



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam.

July 30, 2015

33-15-0697

Office of the Speaker
Judith T. Won Pat, Ed.D

Honorable Judith T. Won Pat, Ed. D.
Speaker
I Mina' Trentai Tress Na Liheslaturan Guåhan
155 Hesler Street, Ste. 107
Hagåtña, Gu 96910

Date: 7/30/15
Time: 1:47 PM
Received By: ED POCAIGUE

Re: Call to Special Session to Consider Bond Refunding Legislation

Hafa Adai Madame Speaker:

Pursuant to the authority vested in me by § 1423h of the Organic Act of Guam, I am calling the Legislature into special session at 2:30 p.m. today, July 30. The sole purpose of the special session is for the Legislature to consider *An act to amend subsections (a), (b) and (j) of § 1512.3 of Article 5, Chapter 1, Title 5, Guam Code Annotated, relative to authorizing the refunding of Government of Guam General Obligation Bonds, 2007 Series A and Government of Guam General Obligation Bonds, 2009 Series A and Related Matters, including the application of savings to be achieved therefrom.*

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The Legislature will convene to take action on a bill that ensures we don't lose millions of dollars in savings. This bill is the culmination of discussions that started earlier this year. Sen. Dennis Rodriguez introduced Bill 34 in January and a subsequent bill in April. For reasons unknown to us, both bills did not get a public hearing. However, that didn't stop public discussion on the plan to take advantage of Guam's stable financial position and current market conditions.

Then, last month, Sen. Michael San Nicolas, Chairman of the Legislative Committee on Finance and Taxation, introduced Bill 130. In yesterday's Legislative session, Sens. Rodriguez and Frank Aguon Jr. attempted to include authorization for various projects. An authorization is different from an appropriation.

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An authorization requires a public hearing be held to approve the appropriation; in fact it ensures the community gets the opportunity say whether they agree with the priorities listed in the authorized spending.

Yesterday, however, the Chairman withdrew Bill 130-33 from the floor — saying it is because he wants to ensure the public is included in the discussion of government spending. As noted, Bill 130 as it was amended yesterday does exactly that.

The main focus of this legislation is the opportunity to save up to \$48.9 million for the life of General Obligation Bonds, 2007 and 2009 Series A. That savings has already diminished because Sen. Rodriguez's bill wasn't even considered in January or April. We were elated when Sen. San Nicolas introduced Bill 130 in June because we still had time to realize savings. It was disheartening when the bill was withdrawn yesterday.

But we've run out of time.

That is why I'm calling emergency session for senators to consider a new bill. Guam Economic Development Authority needs time to meet with bond raters. If this bill isn't passed today, the opportunity will be lost altogether and we would have failed our community.

The legislation introduced today, includes GEDA fees as part of this bond refunding. I have attached a list of unfunded mandates that have been placed on the agency. These fees are not new money, they replenish GEDA's funds so they can continue fostering economic programs that benefit our people and our island. Let me remind you that GEDA receives no General Fund appropriations.

Senseramente,



EDDIE BAZA CALVO

GUAM ECONOMIC DEVELOPMENT AUTHORITY

UNFUNDED MANDATES

Through the years, GEDA has been given unfunded mandates as part of our role in economic development as well as the Chief Financial Advisor to all Government agencies. GEDA bond fees assist with managing these mandates to include the following

- Guam Product Seal Marketing & Promotions
- Business Incubator program at the GIAA
- Disaster Mitigation for Farmers
- Mitigation for businesses impacted by road construction projects
- Small Business Expo
- Trade Mission and Investor visits to promote Hotel Development as per Tourism 2020
- Filing of annual GovGuam Bond Disclosure Reports
- Provide financial advice, review bond refunding opportunities and/or develop financial solutions for Capital Improvement Project Funding for GovGuam, GPA, GWA, PAG, UOG, GCC and GIAA.

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In addition, please note the following:

- Bond Fees received from the closing of the 2007 and 2009 GO bonds have already been expended to cover operational expenses. In fact, the fees received from the 2009 GO Bonds were allocated to pay for tax refunds (PL 30-7).
- The anticipated bond fees are a part of FY2015 anticipated GEDA budgeted revenues.
- Lease Revenue Decline: GEDA has been seeking all opportunities to identify sustainable revenues in its leases which used to make up 70% of GEDA revenues

- Leases negotiated in the 1970's did not include escalation clauses that would have allowed GEDA to keep pace with increasing operating costs
 - In Nov. 2008, the Cabras Industrial Park was transferred to the Port of Guam operations, resulting in a (-\$500K) loss in revenues
 - In Sept. 2012, the GEDA lease of the Navy Shipyard expired, resulting in the loss of (-\$120K)
- GEDA has established a management agreement with the Chamorro Land Trust and the Ancestral Land Trust to manage and lease their commercial properties. As the rules and regulations for commercial lease activity remains under legislative review, there has not been any new leases executed.
 - **GEDA fees account for only 20 basis points or 1/5 of 1% of total par of the bond issue.**

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. _____-33

Introduced by:

_____ by request of *I Maga'Låhen Guåhan*, the Governor of Guam, in accordance with the Organic Act of Guam

AN ACT TO *AMEND* SUBSECTIONS (a), (b) AND (j) OF § 1512.3 OF ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE REFUNDING OF GOVERNMENT OF GUAM GENERAL OBLIGATION BONDS, 2007 SERIES A AND GOVERNMENT OF GUAM GENERAL OBLIGATION BONDS, 2009 SERIES A AND RELATED MATTERS, INCLUDING THE APPLICATION OF SAVINGS TO BE ACHIEVED THEREFROM.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that under current market conditions, all or a portion of the outstanding
4 Government of Guam General Obligation Bonds, 2007 Series A (2007 Bonds) and
5 all or a portion of the outstanding Government of Guam General Obligation Bonds,

1 2009 Series A (2009 Bonds) can be refunded with Government of Guam Business
2 Privilege Tax Bonds, with significant savings for the General Fund.

3 Therefore, it is the intent of *I Liheslaturan Guåhan* to authorize a transaction
4 that would assist in facilitating the financial sustainability and flexibility of the
5 government of Guam by taking advantage of present favorable market conditions.

6 It is, further, the intent of *I Liheslaturan Guåhan* that there will be no
7 borrowing for new capital improvements with the refunding of the 2007 Bonds and
8 the 2009 Bonds, but rather that the projected net cash flow savings that would be
9 achieved from the refunding of the 2007 Bonds and the 2009 Bonds be
10 appropriated from the General Fund and applied toward capital improvements
11 relating to the Guam Memorial Hospital Authority and other health related matters.

12 **Section 2. Authorization of Refunding of General Obligation Bonds,**
13 **2007 Series A and General Obligation Bonds, 2009 Series A.**

14 § 1512.3(a) of Article 5, Chapter 1, Title 5, Guam Code Annotated, is
15 hereby *amended* to read as follows:

16 “(a) Authorization of Issuance of Bonds. *I Maga’lahen Guåhan* is
17 authorized to issue ~~three (3)~~ four (4) series of bonds of the government of
18 Guam, as provided in this Section, in an aggregate principal amount *not to*
19 *exceed* Three Hundred Forty-Three Million Seven Hundred Thousand
20 Dollars (\$343,700,000) plus such principal amount as may be necessary for
21 the purposes of the refunding of Government of Guam General Obligation
22 Bonds, 1993 Series A, as provided in and subject to the conditions of
23 paragraph ~~(2)(B)(iv)~~ (3) of this Subsection (a), and plus such principal
24 amount as may be necessary for the purposes of the refunding of
25 Government of Guam General Obligation Bonds, 2007 Series A and
26 Government of Guam General Obligation Bonds, 2009 Series A, as provided

1 in and subject to the conditions of paragraph (4) of this Subsection (a), to
2 provide the following:

3 (1) For the first bond series, in the following order of
4 priority:

5 (A) up to One Hundred Ninety-Eight Million Dollars
6 (\$198,000,000) for payment of unpaid income tax refunds plus
7 interest to include for 2010 and prior;

8 (i) Set-aside for Tax Refunds for Humanitarian
9 Purposes. Of the total amount of proceeds available to
10 issue tax refund payments, the sum of Twenty Million
11 Dollars (\$20,000,000) *shall* be set aside and appropriated
12 to the Department of Revenue and Taxation for the
13 purpose of paying tax refunds for humanitarian purposes.
14 The provisions of this Section *shall* supplement other
15 guiding provisions of law regarding the processing of
16 emergency tax refund payments. Requests submitted for
17 the following humanitarian purposes *shall* qualify to be
18 processed from this Twenty Million Dollars
19 (\$20,000,000) set-aside:

20 (aa) off-island medical treatment,
21 inclusive of the need to purchase medication; or
22 death of a family member, within two (2) degrees
23 of consanguinity;

24 (bb) delinquent billing payments owed to
25 the Guam Power Authority, the Guam Waterworks
26 Authority, the Guam Housing and Urban Renewal

1 Authority, and the Judiciary of Guam, which have
2 become delinquent due to financial hardships;

3 (cc) delinquent loan payments owed to the
4 Guam Housing and Urban Renewal Authority,
5 which have become delinquent due to financial
6 hardships; and

7 (dd) delinquent loan payments owed to
8 legally qualified and licensed lenders, which have
9 become delinquent due to financial hardships. For
10 the purposes of this Section, a request for tax
11 refunds *shall* be submitted by the taxpayer to the
12 Director of Revenue and Taxation. All such
13 requests are subject to the review and approval of
14 the Director.

15 (ii) Twenty Million Dollars (\$20,000,000) for
16 the payment of cost of living allowance to certain retired
17 government of Guam employees pursuant to the case
18 known as *Rios v. Camacho*;

19 (iii) Twenty-Six Million Four Hundred
20 Thousand Dollars (\$26,400,000) for payments owed to
21 the Government of Guam Retirement Fund for the Guam
22 Department of Education and the Guam Memorial
23 Hospital Authority principal and interest pursuant to
24 Public Law 28-38, as amended by Public Law 31-74; and

25 (iv) if no alternate source of funding is available,
26 for the payment of health insurance premiums for Fiscal
27 Year 2012.

1 (2) For the second bond series:

2 (A) no less than Twenty-Five Million One Hundred
3 Thousand Dollars (\$25,100,000) for payments owed to the
4 Government of Guam Retirement Fund for the Guam
5 Department of Education, the Guam Memorial Hospital
6 Authority, and the Health Insurance Bailout Agreement of FY
7 2011 principal and interest pursuant to Public Law 28-38, as
8 amended by Public Law 31-74, such that the sums owed to the
9 GGRF by the government of Guam pursuant to Public Law 28-
10 38, as amended, *shall* be extinguished in its entirety;

11 (B) the remaining balance of bond proceeds such that
12 the debt to the GGRF identified in § 1512.3(a)(2)(A) of Article
13 5, Chapter 1, Title 5, Guam Code Annotated, is paid, *shall* be
14 used, in any amount, for any of the following:

15 (i) the design, construction, re-construction,
16 rehabilitation, maintenance, renovation of government of
17 Guam or Guam Department of Education-owned school
18 facilities, and/or the procurement and preventive
19 maintenance of school buses. A “school facility” *shall*
20 mean school campus facilities, including any structure or
21 structures, together with all ancillary facilities, including
22 parking facilities, utilities, infrastructure and equipment
23 associated with providing the educational or related
24 services required by the Guam Department of Education,
25 and may include an existing school facility being
26 rehabilitated; and/or

1 (ii) the payment of unpaid income tax refunds
2 for tax year 2011; and/or

3 (iii) if no alternate source of funding is available,
4 the payment of health insurance premiums for Fiscal
5 Year 2012.

6 (3) For the third bond series, to fund an escrow to pay
7 principal, interest and redemption price of Government of Guam
8 General Obligation Bonds, 1993 Series A and to pay expenses relating
9 to the authorization, sale and issuance of the bonds, including, without
10 limitation, printing costs, costs of reproducing documents, credit
11 enhancement fees, underwriting, legal, feasibility, financial advisory
12 and accounting fees and charges, fees paid to banks or other financial
13 institutions providing credit enhancement, costs of credit ratings and
14 other costs, charges and fees in connection with the issuance, sale and
15 delivery of the bonds; provided, however, that bonds may *not* be
16 issued for this purpose unless (A) all obligation of the government to
17 pay debt service on, and the redemption price of, the bonds being
18 refunded shall be discharged concurrently with the issuance of the
19 refunding bonds; (B) thereafter, the refunded bonds *shall* be payable
20 solely from and secured solely by the escrow established for such
21 purpose; (C) the present value of debt service on the refunding bonds
22 *shall* be at least two percent (2%) less than the present value of debt
23 service on the bonds being refunded, inclusive of all fees, for bond
24 counsel and bond underwriters and other costs of issuance; and (D)
25 the issuance of the refunding bonds *shall not* result in any increase in
26 the aggregate amount of the government's outstanding "public

1 indebtedness” as that term is used in 48 USC § 1423a (§ 11 of the
2 Organic Act of Guam).

3 (4) For the fourth bond series, to fund an escrow or
4 otherwise to pay principal, interest and redemption price of all or a
5 portion of the Government of Guam General Obligation Bonds, 2007
6 Series A and the Government of Guam General Obligation Bonds,
7 2009 Series A, to capitalize interest on the refunding Business
8 Privilege Tax Bonds in an amount to ensure the General Fund is made
9 whole in the current or following fiscal year due to timing of debt
10 service requirements but in an amount not to exceed one percent (1%)
11 of refunding proceeds, and to pay expenses relating to the
12 authorization, sale, and issuance of the bonds, including without
13 limitation, printing costs, costs of reproducing documents, credit
14 enhancement fees, underwriting, legal, feasibility, financial advisory
15 and accounting fees and charges, fees paid to banks or other financial
16 institutions providing credit enhancement, costs of credit ratings and
17 other costs, charges and fees in connection with the issuance, sale and
18 delivery of the bonds; provided, however, that bonds may *not* be
19 issued for this purpose unless (A) all obligation of the government to
20 pay debt service on, and the redemption price of, the bonds being
21 refunded *shall* be discharged concurrently with the issuance of the
22 refunding bonds; (B) thereafter, the refunded bonds *shall* be payable
23 solely from and secured solely by the escrow established for such
24 purpose; and (C) the present value of debt service on the refunding
25 bonds *shall* be at least two percent (2%) less than the present value of
26 debt service on the bonds being refunded, inclusive of all fees, for
27 bond counsel and bond underwriters and other costs of issuance.

1 ~~(4)~~ (5) For the first and second bond series, such amount
2 as may be needed to capitalize and pay from bond proceeds interest on
3 the bonds due, accruing or required to be set aside in Fiscal Years
4 2012 and 2013; and

5 ~~(5)~~ (6) expenses incurred in connection with the issuance
6 of such bonds not already included in an existing appropriation for or
7 the regular budget of any government agency or instrumentality or
8 public corporation providing any service in connection with the
9 issuance of such bonds; provided, however, that bonds may *not* be
10 issued in an amount that would cause a violation of the debt limitation
11 provisions of 48 USC § 1423a (§ 11 of the Organic Act of Guam).

12 ~~(6)~~ (7) *I Maga'Låhen Guåhan shall utilize the 2011 Real*
13 Property Tax Assessment Roll as certified by the Board of
14 Equalization in accordance with § 24518 of Chapter 24, Title 11,
15 Guam Code Annotated, in calculating the amount available for future
16 debt obligation under the Debt Limit (Ceiling) for the bond issuance
17 authorized in this Subsection.”

18 **Section 3. Terms and Conditions of Bonds.**

19 § 1512.3(b) of Article 5, Chapter 1, Title 5, Guam Code Annotated, is
20 hereby *amended* to read as follows:

21 “(b) Terms and Conditions Determined by Certificate or Indenture.
22 The terms and conditions of the bonds shall be as approved by *I*
23 *Liheslaturan Guåhan*, and as determined by *I Maga'låhen Guåhan* by the
24 execution of a certificate or indenture authorizing the issuance of the bonds,
25 prior to the issuance of the bonds; provided, however, that such terms and
26 conditions shall be consistent with this Section, that the first and second
27 series of the bonds shall mature not later than thirty-five (35) years after

1 their date of issuance, shall bear interest at such rates and be sold for such
2 price or prices as shall result in a yield to the bondholders that does not
3 exceed six and one half percent (6.5%) per annum, shall require interest only
4 payments for Fiscal Years 2012, 2013 and 2014 and shall not require bond
5 principal payments until after such fiscal years, and that the third series of
6 the bonds shall mature not later than December 31, 2018, and shall bear
7 interest at such rates and be sold for such price or prices as shall result in the
8 present value of debt service on the third series of the bonds being at least
9 two percent (2%) less than the present value of debt service on the bonds
10 being refunded, using the yield on the third series of the bonds as the
11 discount rate, and that the fourth series of the bonds *shall* mature not later
12 than November 15, 2039, *shall not* be used to fund any new money projects
13 and shall bear interest at such rates and be sold for such price or prices as
14 shall result in the present value of debt service on the fourth series of the
15 bonds being at least two percent (2%) less than the present value of debt
16 service on the bonds being refunded, using the yield on the fourth series of
17 the bonds as the discount rate.”

18 **Section 4. Use of Anticipated Savings.**

19 New Sub-items (1) and (2) are hereby *added* to § 1512.3(b) of Article 5,
20 Chapter 1, Title 5, Guam Code Annotated, to read as follows:

21 “(1) Use of Funds Saved From Fourth Series. Beginning Fiscal
22 Year 2016, the savings achieved by the government of Guam to the General
23 Fund at or above the target referenced in this Subsection (b) due to the
24 refunding of the Government of Guam General Obligation Bonds, 2007
25 Series A and the Government of Guam General Obligation Bonds, 2009
26 Series A by the fourth series of bonds, an amount equal to the resulting
27 reduction in debt service payments relating to the refunded Government of

1 Guam General Obligation Bonds, 2007 Series A and the Government of
2 Guam General Obligation Bonds, 2009 Series A, shall, to the extent
3 practical, be allocated from the General Fund and subject to an appropriation
4 by *I Liheslaturan Guåhan* toward capital improvements relating to the Guam
5 Memorial Hospital Authority and other health related matters. The Bureau of
6 Budget and Management Research (BBMR) shall be tasked to track and
7 manage the savings achieved by this fourth series refunding and allocate
8 such savings pursuant to this Subsection, and reflect the savings and
9 allocation in the executive branch submission of its budget request to *I*
10 *Liheslaturan Guåhan* each fiscal year. The funds allocated herein shall be in
11 addition to the annual budget allocation and budgeted appropriation levels
12 provided to the Guam Memorial Hospital Authority.

13 (2) Notwithstanding any other provision of law, of the initial
14 savings realized as a result of the refinancing of the Bonds contained herein,
15 the sum of two million dollars (\$2,000,000.00) shall be authorized for the
16 following expenditures: (a) one hundred eighty-six thousand, four hundred
17 fifty-four dollars and eighty-five cents (\$186,454.85) to the Department of
18 Administration for the purposes of Typhoon Halong overtime payments; (b)
19 two hundred thousand dollars (\$200,000.00) to the Department of
20 Administration for the purposes of Typhoon Dolphin overtime payments; (c)
21 One hundred and fifty thousand dollars (\$150,000.00) to the Siñajana
22 Mayor's office for the completion of the Open Air Gymnasium, renovations
23 and reconfiguration of the parking lot, building of a playground and
24 renovation of the baseball field; (d) two hundred fifty thousand dollars
25 (\$250,000.00) to the Department of Agriculture for the purposes of
26 compensation to farmers for crop damages in accordance with Chapter 64A,
27 Title 5, Guam Code Annotated; (e) Thirty nine thousand dollars

1 (\$39,000.00) for the purposes of the repair and upgrade of the *Talofof*
2 *baseball field*; (f) *two hundred and seventy-three thousand dollars*
3 (*\$273,000.00*) to the Department of Public Works for the repair of the
4 *Umatac Bridge towers*; (g) *one hundred thousand dollars (\$100,000.00)* to
5 the *Yoña Mayor’s office* for the purposes of the repair of the *Yoña Gym*
6 *Facilities*; (h) *four hundred one thousand five hundred forty-five dollars and*
7 *fifteen cents (\$401,545.15)* for the purpose of funding the *Guam Festival of*
8 *Pacific Arts 2016*. The funds identified herein *shall be subject to legislative*
9 *appropriation.*”

10 **Section 5. Authorization of Use of Proceeds for Refunding.**

11 A new Item (4) is hereby *added* to § 1512.3(j) of Article 5, Chapter 1, Title
12 5, Guam Code Annotated, to read as follows:

13 “(4) *The proceeds from the sale of the fourth bond series shall be*
14 *used and are hereby appropriated to (i) fund an escrow to pay principal,*
15 *interest and redemption price of Government of Guam General Obligation*
16 *Bonds, 2007 Series A and Government of Guam General Obligation Bonds,*
17 *2009 Series A, or otherwise to pay in full such 2007 Bonds and 2009 Bonds;*
18 *(ii) fund capitalized interest on the refunding Business Privilege Tax Bonds*
19 *in an amount to ensure the General Fund is made whole in the current or*
20 *following fiscal year due to timing of debt service requirements, but in an*
21 *amount not to exceed one percent (1%) of refunding proceeds; and (iii) pay*
22 *expenses relating to the authorization, sale and issuance of the bonds,*
23 *including, without limitation, printing costs, costs of reproducing*
24 *documents, credit enhancement fees, underwriting, legal, feasibility,*
25 *financial advisory and accounting fees and charges, fees paid to banks or*
26 *other financial institutions providing credit enhancement, costs of credit*

1 ratings, and other costs, charges and fees in connection with the issuance,
2 sale and delivery of the bonds.”

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