



Office of the Governor of Guam

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Felix P. Camacho  
Governor

Michael W. Cruz, M.D.  
Lieutenant Governor

11 MAY 2009

2009 MAY 12 AM 9:18  
JWW

The Honorable Judith T. Won Pat, Ed.D.  
Speaker  
Mina' Trenta Na Liheslaturan Guåhan  
155 Hessler Street  
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 1(2-S) "AN ACT TO *AMEND* ARTICLE 8 OF CHAPTER 51 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GOVERNMENT OF GUAM TO ISSUE BONDS FOR THE PURPOSE OF FINANCING FACILITIES OF THE SOLID WASTE MANAGEMENT SYSTEM, AND APPROVING THE TERMS AND CONDITIONS OF THE ISSUANCE OF ONE (1) OR MORE SERIES OF SUCH BONDS PURSUANT TO SUCH ARTICLE TO PAY THE COSTS OF A NEW LANDFILL AND THE CLOSURE OF THE ORDOT DUMP AND RELATED SYSTEM COSTS; TO *AMEND* §24102(f) AND 24103 OF ARTICLE 1 OF CHAPTE 24 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE VALUATION OF PROPERTY SUBJECT TO REAL PROPERTY TAXATION; AND TO *AMEND* §1512.1 OF CHAPTER 1 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF BONDS TO FINANCE CERTAIN GENERAL FUND EXPENSES" which was signed into law on April 2, 2009 as **Public Law 30-7.**

*Sinseru yan Magåhet,*

FELIX P. CAMACHO  
*I Maga'låhen Guåhan*  
Governor of Guam

Attachment: copy of Bill

30-09-0602  
Office of the Speaker  
Judith T. Won Pat, Ed. D.  
Date May 11, 2009  
Time 5:10 PM  
Received by [Signature]

**I MINA'TRENTA NA LIHESLATURAN GUÅHAN**  
**2009 (SECOND) Special Session**

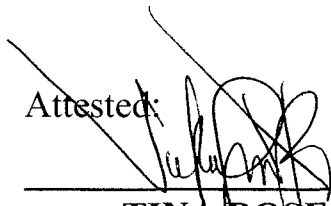
**CERTIFICATION OF PASSAGE OF AN ACT TO IMAGA'LAHEN GUÅHAN**

This is to certify that Bill No. 1 (2-S), "AN ACT TO AMEND ARTICLE 8 OF CHAPTER 51 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GOVERNMENT OF GUAM TO ISSUE BONDS FOR THE PURPOSE OF FINANCING FACILITIES OF THE SOLID WASTE MANAGEMENT SYSTEM, AND APPROVING THE TERMS AND CONDITIONS OF THE ISSUANCE OF ONE (1) OR MORE SERIES OF BONDS PURSUANT TO SUCH ARTICLE TO PAY THE COSTS OF A NEW LANDFILL AND THE CLOSURE OF THE ORDOT DUMP AND RELATED SYSTEM COSTS; TO AMEND §24102(f) AND §24103 OF ARTICLE 1 OF CHAPTER 24 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE VALUATION OF PROPERTY SUBJECT TO REAL PROPERTY TAXATION; AND TO AMEND §1512.1 OF CHAPTER 1 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF BONDS TO FINANCE CERTAIN GENERAL FUND EXPENSES", was on the 1<sup>st</sup> day of April, 2009, 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 1 day of April, 2009, at 10:10 o'clock a.M.



Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:



FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*

Date: 2 APRIL 2009

Public Law No. 30-7

1 have the following meanings, respectively, unless a different meaning  
2 appears from the context:

3 (a) *Bonds* means an instrument of indebtedness, whether in  
4 the form of bonds, notes *or* another such instrument, issued by the  
5 government and providing for repayment of the principal amount of  
6 the indebtedness, plus interest, over a specified timeframe.

7 (b) *Bondholder or holder of bonds, or* any similar term,  
8 means any person who *shall* be:

9 (1) the bearer of any outstanding bond *or* bonds  
10 registered to bearer *or not* registered; or

11 (2) the registered owner of any such outstanding bond  
12 *or* bonds which *shall* at the time be registered other than to  
13 bearer.

14 (c) *Department* means the Department of Public Works,  
15 acting on behalf of the government of Guam.

16 (d) *Director* means the Director of the Department of Public  
17 Works.

18 (e) *Guam Solid Waste Management and Litter Control Act*  
19 means Chapter 51 of Title 10 of the Guam Code Annotated.

20 (f) *Indenture* means an agreement pursuant to which bonds  
21 are issued, regardless of whether such agreement is expressed in the  
22 form of a certificate of the Governor of Guam (*I Maga'lahen Guåhan*)  
23 *or* by other instrument.

24 (g) *Organic Act* means the Organic Act of Guam, as  
25 amended, and in effect on the effective date of this Article (Title 48,  
26 §1421 et seq. of the United States Code).

1           (l) *Section 30 revenue* means revenues derived by the  
2 government of Guam under Section 30 of the Organic Act (Title 48,  
3 §1421h of the United States Code).

4           (m) *Solid Waste Operations Fund* means the fund by that  
5 name established pursuant to §51118(f), Title 10, Guam Code  
6 Annotated.

7           (n) *System* means the solid waste management system, now  
8 *or* hereafter existing, owned and/or operated by the Department *or* its  
9 contractors, agents *or* subcontractors, including, but *not limited to*,  
10 landfills (whether closed *or* open and including Ordot Dump), transfer  
11 stations, recycling facilities, collection trucks, appurtenant equipment  
12 such as scales, ground water monitoring equipment and pollution  
13 control equipment, and administrative facilities supporting the  
14 provision of solid waste management services, including facilities for  
15 payroll, billing and collections.

16           (o) *System operation and maintenance costs* means such  
17 reasonable and necessary current expenses of the Department, paid *or*  
18 accrued, for operation, maintenance and repair of the system,  
19 including, without limiting the generality of the foregoing:

20                 (1) legal and overhead expenses of the Department  
21 directly related and reasonably allocable to the administration  
22 of the system;

23                 (2) fidelity bond and insurance premiums appertaining  
24 to the system *or* a reasonably allocable share of a premium of  
25 any blanket bond *or* policy pertaining to the system;

1 issued by the government pursuant to this Article that is payable *only* from  
2 funds in the Solid Waste Operations Fund available therefor and from  
3 revenue of the system *will not* be and *shall not* be deemed to be public  
4 indebtedness of Guam as that term is used in said Section 11. Indebtedness  
5 that is issued by the government pursuant to this Article and that is payable  
6 from either Section 30 revenue *or* the General Fund may *not* be issued in an  
7 amount that would cause a violation of the debt limitation provisions of said  
8 Section 11.

9 *No* obligation that is undertaken by the government pursuant to this  
10 Article *shall* be *or* become a lien, charge *or* liability against the government  
11 of Guam *or* against the Department *or* against any property *or* funds of the  
12 government of Guam *or* the Department, *except* to the extent of the pledge  
13 of pledged revenue provided by the indenture and any pledge of the full faith  
14 and credit of the government of Guam pursuant to §51822.5 of this Article."

15 **Section 3.** §51804 of Article 8 of Chapter 51 of Title 10, Guam Code  
16 Annotated, is hereby *amended* to read as follows:

17 **"§51804. Powers of Department.** Notwithstanding any provision  
18 of law *or* regulation, the Department has power and is hereby authorized, in  
19 addition to all other powers conferred upon the Department by the Guam  
20 Solid Waste Management and Litter Control Act *or* any other provision of  
21 this Chapter *or* by any law of Guam, to exercise any *or* all of the powers  
22 granted to the Department by this Article. The Department has jurisdiction  
23 over and may collect and transport to permitted solid waste facilities, *or*  
24 contract for the collection and transportation to permitted solid waste  
25 facilities, of solid waste from all individual dwelling units, single-family  
26 residences, duplexes, and government-managed housing units *or* residences.  
27 The Department may operate the Ordot Dump, *or* it may contract for the

1           *Except* to the extent otherwise permitted *or* required by an indenture  
2 pursuant to which bonds are issued, rates, fees and charges, together with  
3 other moneys made available to the Department for such purposes, *shall* at  
4 all times be fixed to yield annual revenue of the system at least equal to the  
5 sum of annual principal payments and interest charges on all bonds then  
6 outstanding, all coverage and reserve fund requirements relating to such  
7 bonds, any obligations undertaken pursuant to Article 9 of this Chapter, and  
8 the annual system operation and maintenance costs.

9           An indenture, lease *or* contract of indebtedness may provide for  
10 payment from revenue of the system of refunds of rates and charges that are  
11 collected in error and that are refundable by the Department."

12       **Section 5.** §51811 of Article 8 of Chapter 51 of Title 10, Guam Code  
13 Annotated, is hereby *amended* to read as follows:

14           "**§51811. Covenants and Agreements that may be Contained in**  
15 **Indenture.** An indenture pursuant to which bonds are issued may include  
16 any and all covenants and agreements on the part of the government as *I*  
17 *Maga'lahaen Guåhan* deems necessary *or* advisable, including, without  
18 limiting the generality of the foregoing, any one (1) *or* more of the  
19 following:

20                   (a) A provision that payments of principal and interest of  
21 bonds *shall* be secured by a pledge of all *or* by part of the revenue of  
22 the system *or* the Section 30 revenue *or* both.

23                   (b) Provisions creating one (1) *or* more funds *or* accounts  
24 into which all *or* any part of pledged revenue *shall* be deposited:

25                           (1) for payment of the principal of and interest on  
26 bonds at *or* prior to maturity; or

1 and collect annually rates *or* other charges in connection with the  
2 solid waste management services furnished from the system which,  
3 together with other available revenues, including, to the extent  
4 provided by an indenture, Section 30 revenue, will be:

5 (1) sufficient to pay the principal of and interest on the  
6 bonds as they become due and payable, together with such  
7 additional sums as may be required for any bond reserve fund  
8 *or* account *or* other fund *or* account created by the indenture for  
9 the security of such bonds;

10 (2) sufficient to pay any payments due under any lease  
11 *or* lease-back entered into pursuant to Article 9 of this Chapter;

12 (3) sufficient to pay the annual system operation and  
13 maintenance costs; and

14 (4) in such additional amount as *shall* be provided in  
15 the indenture for the further security *or* protection of such  
16 bonds.

17 (i) A provision that *no* solid waste management service *shall* be  
18 furnished free of charge to any person, *except* to the extent permitted by  
19 the indenture.

20 (j) A provision requiring the government to hold *or* cause to be  
21 held in trust the pledged revenue *or* any part thereof, *or* to any fund *or*  
22 account created by any indenture for the further security *or* protection  
23 of such bonds and to apply such pledged revenue *or* cause it to be  
24 applied only as provided in the indenture and to invest all *or* any part  
25 of such pledged revenue pending such application in such securities  
26 and subject to such limitations as are specified in the indenture.

1 (o) A provision designating the rights, limitations, powers and  
2 duties arising upon breach by the government of any of the covenants,  
3 conditions *or* obligations contained in the indenture.

4 (p) A provision prescribing a procedure by which the terms and  
5 conditions of the indenture may be subsequently amended *or* modified  
6 with the consent of the government and the vote *or* written consent of  
7 the holders of a specified principal amount *or* specified proportion of  
8 the bonds issued and outstanding, including provisions for meetings of  
9 bondholders and for the manner in which the consent of the  
10 bondholders may be given and specifically stating the effect of such  
11 amendment *or* modification upon the rights of the holders of all of the  
12 bonds.

13 (q) With respect to any provision relating to the modification *or*  
14 amendment of an indenture, the government may agree that bonds  
15 held by the government, the United States *or* any instrumentality of  
16 either thereof (including every public corporation, political  
17 subdivision, agency *or* instrumentality of any kind *or* class) *shall not*  
18 be counted as outstanding bonds, *or* be entitled to vote *or* assent, but  
19 *shall*, nevertheless, be subject to any such modification *or*  
20 amendment.

21 (r) A provision limiting the right of action by individual  
22 bondholders in the event of a default by the government *or*  
23 proscribing the procedure for the conduct of any such action by an  
24 individual bondholder.

25 (s) A provision permitting the government to purchase  
26 outstanding bonds from any moneys *or* funds *or* accounts referred to  
27 in the indenture *or* otherwise legally available for such purpose.



1 system pledged and thereafter received by the government *or* by any trustee,  
2 depository *or* custodian *shall* be deposited in a separate subaccount of the  
3 Revenue Account in the Solid Waste Operations Fund. The indenture by  
4 which such pledge is created need *not* be recorded. All such pledged  
5 revenue of the system is hereby appropriated for the purposes of paying the  
6 principal and interest on the bonds issued pursuant to this Article.

7 Pledged revenue released from the lien of the indenture *or* certificate  
8 pursuant to which the bonds are issued *shall* be available for any other  
9 lawful purpose. *If* the bonds are secured *solely* by such a pledge of and lien  
10 upon all *or* a portion of the revenue of the system, then *no* such bond and *no*  
11 other obligation undertaken by the government under any indenture, lease *or*  
12 other instrument relating to such bond *shall* be *or* become a lien, charge *or*  
13 liability against the government of Guam *or* against the Department *or*  
14 against any property *or* funds of the government of Guam *or* the  
15 Department, *except* to the extent of the pledge of revenue of the system  
16 provided by such indenture, lease *or* other instrument."

17 **Section 8.** A new §51822.5 of Article 8 of Chapter 51 of Title 10, Guam  
18 Code Annotated, is hereby *added* to read as follows:

19 **"§51822.5. Bonds May be Secured by Section 30 Revenue.** *If* and  
20 to the extent determined by *I Maga'lahaen Guåhan*, all *or* any part of the  
21 revenues derived by the government of Guam under Section 30 of the  
22 Organic Act (Section 30 revenue) may be pledged to secure the payment of  
23 any bonds issued pursuant to this Article, subject to any previously created  
24 lien on *or* pledge of such Section 30 revenue and to any parity lien created  
25 pursuant to Article 9 of this Chapter. Any such pledge *shall* be valid and  
26 binding against all parties in accordance with its terms and have priority  
27 against all parties in accordance with its terms from the time the pledge is

1 (a) to pay principal *or* interest on any bonds *or* any other  
2 obligations of the Department;

3 (b) to pay amounts due and owing under any lease *or* lease-  
4 back entered into pursuant to Article 9 of this Chapter;

5 (c) to pay any amounts due and owing under any credit  
6 provider reimbursement agreement;

7 (d) to pay the annual system operation and maintenance  
8 costs; and

9 (e) for any other purposes of the system, as provided in any  
10 indenture *or* indentures and subject to any restrictions provided by law  
11 *or* any indenture."

12 **Section 10.** §51837 of Article 8 of Chapter 51 of Title 10, Guam Code  
13 Annotated, is hereby *amended* to read as follows:

14 **"§51837. Credit Enhancement.** *I Maga'lahaen Guåhan* is hereby  
15 authorized to enter into such contracts *or* agreements, on behalf of the  
16 government, with such banks, insurance companies *or* other financial  
17 institutions as *I Maga'lahaen Guåhan* determines are necessary *or* desirable  
18 to improve the security and marketability of the bonds. Such contracts *or*  
19 agreements may contain an obligation to reimburse, with interest, any such  
20 banks, insurance companies *or* other financial institutions for advances used  
21 to pay principal of *or* interest on the bonds and to indemnify any such banks,  
22 insurance companies *or* other financial institutions for costs and expenses  
23 incurred in connection with any such advance. Any such reimbursement  
24 obligation and any other obligations of the government under such contracts  
25 *or* agreements *may* be secured by a pledge of pledged revenue, but *only if*  
26 and to the extent that such revenue has been pledged to the bonds. In the  
27 event that the bonds *shall* constitute the valid and binding general

1 to refund any other *prior* obligations of the government issued for any of such  
2 system purposes, to fund any necessary reserves relating to such bonds, to pay  
3 costs of issuance of such bonds, *or* for any combination of such system purposes  
4 for which bonds may be issued and secured as provided in this Article. Such  
5 bonds *shall* have a final maturity *not later than* 2042, *shall* bear interest at such  
6 rate *or* rates and *shall* be sold for such price *or* prices as *shall* result in a yield to  
7 the bondholders *not exceeding* nine percent (9%) per annum, and *shall* be issued  
8 and sold in the manner, for the purposes and subject to the requirements and  
9 limitations provided in Article 8, Chapter 51, Title 10, Guam Code Annotated.

10 This approval is intended to *supersede* and *replace* the approval, contained  
11 in Section 3 of Public Law 30-1, by *I Liheslaturan Guåhan* of the issuance and sale  
12 by the government of bonds pursuant to Article 8, Chapter 51, Title 10, Guam  
13 Code Annotated, as enacted by said Public Law 30-1, which prior approval is  
14 hereby *repealed*.

15 **Section 12. Amendment of Provisions Relative to the Valuation of**  
16 **Property Subject to Real Property Taxation.**

17 (a) §24102(f) of Article 1, Chapter 24, Division 2 of Title 11, Guam  
18 Code Annotated, is hereby *amended* to read as follows:

19 “(f) *Value, full cash value, fair market value, and cash value*  
20 *means ninety percent (90%) of the appraised value; appraised value*  
21 *means the amount at which property would be taken in payment of a*  
22 *just debt from a solvent debtor as determined by the last completed*  
23 *valuation conducted pursuant to §24306, Title 11, Guam Code*  
24 *Annotated, as amended by the annual adjustments mandated in this*  
25 *Chapter.”*

26 (b) §24103 of Article 1, Chapter 24, Division 2 of Title 11, Guam  
27 Code Annotated, is hereby *amended* to read as follows:

1           (ii) Pledge of Section 30 Revenues. *All or* any part of the revenues  
2 derived by the government of Guam under Section 30 of the Organic Act  
3 may be pledged to secure the repayment of any bonds issued pursuant to this  
4 Section and pay costs incurred in the creation of such debts, subject to any  
5 previously created lien on *or* pledge of such revenues. Any pledge made to  
6 secure the bonds *shall* be valid and binding from the time the pledge is  
7 made. The revenues pledged and thereafter received by the government of  
8 Guam *or* by any trustee, depository *or* custodian *shall* be deposited in a  
9 separate account and *shall* be immediately subject to the lien of such pledge  
10 without physical delivery thereof *or* further act, and the lien of such pledge  
11 *shall* be valid and binding against all parties having claims of any kind in  
12 tort, contract *or* otherwise, against the government of Guam, such trustee,  
13 depository *or* custodian, irrespective of whether the parties have notice  
14 thereof. The certificate *or* indenture by which such pledge is created need  
15 not be recorded. All revenues pledged are hereby continuously appropriated  
16 for the purpose for which they have been pledged.”

17       **Section 14.** §1512.1(i) of Article 5 of Chapter 1 of Title 5, Guam Code  
18 Annotated, is hereby *amended* to read as follows:

19           "(i) Use of Proceeds from the Sale of the Bonds. The proceeds from  
20 the sale of the bonds *shall* be used and are hereby appropriated to (i) pay the  
21 General Fund expenses described below in this Subsection; (ii) establish  
22 necessary reserves; (iii) pay expenses relating to the authorization, sale and  
23 issuance of the bonds, including, without limitation, printing costs, costs of  
24 reproducing documents, credit enhancement fees, underwriting, legal,  
25 financial advisory and accounting fees and charges, fees paid to banks *or*  
26 other financial institutions providing credit enhancement, costs of credit  
27 ratings and other costs, charges and fees in connection with the issuance,

1 *Maga'lahaen Guåhan*, and approved by *I Liheslaturan Guåhan*, by the execution of  
2 a certificate *or* indenture authorizing the issuance of the bonds prior to the issuance  
3 of the bonds; provided, however, that such terms and conditions *shall* be consistent  
4 with this Section, and that the bonds *shall* mature *not later than* the date thirty (30)  
5 years after their date of issuance and *shall* bear interest at such rates and be sold for  
6 such price *or* prices as *shall* result in a yield to the bond holders that *does not*  
7 *exceed* ten percent (10%) per annum.”

8       **Section 16. (a) Uses of Fees.** The Guam Economic Development Authority  
9 *shall* remit all of the fees earned on any bond issue authorized in Article 8 *or*  
10 Article 9 of Chapter 51 of Title 10, Guam Code Annotated to be deposited into the  
11 cash account that disburses income tax refunds.

12       **(b) Authorization to the Department of Revenue and Taxation.** The  
13 Department of Revenue and Taxation is hereby authorized to disburse funds  
14 generated from this Section for the *sole* purpose of paying tax refunds to persons  
15 with medical emergencies *or* funeral related expenses.

16       **Section 17. Severability.** *If* any provision of this Act *or* its application to  
17 any person *or* circumstance is found to be invalid *or* contrary to law, such  
18 invalidity *shall not* affect other provisions *or* applications of this Act which can be  
19 given effect without the invalid provisions *or* application, and to this end the  
20 provisions of this Act are severable.