 adopt and maintain a system of accounting which is in accordance with
5 generally accepted accounting principles.

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

12 (c) All monies received by the Authority from whatever source
13 derived *shall* be deposited in the Guam Regional Transit Authority Fund and
14 used exclusively for the purposes of this statute.

15 (d) All expenditures, *except* as otherwise provided by law, *shall* be
16 made from said Guam Regional Transit Authority Fund.

17 (e) The Authority *shall* present an annual report within one hundred
18 twenty (120) days after the end of each fiscal year and, *if* requested by *I*
19 *Maga'lahi or I Liheslatura*, the Authority *shall* present special reports within
20 thirty (30) days after the end of each quarter. The financial information
21 presented in such reports *shall* be in accordance with the system of accounts
22 adopted by the Board *or* as delineated by requestor.

23 **§6205. Limited Liability.** (a) To the extent that any liability of the
24 government of Guam *or* of the Authority is covered by a policy *or* policies of
25 insurance, the government waives the limitation of liability found in §6301,
26 Title 5, GCA; provided, that the government *shall not* be liable in damages for

1 tort in any amount which exceeds the coverage of insurance and the limitation
2 of liability contained in §6301 of Title 5, GCA.

3 (b) All claims made against any policy of insurance purchased by the
4 Authority *shall* be made in accordance with the procedures and time limitations
5 set forth in the Government Claims Act, *except* that all claims *not* in excess of
6 the face amount of the policy *shall* be presented to the Executive Manager of
7 the Authority, who *shall* present the same to the insurance carrier, carriers *or* to
8 their designated agents for processing.

9 (c) *If* a claim is in excess of the applicable insurance coverage, then
10 the Executive Manager of the Authority *shall* also present a copy of the claim to
11 the Attorney General, who *shall* then coordinate the claim as between the
12 government and the insurance carriers, and who *shall* represent the government
13 in the event of a dispute between the government and the insurance carriers. In
14 the event of said dispute, the Attorney for the Authority *shall* represent the
15 interests of the Authority.

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

19 (e) The Executive Manager *shall* publish, in a newspaper of general
20 circulation in Guam, within ten (10) days after the effective date of any policy
21 insurance purchased. All claims against the authority *shall* be filed with the
22 authority.”

23 **Section 3. Transfer of Funds.** The total amount in the Public Transit Fund
24 at the time of this Act’s effective date *shall* be transferred to the Guam Regional
25 Transit Authority Fund.

26 **Section 4. Transfer of Records, Equipment, Designation as State Agency.**

1 (a) The Guam Regional Transit Authority is hereby the designated state agency
2 for purposes of receiving and disbursing funds from the U.S. Department of
3 Transportation-Federal Transit Administration *or* from any other federal agency in
4 support of the mission of the Authority.

5 (b) Immediately upon confirmation of a quorum of the GRTA Board, the
6 Board *shall* be responsible for the operations and management control of the
7 Transportation Division of DOA, including the approval of all contracts and
8 procurement in support of the mission of the Authority, *except* as otherwise provided
9 by P.L. 26-76:25(f), *or* other provision of law. The Department of Administration and
10 the Department of Public Works *shall* assist the Board in the transition period, with no
11 authority to obligate GRTA to contracts *or* commitments prior to the confirmation of
12 the GRTA Board.

13 (c) Immediately upon confirmation of a quorum of the GRTA Board, the
14 Department of Administration *shall* initiate transfer of all personnel, including their
15 FTE positions and budgeted funds for salary and benefits, and *shall* transfer
16 possession of all books, records, papers, maps, plans, documents, offices, equipment,
17 supplies, money, funds, appropriations, licenses, permits, agreements, contracts,
18 claims, judgments, land, and other property, real *or* personal, connected with the
19 administration of, *or* held for the benefit *or* use of, the former GMTA to the Guam
20 Regional Transit Authority. *No later than* October 1, 2009, complete transfer to
21 GRTA *shall* have been completed.

22 **Section 5. Funding Source.** The funding sources for the establishment of the
23 Guam Regional Transit Authority *shall* include the “Public Transit Fund”, and *shall*
24 be for the purpose of providing funding for the Guam Regional Transit Authority
25 facilities, personnel and operations. Additional funding sources *shall* be Federal funds
26 received for purposes of mass transit and the third funding source would be funds

1 generated by the fare box, advertising, and other business activities allowed in this
2 Act. Funds obtained from these sources *shall* be used exclusively for the purposes
3 defined in this Act.

4 **Section 6. Severability.** *If* any provision of this Law or its application to any
5 person or circumstance is found to be invalid or contrary to law, such invalidity shall
6 *not* affect other provisions or applications of this Law which can be given effect
7 without the invalid provisions or application, and to this end the provisions of this
8 Law are severable.