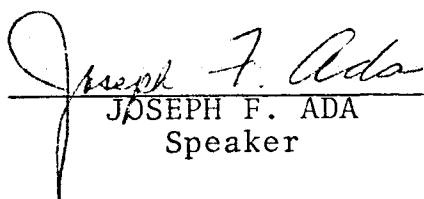


FOURTEENTH GUAM LEGISLATURE
1977 (FIRST). Regular Session

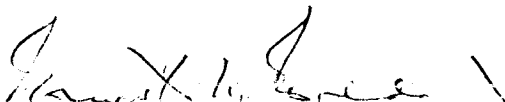
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 248, "An Act to amend Title XLV of the Government Code relative to Improvement District Law and for other purposes", was on the 25th day of October, 1977, duly and regularly passed.



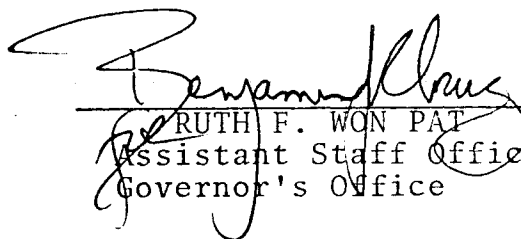
JOSEPH F. ADA
Speaker

ATTESTED:



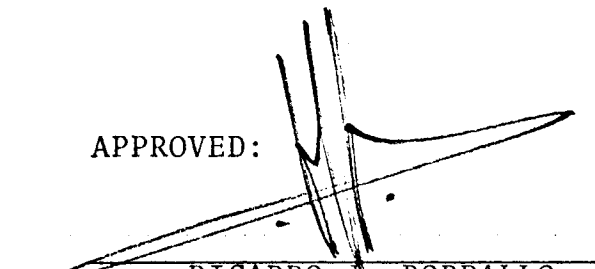
ERNESTO M. ESPALDON
Legislative Secretary

This Act was received by the Governor this 28th day of October, 1977, at 6.10 o'clock P.M.



RUTH F. WON PAT
Assistant Staff Officer
Governor's Office

APPROVED:



RICARDO J. BORDALLO
Governor of Guam

DATED: November 9, 1977
3:45 PM

P.L. 14-76

FOURTEENTH GUAM LEGISLATURE
1977 (FIRST) Regular Session

Bill No. 248
(As Substituted by
the Committee on
Manpower, Resources
& Economic Development)

Introduced by

J. H. Underwood
F. F. Blas
J. F. Ada
A. M. Palomo

AN ACT TO AMEND TITLE XLV OF THE GOVERNMENT
CODE RELATIVE TO IMPROVEMENT DISTRICT LAW
AND FOR OTHER PURPOSES.

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

2 Section 1. Title XLV of the Government Code is amended to

3 read:

4 "TITLE XLV

5 IMPROVEMENT DISTRICT LAW

6 CHAPTER I

7 Improvement District Law

8 Section 48000. Title. This Title may be cited as the
9 'Improvement District Law'.

10 Section 48001. Purpose. The purpose of this Title
11 is to provide a method of cooperation among landowners
12 in obtaining construction or reconstruction of public
13 facilities as defined herein within any municipality or
14 village of Guam and any area within any municipality or
15 village by creation of improvement districts, and to
16 provide a method of financing such construction, recon-
17 struction, maintenance and operation.

18 Section 48002. Eligibility. Areas eligible for
19 consideration under this Title are limited to those that:

1 (a) have more than three (3) lot owners; and
2 (b) have no two (2) lot owners controlling
3 seventy-five percent (75%) of the total area.

4 Section 48003. Definitions. As used in this Title,
5 unless the context requires otherwise:

6 (a) 'Commission' means Territorial Planning
7 Commission.

8 (b) 'Department' means the Department of Public
9 Works.

10 (c) 'Landowner' or 'owner of land' means any
11 owner of legal title of record to land in Guam,
12 including the government of Guam. Land does not
13 include improvements.

14 (d) 'Executive Secretary' means Executive
15 Secretary of the Territorial Planning Commission.

16 (e) 'Director' means the Director of Public
17 Works.

18 (f) 'Public facility' means any street, alley,
19 or other public way, sidewalks, sewer, water main,
20 power line, public lighting, park, playground, beach
21 front, recreational area and comparable projects
22 primarily for the benefit of landowners within an
23 improvement district.

24 (g) 'Construction' or 'reconstruction' includes
25 acquisition of property, easements, or rights-of-way.

26 (h) 'Municipality' or 'village' means those
27 areas set forth and described in Section 1500.1 of
28 the Government Code of Guam.

1 (i) 'Improvement District Revolving Fund'
2 means the account set up to fund projects.

3 (j). 'District' means the district landowners
4 petition for.

5 Section 48004. Administration. The administration of
6 this law shall be under the supervision of the Commission
7 with the active participation of the Department of Public
8 Works and the Department of Land Management as hereinafter
9 provided, and to make such rules and regulations, subject
10 to the approval of the Governor by Executive Order, and
11 receive such aids from other departments or agencies of the
12 government of Guam, as are necessary to carry out the pro-
13 visions and spirit of this Title.

14 Section 48005. Initiation of improvement districts.
15 If the owners of twenty-five percent (25%) of the land
16 lying within any single municipality or village in Guam or
17 any area within any municipality or village desire to
18 have an improvement district created for the purpose of
19 constructing or reconstructing and financing one or more
20 public facilities, they may file a petition with the
21 Director asking that such a district be created.

22 The petition shall set forth:

23 (a) The proposed name of the district;

24 (b) A statement that there is a need for the
25 creation of the district to provide for the construc-
26 tion or reconstruction of one or more public facilities
27 as enumerated;

28 (c) A description of the boundaries of the
29 proposed district, with a drawing on a base map
30 selected by the Department;

1 (d) A request that the Commission issue an order
2 for the Department or Agency concerned to survey,
3 study and evaluate the proposed facilities, including
4 plans and specifications, and to furnish estimates of
5 the cost of construction;

6 (e) The signatures of the landowners petitioning
7 for the establishment of the district.

8 Section 48006. Review by Director. When a petition
9 is filed, the Director will forward to Land Management to
10 review the same. Land Management will determine the
11 identity of owners whose land is within the proposed
12 district. A preliminary estimate benefits to the land
13 involved will be made by the Director. In making his
14 determination, he will consider the need for any additional
15 property to connect the proposed public facility with
16 existing facilities, and its compatibility with the master
17 plan of the Commission.

18 Section 48007. Cost Scale. The Director shall prepare
19 unit cost scales or request such scales to be prepared by
20 other departments or agencies from time to time for use in
21 reviewing petitions and in preparing estimates of costs.

22 Section 48008. Report to Commission and initial
23 notice to landowners. After review of the petition, the
24 Director will submit a report, with his recommendations,
25 to the Commission. If the Commission approves the project,
26 it will notify by mail the owners of all lands within the
27 proposed district. The notice will contain a description
28 of the proposed public facility, the estimated cost to each

1 landowner, and a statement of the time, not to exceed
2 thirty (30) days, within which written consent of landowners
3 may be filed with the Commission. If the Commission does
4 not approve the project, the Director shall notify the
5 petitioners of the disapproval.

6 Section 48009. Preliminary consent. If, within the
7 time prescribed by the notice, the owners of sixty percent
8 (60%) of the land and sixty percent (60%) of the landowners
9 within the proposed district give their approval in writing
10 to the proposed district, the Commission will establish the
11 district. If such approval is not given, the Commission
12 shall not establish the district; provided, however, that
13 if such approval is subsequently given, the Commission
14 shall reconsider the petition.

15 Section 48010. Order for specific plans and specifica-
16 tions. If the project is approved, the Commission shall
17 enter its order. The order will be referred to the
18 Director, who will request the Department or Agency con-
19 cerned, for preparation of final construction plans and
20 specifications and an estimate of the cost of the project
21 as approved. The Director shall determine the allocations
22 of costs among the landowners within the proposed district.

23 Section 48011. Classifications of lands for assessments.
24 The Director shall classify all land in the proposed
25 district that may be benefited by the project into classes,
26 not to exceed five (5) in number, by land use within each
27 zone. The land receiving the most benefit shall be desig-
28 nated 'Class A' and other classes shall be marked 'Class B',
29 'Class C', 'Class D' and 'Class E', respectively, on a

1 descending scale. The classification will be based on the
2 extent to which each parcel or lot will be benefited by the
3 proposed facility. The classification of lands and the
4 allocation of costs to be assessed to each lot or parcel
5 will be determined by the Director subject to approval by
6 the Commission. Classification will be based on the
7 following:

8 (a) Area as determined by multiples of 1,250
9 square feet;

10 (b) Frontage on street or road;

11 (c) Potential use as determined by zoning or
12 existing non-conforming use;

13 (d) Distance from improvement installed;

14 (e) Assessment differentials;

15 (f) Assessed land value increase; and

16 (g) Subtraction of public benefit costs where
17 additional capacities are required for extension beyond
18 district boundaries with the exception of right-of-way.

19 Section 48012. Allocation of cost. After all land
20 has been classified on the basis of benefits received, the
21 Director shall:

22 (a) Pro-rate the total costs among the classes
23 of land, determined according to the percentage of
24 benefit of the public facility to each class.

25 (b) Pro-rate the total costs assigned to each
26 class among the parcels of land contained in that
27 class.

1 (c) Allocate to each parcel its costs and prepare
2 an itemized statement of the costs for the owner of
3 each separate parcel, which will show the total amount
4 in full at completion of the project, and the annual
5 installments if the costs are paid over a period of
6 five (5) years or a period of ten (10) years with
7 interest at six percent (6%) per annum.

8 (d) Submit a final report to the Commission,
9 setting out in detail the completed plans and specifi-
10 cations, the total cost of the project, and the pro-
11 posed assessment against each parcel of land within
12 the district including the five and ten-year plans
13 of amortization.

14 Section 48013. Final notice. Upon the filing of the
15 report, the Executive Secretary will mail to each landowner
16 notice of the proposed assessment. Such final notice shall
17 show the amount of the proposed assessment if paid upon
18 completion of the project, the annual installments if
19 amortized over five (5) years, and the annual installments
20 if amortized over ten (10) years.

21 The Executive Secretary shall also cause to be pub-
22 lished a notice once per week for two successive weeks in a
23 newspaper of general circulation in Guam which will state
24 the place and a date not less than two weeks from the date
25 of the last publication, at which a public hearing in the
26 area, municipality or village affected will be held by the
27 Commission. The notice will state the place, time, and
28 date of the hearing and include a brief description of
29 the district, the proposed public facility, the total cost,
30 and the place at which the report may be inspected by
31 interested persons.

1 Section 48014. . Final protest. Any interested person
2 may object to the proposed public facility, the extent of
3 the proposed district, or the proposed assessment against
4 his land by filing a written protest with the Executive
5 Secretary before the time set for the hearing or voice a
6 protest during the hearing. The Executive Secretary shall
7 endorse on each protest the date of its receipt, and at
8 the time appointed for the hearing shall present to the
9 Commission all protests filed with him.

10 Section 48015. Hearing. At the time and place set for
11 the hearing, the Commission shall consider the final report
12 of the Director in the light of protests filed against
13 the proposed assessments, and may adopt the report as
14 submitted, or with modifications or corrections, or abandon
15 the project. The Commission may adjourn from day to day,
16 if necessary, until sufficient information can be obtained
17 to permit proper decision.

18 Section 48016. Submission to Governor. If the final
19 report is adopted by the Commission, it shall cause the
20 Executive Secretary to prepare a complete summary of its
21 actions to be submitted to the Governor with the final
22 report of the Director and the Commission's recommendation
23 for review and final decision.

24 Section 48017. Review by Governor. The final report
25 when received by the Governor shall be retained in his
26 office for not less than fifteen (15) days for study and
27 review, after which time he may approve or reject the same
28 in whole or in part.

1 Section 48018. Judicial review. Any owner of land
2 within a proposed district who claims to be injured by the
3 establishment of the district may file a complaint in the
4 Superior Court of Guam within sixty (60) days of the
5 approval of the final report pursuant to Section 48020
6 creating the district for review of such claim, the pro-
7 cedures establishing the district, and the legality there-
8 of. The Court will take appropriate action under this law
9 and the rules of Court. Such review shall not concern
10 itself with the adequacy of proposed condemnation awards,
11 the issue of compensation if in dispute to be determined
12 only after trial thereon pursuant to the provisions of
13 Title V, Part III, Code of Civil Procedure (Eminent Domain).

14 Section 48019. Where other than minor changes. If
15 the Judicial or Executive review results in other than minor
16 changes, the final report shall be returned to the Commis-
17 sion unapproved, where it shall be reconsidered and resub-
18 mitted; otherwise, the Governor shall issue his Executive
19 Order as provided in Section 48021.

20 Section 48020. Final disposition of returned report.
21 The Commission may, after consideration of the changes
22 required when a report is returned pursuant to Section
23 48019, abandon the project or prepare and submit a revised
24 report in accordance with the procedures herein set out.

25 Section 48021. Executive Order creating improvement
26 district. If the Governor approves the final report, the
27 report shall have the force and effect of law, and the
28 proposed assessments shall become liens upon the lands

1 against which assessed and shall be payable and collectable
2 as taxes under the provisions of Chapter IV, Title XX, of
3 the Government Code of Guam.

4 Section 48022. Addition to assessment roll. An
5 itemized listing of the assessments approved shall be
6 forwarded to the assessor who shall add the total amount of
7 each assessment as a special assessment on the tax list of
8 the owner or owners of the land within the improvement
9 district on the next assessment roll prepared after creation
10 of the district. The special assessment shall be entered
11 as a separate item. The amount so entered shall not be
12 subject to change by the Board of Equalization, but said
13 board may correct the roll for clerical errors or omissions.

14 Section 48022.1. Crediting of assessment funds.
15 Assessed funds shall be credited back to the agency or
16 department originally providing such. The cost for
17 furnishing of power to the street light districts shall be
18 credited to the Guam Power Authority. All other funds shall
19 be credited back to the District Improvement Revolving
20 Fund. Credits shall be transmitted on the first day of
21 June and December of each year as collected.

22 Section 48023. Election to amortize special assess-
23 ment. The taxpayer may, on or before the date when the
24 first half of property taxes is due, elect to pay in annual
25 installments the amount of the special assessment in either
26 five (5) or ten (10) years, or pay the same in full as other
27 property tax within the year. If the taxpayer elects to
28 pay in installments, the tax collector shall collect the
29 amount due in accordance with such election and credit each

1 payment to the special assessment portion of the tax bill
2 and after each instalment show the balance of the assess-
3 ment. Thereafter, the unpaid balance and the annual in-
4 stallment shall not be construed as preventing the owner of
5 land subject to the assessment from paying the unpaid
6 balance at any time. All special assessment collection
7 including interest and penalties shall be credited as per
8 Section 48022.1.

9 Section 48024. Construction procedure. Upon notifica-
10 tion by the Governor that the improvement district has
11 been created, the Department of Public Works shall prepare
12 invitations to bid, based upon the plans and specifications
13 as approved, and proceed to advertise for bids as in other
14 contracts for construction. When bids are received, the
15 contract shall be let to the lowest and best bidder; but
16 the contract price may not exceed the final estimate of
17 costs of construction submitted by the Department of Public
18 Works as hereinbefore provided. If no such bids are
19 received, the Department of Public Works shall proceed with
20 the authorized construction. Such Department shall keep
21 exact and detailed records of all costs of construction.

22 Section 48025. Acceptance and payment for construction.
23 Upon completion of construction, the Director of Public
24 Works shall certify to the Commission that the project is
25 completed according to the plans and specifications. The
26 Commission shall immediately inspect the construction and
27 shall approve or reject the project. If the project is

1 approved as completed, the Commission shall order final
2 payment made from the Improvement District Revolving Fund.
3 If not approved, the Commission may require such additional
4 work as is necessary to meet the plans and specifications,
5 before payment is ordered. If the construction is performed
6 by the Department of Public Works, the payment shall be in
7 the nature of reimbursement of its operating appropriation
8 from the Improvement District Revolving Fund to the extent
9 of the cost of construction not to exceed the total assess-
10 ment. The Commission may authorize progress payments for
11 construction upon an installment basis, but such payments
12 may not total more than eighty percent (80%) of the total
13 cost until final completion and acceptance.

14 Section 48026. Improvement District Revolving Fund.
15 There is hereby created the Improvement District Revolving
16 Fund to be used to finance costs of public facilities
17 pursuant to this Title. The fund shall be subject to the
18 provision of Section 6112, Government Code of Guam.

19 Section 48026.1. Administration of Improvement District
20 Revolving Fund. The Director may apply for and accept
21 advances, loans, grants, contributions, gifts, donations,
22 appropriations of funds and any other form of financial
23 assistance from the Federal Government, the government of
24 Guam, or other public body or agency, or from any sources,
25 public or private for the purpose of this Chapter, and
26 enter into and carry out contracts in connection therewith.

27 Section 48027. Application to subdivisions. This
28 Title may not be used to provide for the financing of
29 improvements required for subdividing land under the Sub-
30 division Law, either as a separate improvement district or

1 as part of another proposed improvement district. How-
2 ever, in the latter instance, with regard to any required
3 improvements within and limited to the subdivision, the
4 full cost of such subdivision improvements shall be
5 allocated exclusively to parcels within the subdivision in
6 addition to the prorata share of the cost public facilities
7 for the entire district."

8 Section 2. The sum of Six Thousand Five Hundred Dollars
9 (\$6,500.00) is hereby appropriated to the Judiciary and
10 Criminal Justice Committee of the Fourteenth Guam Legislature
11 from any unappropriated available surplus in the General Fund.

12 Section 3. There is hereby appropriated the sum of Twenty-
13 Five Thousand Dollars (\$25,000.00) from any available funds in
14 the General Fund to replenish the Sports Fund for Off-Island
15 Travel.

16 Section 4. Section 26020(b) of the Government Code is
17 amended to read:

18 "(b) The fund is to be expended to provide grants for
19 transportation expenses for off-island travel by civilian
20 sports organizations and individuals who engage in athletic
21 competition and ROTC Drill Teams."