



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

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

NOV 04 2010

2010 NOV -9 AM 8:51

JKW

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 1 (5-S) "AN ACT TO AMEND §§ 58A105, 58A108 AND 58A109 OF CHAPTER 58A OF TITLE 5, GUAM CODE ANNOTATED," which I signed into law on August 3, 2010 as **Public Law 30-178**.

Sinseru yan Magâhet,

FELIX P. CAMACHO
I Maga'lâhen Guahan
Governor of Guam

Attachment: copy of Bill

30-10-0964

Office of the Speaker
11/05/10
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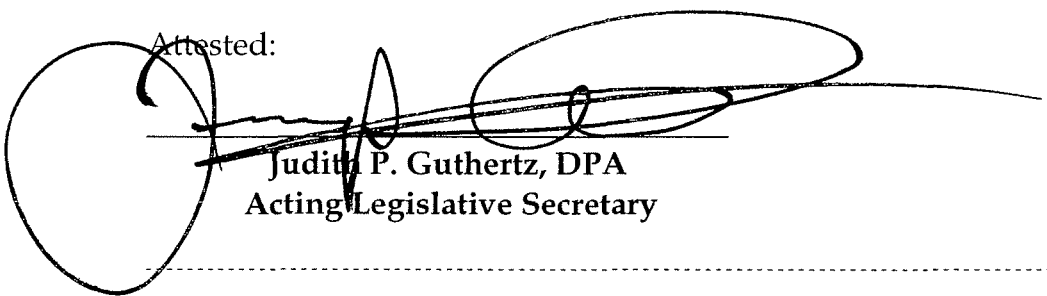
I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (FIFTH) Special Session

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

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 29th day of July, 2010 duly and regularly passed.


Tina Rose Muña Barnes
Acting Speaker

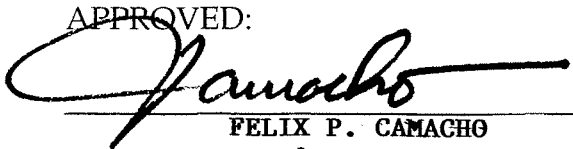
Attested:


Judith P. Guthertz, DPA
Acting Legislative Secretary

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


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahaen Guahan

Date: Aug. 3, 2010
Public Law No. 30-178

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.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that in order to purchase the tax-exempt obligations or other financial instruments
4 to be sold to finance the Education Facility (a replacement high school to be
5 located on the existing site of John F. Kennedy High School in *Tumon*) pursuant to
6 Chapter 58A of Title 5, Guam Code Annotated, investors require certainty that the
7 Lease, Lease-Back, Contract and other agreements relating to the design,
8 construction, maintenance and financing of the Education Facility will be valid and
9 binding obligations when executed and delivered. *I Liheslatura* hereby finds and
10 determines that providing such certainty is in the best interest of Guam in
11 expeditiously providing safe and modern facilities for the education of its high
12 school population. *I Liheslatura* hereby declares pursuant to §702 of Chapter 7,
13 Title 1, Guam Code Annotated, that if and to the extent that Section 2 of this Act
14 must be given retroactive effect to enable the procurement process existing as of
15 the date of enactment of this Act to proceed to completion, such retroactive effect
16 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.”