



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

MAR 24 2000

The Honorable Joanne M. S. Brown  
Legislative Secretary  
I Mina'Bente Singko na Liheslaturan Guåhan  
Twenty-Fifth Guam Legislature  
Suite 200  
130 Aspinal Street  
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY

ACKNOWLEDGMENT RECEIPT

Received By: [Signature]

Time 10:33am

Date 3.27.00

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 360 (COR), "AN ACT TO AMEND §22428 OF ARTICLE 4, CHAPTER 22, DIVISION 2 OF TITLE 5 OF THE GUAM CODE ANNOTATED, AS AMENDED BY §29 OF CHAPTER IV OF P.L. NO. 25-03, RELATIVE TO REFINANCING GWA REVENUE BONDS AND FOR OTHER PURPOSES", which I have signed into law today as **Public Law No. 25-115**.

This legislation allows the refinancing of Guam Waterworks Authority bonds, to take advantage of lower interest rates and to realize a savings. The savings was designed to enable the Guam Waterworks Authority to finance long overdue and absolutely necessary improvements to our water/sewer system, however, this goal was diverted by the legislative branch of government to provide subsidies to residential water/sewer users through the next election.


The secondary effect of this legislation, due to the diversion of savings, is that the Guam Waterworks Authority will not be able to enter the financial market to obtain funding, because the legislative body is interfering with the stability of rates by leap-frogging over the action of the Public Utilities Agency (PUC) to subsidize residential users, but not agricultural, commercial, golf course, irrigation, hotel, and government users. The recent PUC rulings on rates also include these other classes of users.

00842

The subsidy is supposed to be "temporary" - either for the next 10 months or until the amount of \$3.5 Million is spent, whichever comes later. However, the legislation does not provide for a mechanism for the rates to go back to the level that was authorized by the PUC in the first place.

Finally, the Navy has been monitoring the turn over of assets to the Guam Waterworks Authority. The instability of rates will impact on this relationship.

Very truly yours,

  
Carl T. C. Gutierrez  
I Maga'Lahen Guåhan  
Governor of Guam

Attachment:      copy attached for signed bill or overridden bill  
                         original attached for vetoed bill

cc:    The Honorable A.R. Unpingco  
         Speaker

00842

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
2000 (SECOND) Regular Session


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

This is to certify that Substitute Bill No. 360 (COR) "AN ACT TO AMEND §22428 OF ARTICLE 4, CHAPTER 22, DIVISION 2 OF TITLE 5 OF THE GUAM CODE ANNOTATED, AS AMENDED BY §29 OF CHAPTER IV OF P.L. NO. 25-03, RELATIVE TO REFINANCING GWA REVENUE BONDS AND FOR OTHER PURPOSES," was on the 9<sup>th</sup> day of March 2000, duly and regularly passed.



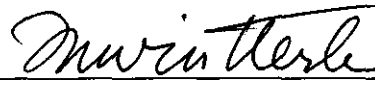
ANTONIO R. UNPINGCO  
Speaker

Attested:



JOANNE M.S. BROWN  
Senator and Legislative Secretary

This Act was received by I Maga'lahaen Guahan this 14<sup>th</sup> day of March, 2000,  
at 2:35 o'clock P.M.



Assistant Staff Officer  
Maga'lahaen's Office

APPROVED:



CARL T. C. GUTIERREZ  
I Maga'lahaen Guahan

Date: 3-24-00

Public Law No. 25-115

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**1999 (FIRST) Regular Session**

**Bill No. 360 (COR)**

As substituted by the Committee  
on Tourism, Economic Development  
and Parks, amended in the Committee  
of the Whole and further amended.

Introduced by:

A. C. Lamorena, V

J. M.S. Brown

A. R. Unpingco

Mark Forbes

A. C. Blaz

F. B. Aguon, Jr.

E. C. Bermudes

E. B. Calvo

M. G. Camacho

L. F. Kasperbauer

C. A. Leon Guerrero

K. S. Moylan

V. C. Pangelinan

J. C. Salas

S. A. Sanchez, II

**AN ACT TO AMEND §22428 OF ARTICLE 4, CHAPTER 22,  
DIVISION 2 OF TITLE 5 OF THE GUAM CODE  
ANNOTATED, AS AMENDED BY §29 OF CHAPTER IV OF  
P.L. NO. 25-03, RELATIVE TO REFINANCING GWA  
REVENUE BONDS AND FOR OTHER PURPOSES.**

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

2        **Section 1.** Section 22428 of Article 4, Chapter 22, Division 2 of Title 5, as

3        amended by §29 of Chapter IV of Public Law Number 25-03, is hereby *amended* to

1 read as follows:

2 **“Section 22428. Authorization and Approval of Refunding Bonds.**

3 (a) **Definitions.** The following terms shall have the  
4 following meanings when used in this Section:

5 (1) *‘1989 Water Bonds’* means the Government of Guam  
6 Water System Revenue Bonds, Series 1989.

7 (2) *‘1992 Highway Bonds’* means the Government of Guam  
8 Limited Obligation Highway Bonds, 1992 Series A.

9 (3) *‘Prior Bonds’* means the 1989 water bonds and the 1992  
10 highway bonds, to be redeemed or otherwise retired with the  
11 proceeds of refunding bonds and investment earnings thereon.

12 (4) *‘Refunding Bond’* means a bond issued pursuant to this  
13 Section for the purpose of providing moneys to redeem and  
14 otherwise retire *prior* bonds, funding any necessary bond reserves  
15 and capitalized interest allocable to the refunding bonds and  
16 paying expenses incurred in connection with the issuance of such  
17 refunding bonds.

18 (5) *‘Yield’* shall have the same meaning as when used in  
19 §148 of the Internal Revenue Code of 1986, as amended. That is,  
20 *‘yield’* means the annual discount rate which, when used to  
21 discount all payments of debt service on an issue of bonds to the  
22 date of issuance of the bonds, using a semiannual compounding  
23 interval, results in the aggregate present value of such payments  
24 being equal to the re-offering price to the public of such bonds.

25 (6) *‘Debt service’* means the scheduled principal of and

1 interest on bonds *plus* fees to be paid for credit enhancement of  
2 such bonds.

3 (7) '*Debt Service Savings*' means the percentage by which  
4 the present value of debt service on refunding bonds, *not*  
5 including capitalized interest, is less than the present value of the  
6 remaining debt service on the prior bonds refunded by such  
7 refunding bonds. Present value shall be calculated for this  
8 purpose using the yield on the refunding bonds as the discount  
9 rate.

10 (8) '*1986 Bonds*' means the Government of Guam General  
11 Obligation Bonds, Series 1986, that are no longer outstanding.

12 (9) '*Section 30 Revenues*' means the revenues derived by  
13 the government of Guam under 48 U.S.C. §1421h (§30 of the  
14 Organic Act of Guam).

15 (b) **Authorization of Issuance of Bonds.** *I Maga'lahaen*  
16 *Guåhan* is authorized to issue on behalf of the government of Guam one  
17 (1) or more issues of bonds of the government consisting of refunding  
18 bonds, *subject to* the following requirements and limitations:

19 (1) the issuance of the bonds shall *not* cause a violation of  
20 the debt limitation provisions of 48 U.S.C. §1423a (§11 of the  
21 Organic Act of Guam);

22 (2) all obligation of the government to pay debt service  
23 on, and the redemption price of, the prior bonds being refunded  
24 shall be discharged concurrently with the issuance of the  
25 refunding bonds. Thereafter, the prior bonds shall be payable

1 pledge of revenues securing the refunding bonds.

2 (i) **Authorization for Credit Enhancement.** *I Maga'lahaen*

3 *Guahan* is authorized to enter into such contracts or agreements with  
4 such banks, insurance companies or other financial institutions as *I*  
5 *Maga'lahaen Guahan* determines are necessary or desirable to improve the  
6 security and marketability of any bonds authorized by this Section.  
7 Such contracts or agreements may contain an obligation to reimburse,  
8 with interest, any such banks, insurance companies or other financial  
9 institutions for advances used to pay principal of or interest on the issue.

10 Any obligations under such contract or agreement shall be payable  
11 solely from the same sources as debt service on the refunding bonds is  
12 payable, and any advance under such agreement, *if necessary*, shall be  
13 treated as creating a reimbursement obligation issued to refund the  
14 refunding bonds.

15 (j) **No Personal Liability.** No employee or elected official

16 of the government of Guam shall be individually or personally liable for  
17 the payment of any amounts due on any bonds issued under this  
18 Section, or for any other liability arising in connection with the bonds;  
19 provided, however, that nothing in this Section shall relieve any  
20 employee or elected official from the performance of any ministerial  
21 duty required by law.

22 (k) **Approval by Guam Economic Development Authority.**

23 Section 50103(k) of Title 12 of the Guam Code Annotated, provides that  
24 agencies and instrumentalities of the government of Guam shall issue  
25 bonds and other obligations only by means of and through the agency

1 of the Guam Economic Development Authority ('GEDA'). No issue of  
2 bonds authorized by this Section shall be sold until the board of  
3 directors of GEDA has adopted a resolution approving the sale of such  
4 issue.

5 (l) **Approval of Terms and Conditions.** Said §50103(k) also  
6 provides that GEDA shall *not* sell any bond without the approval of *I*  
7 *Liheslaturan Guåhan* of the terms and conditions of the issuance of the  
8 bonds. *I Liheslaturan Guåhan* hereby approves the terms and conditions  
9 of the issuance of the bonds authorized by this Section, so long as such  
10 bonds are structured as provided by this Act and achieve the savings  
11 required by this Act. Upon issuance of bonds to refund the 1989 water  
12 bonds, §30 Revenues and other funds held in the bond account for the  
13 1989 water bonds shall be released pursuant to this Act.

14 (m) **Approval by Guam Public Utilities Commission Not**  
15 **Required.** Section 12004 of Title 12 of the Guam Code Annotated  
16 provides that the Guam Waterworks Authority ('GWA') shall *not* enter  
17 into any contractual agreements or obligations which could increase  
18 rates and charges *prior to* the written approval of the Public Utilities  
19 Commission. Because debt service on the refunding bonds issued to  
20 refund the 1989 water bonds is expected to be paid from §30 Revenues  
21 and *not* from GWA revenues, and because the refunding bond indenture  
22 provisions relating to GWA revenues are to be substantially the same as  
23 such provisions in the 1989 water bond indenture, the entry by GWA  
24 into the refunding bond indenture is hereby deemed *not* to increase  
25 rates and charges in and of itself, is hereby authorized and approved,



1 and shall *not* be required to be approved by the Guam Public Utilities  
2 Commission.

3 **(n) Variable Rate Bonds and Interest Rate Hedges.**

4 Refunding bonds issued to refund the 1989 water bonds may be issued  
5 as bonds bearing interest at a variable rate, and *I Maga'lahaen Guåhan* is  
6 authorized to enter into one (1) or more interest rate hedging contracts,  
7 including, but not limited to, arrangements commonly known as swap  
8 agreements, floors, caps and collars, which *I Maga'lahaen Guåhan*  
9 determines to be necessary or appropriate to place the obligations of the  
10 government of Guam, as represented by the refunding bonds and such  
11 interest rate hedging contracts, on a basis other than a fully variable rate  
12 basis, but only under the following terms and conditions, which are  
13 applicable in such circumstances in lieu of the requirements of  
14 Paragraphs (3) and (4) of Subsection (b) of this Section:

15 (1) the initial interest rate hedging contracts, *if any*, must  
16 have an aggregate term of *not less than* two (2) years;

17 (2) each year over the longer of the first five (5) years after  
18 the date of issuance of the bonds or the term of any initial interest  
19 rate hedging contracts, the maximum net annual obligation of the  
20 government, as represented by the refunding bonds and such  
21 interest rate hedging contracts, must be expected, on the basis of  
22 the prior ten (10) years' experience with comparable bonds and  
23 interest rate hedging contracts, *not* to exceed the annual obligation  
24 that the government would have had *if* the refunding bonds had  
25 been issued as fixed-rate, current-interest bonds meeting the

1 criteria of Paragraphs (3) and (4) of Subsection (b) of this Section;

2 (3) the aggregate principal amount of refunding bonds  
3 outstanding at the later of the end of the first five (5) years after  
4 the date of issuance of the bonds or the end of the term of any  
5 initial interest rate hedging contracts may *not* exceed the aggregate  
6 principal amount of refunding bonds that would have been  
7 outstanding had the refunding bonds been issued as fixed-rate,  
8 current-interest bonds meeting the requirements of Paragraphs (3)  
9 and (4) of Subsection (b) of this Section;

10 (4) the final scheduled maturity date of such refunding  
11 bonds shall be *not more than* five (5) years after the final scheduled  
12 maturity date of the 1989 water bonds; *and*

13 (5) upon any conversion of the variable rate refunding  
14 bonds to fixed rate, any period during which the fixed rate bonds  
15 are *not* subject to optional redemption shall be less than one and  
16 one-half (1 1/2) years.

17 (o) **Permitted Investments.** The proceeds of bonds issued  
18 by the government, and any revenues relating to such bonds, may be  
19 invested in, but only in, the types of investments permitted by the  
20 certificate or indenture pursuant to which such bonds are issued."

21 **Section 2. Adjustment of Residential Water Rates.** Notwithstanding  
22 any other provision of law, the savings realized by the government of Guam by the  
23 enactment of this Act shall be used to offset any water or sewer rate increases made  
24 by the Public Utilities Commission to residential ratepayers until said savings are  
25 expended.

1           **Section 3. Reporting Requirement.**     The General Manager and Board of  
2 Directors of GWA shall submit to the Speaker of *I Liheslaturan Guåhan* a detailed  
3 financial report as follows:

4           (a)     within thirty (30) days of enactment of this Act, a planned  
5 expenditure report of the Three Million Five Hundred Thousand Dollars  
6 (\$3,500,000) to be expended;

7           (b)     within five (5) months of enactment of this Act, a midpoint  
8 expenditure report of actual funds spent; *and*

9           (c)     at ten (10) months of enactment of this Act, a final expenditure  
10 report of funds spent.

11           **Section 4.** The Sum of Three Million Five Hundred Thousand Dollars  
12 (\$3,500,000), which is being saved in the General Fund as result of this Act, is hereby  
13 appropriated from the General Fund to the Guam Waterworks Authority ("GWA").  
14 Such appropriation shall be expended exclusively as according to stipulations  
15 imposed by the Public Utilities Commission in the granting of a rate increase to  
16 GWA on February 24, 2000 and as according to filings submitted by GWA and  
17 approved by the Public Utilities Commission on February 24, 2000. GWA shall *not*  
18 implement any increase in rates, notwithstanding the permission granted to GWA  
19 to do so by the Public Utilities Commission on February 24, 2000, for a period of ten  
20 (10) months commencing on the effective date of this Act, or until such funds  
21 appropriated by this Section are exhausted, whichever is later, again provided that  
22 GWA shall *not* expend funds appropriated in this Section in a manner inconsistent  
23 with stipulations imposed by the Public Utilities Commission in the granting of a  
24 rate increase for GWA on February 24, 2000, and as according to filings submitted  
25 by GWA and approved by the Public Utilities Commission on February 24, 2000,

1 *subject to any lien obligations relating to §30 Revenue.*

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

**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**TWENTY-FIFTH GUAM LEGISLATURE**  
155 Hesler Street, Hagåtña, Guam 96910



COPY

March 13, 2000

The Honorable Carl T.C. Gutierrez  
*I Maga'lahaen Guåhan*  
*Ufisinan I Maga'lahi*  
*Hagåtña, Guam 96910*



Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Bill Nos. 195(COR), 212(COR) and 220(COR) and Substitute Bill No. 360(COR) which were passed by *I Mina'Bente Singko Na Liheslaturan Guåhan* on March 9, 2000.

Sincerely,

A handwritten signature in black ink, appearing to read "Joanne M.S. Brown".

JOANNE M.S. BROWN  
Senator and Legislative Secretary

Enclosure (4)

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
2000 (SECOND) Regular Session

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


This is to certify that Substitute Bill No. 360 (COR) "AN ACT TO AMEND §22428 OF ARTICLE 4, CHAPTER 22, DIVISION 2 OF TITLE 5 OF THE GUAM CODE ANNOTATED, AS AMENDED BY §29 OF CHAPTER IV OF P.L. NO. 25-03, RELATIVE TO REFINANCING GWA REVENUE BONDS AND FOR OTHER PURPOSES," was on the 9<sup>th</sup> day of March 2000, duly and regularly passed.



---

ANTONIO R. UNPINGCO  
Speaker

Attested:



---

JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahaen Guahan* this 14<sup>th</sup> day of March, 2000,  
at 2:35 o'clock P.M.



---

Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:

---

CARL T. C. GUTIERREZ  
*I Maga'lahaen Guahan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**1999 (FIRST) Regular Session**

**Bill No. 360 (COR)**

As substituted by the Committee  
on Tourism, Economic Development  
and Parks, amended in the Committee  
of the Whole and further amended.

Introduced by:

A. C. Lamorena, V  
J. M.S. Brown  
A. R. Unpingco  
Mark Forbes  
A. C. Blaz  
F. B. Aguon, Jr.  
E. C. Bermudes  
E. B. Calvo  
M. G. Camacho  
L. F. Kasperbauer  
C. A. Leon Guerrero  
K. S. Moylan  
V. C. Pangelinan  
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**AN ACT TO AMEND §22428 OF ARTICLE 4, CHAPTER 22,  
DIVISION 2 OF TITLE 5 OF THE GUAM CODE  
ANNOTATED, AS AMENDED BY §29 OF CHAPTER IV OF  
P.L. NO. 25-03, RELATIVE TO REFINANCING GWA  
REVENUE BONDS AND FOR OTHER PURPOSES.**

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

2        **Section 1.** Section 22428 of Article 4, Chapter 22, Division 2 of Title 5, as  
3 amended by §29 of Chapter IV of Public Law Number 25-03, is hereby *amended to*

1 read as follows:

2 **"Section 22428. Authorization and Approval of Refunding Bonds.**

3 (a) **Definitions.** The following terms shall have the  
4 following meanings when used in this Section:

5 (1) *'1989 Water Bonds'* means the Government of Guam  
6 Water System Revenue Bonds, Series 1989.

7 (2) *'1992 Highway Bonds'* means the Government of Guam  
8 Limited Obligation Highway Bonds, 1992 Series A.

9 (3) *'Prior Bonds'* means the 1989 water bonds and the 1992  
10 highway bonds, to be redeemed or otherwise retired with the  
11 proceeds of refunding bonds and investment earnings thereon.

12 (4) *'Refunding Bond'* means a bond issued pursuant to this  
13 Section for the purpose of providing moneys to redeem and  
14 otherwise retire *prior* bonds, funding any necessary bond reserves  
15 and capitalized interest allocable to the refunding bonds and  
16 paying expenses incurred in connection with the issuance of such  
17 refunding bonds.

18 (5) *'Yield'* shall have the same meaning as when used in  
19 §148 of the Internal Revenue Code of 1986, as amended. That is,  
20 *'yield'* means the annual discount rate which, when used to  
21 discount all payments of debt service on an issue of bonds to the  
22 date of issuance of the bonds, using a semiannual compounding  
23 interval, results in the aggregate present value of such payments  
24 being equal to the re-offering price to the public of such bonds.

25 (6) *'Debt service'* means the scheduled principal of and



1 interest on bonds *plus* fees to be paid for credit enhancement of  
2 such bonds.

3 (7) '*Debt Service Savings*' means the percentage by which  
4 the present value of debt service on refunding bonds, *not*  
5 including capitalized interest, is less than the present value of the  
6 remaining debt service on the prior bonds refunded by such  
7 refunding bonds. Present value shall be calculated for this  
8 purpose using the yield on the refunding bonds as the discount  
9 rate.

10 (8) '*1986 Bonds*' means the Government of Guam General  
11 Obligation Bonds, Series 1986, that are no longer outstanding.

12 (9) '*Section 30 Revenues*' means the revenues derived by  
13 the government of Guam under 48 U.S.C. §1421h (§30 of the  
14 Organic Act of Guam).

15 **(b) Authorization of Issuance of Bonds.** *I Maga'lahaen*  
16 *Guåhan* is authorized to issue on behalf of the government of Guam one  
17 (1) or more issues of bonds of the government consisting of refunding  
18 bonds, *subject to* the following requirements and limitations:

19 (1) the issuance of the bonds shall *not* cause a violation of  
20 the debt limitation provisions of 48 U.S.C. §1423a (§11 of the  
21 Organic Act of Guam);

22 (2) all obligation of the government to pay debt service  
23 on, and the redemption price of, the prior bonds being refunded  
24 shall be discharged concurrently with the issuance of the  
25 refunding bonds. Thereafter, the prior bonds shall be payable

1 solely from and secured solely by an escrow established for such  
2 purpose;

3 (3) the debt service savings resulting from the issuance of  
4 the refunding bonds shall be *not less than* three percent (3%);

5 (4) the aggregate amount of scheduled debt service on the  
6 refunding bonds allocable to the refunding of the 1989 water  
7 bonds shall be, in each year to and including the final maturity of  
8 such refunding bonds, less than the maximum annual scheduled  
9 debt service on the 1989 water bonds, and the final scheduled  
10 maturity date of such refunding bonds shall be *not more than* five  
11 (5) years after the final scheduled maturity date of the 1989 water  
12 bonds; *and*

13 (5) the aggregate amount of scheduled debt service on the  
14 refunding bonds allocable to the refunding of the 1992 highway  
15 bonds shall be, in each year to and including the final maturity of  
16 such refunding bonds, less than the maximum annual scheduled  
17 debt service on the 1992 highway bonds, and the final scheduled  
18 maturity date of such refunding bonds shall be *not more than* five  
19 (5) years after the final scheduled maturity date of the 1992  
20 highway bonds.

21 (c) **Source of and Security for Payment.** The refunding  
22 bonds shall be payable from and secured by the same source or sources  
23 of revenues as the prior bonds refunded by the issue. Any pledge or  
24 lien on revenues or other moneys authorized to be granted with respect  
25 to the prior bonds refunded by the issue is hereby authorized to be

1 granted with respect to the refunding bonds. *I Liheslaturan Guåhan*  
2 hereby finds and declares that it is the policy of the government of  
3 Guam that §30 Revenues shall be and remain the primary source of  
4 payment of any bonds issued to refund the 1989 water bonds.

5 **(d) Terms and Conditions Determined by Certificate.**

6 The terms and conditions of the refunding bonds shall be as determined  
7 by *I Maga'lahen Guåhan* by the execution of a certificate or indenture  
8 authorizing the issuance of such bonds. The certificate or indenture  
9 shall contain terms and conditions that are consistent with this Section,  
10 and shall include substantially the same additional bond tests, rate  
11 covenants and other covenants as were applicable with respect to the  
12 prior bonds. The proceeds of the refunding bonds may be used to fund  
13 a bond reserve *only if* and to the extent that moneys from any bond  
14 reserve for the prior issue are transferred to the escrow from which the  
15 prior bonds will be paid. Interest on the refunding bonds may be  
16 capitalized for a period *not exceeding* fifteen (15) months.

17 **(e) Valid and Binding Obligations, Collection of Revenues.**

18 The bonds authorized by this Section shall constitute the valid and  
19 binding obligations of the government of Guam. All officers charged by  
20 law with any duty in the collection of any revenues from which debt  
21 service on the issue is payable shall do every lawful thing necessary to  
22 collect the amount necessary for such purpose. The validity of any such  
23 bonds shall *not* be affected by the validity or regularity of any  
24 proceedings for the implementation of the capital improvement projects  
25 funded by the prior bonds.

1           **(f) Appropriation.** The revenues described in Subsection (c)  
2 of this Section are hereby continuously appropriated for the purposes  
3 for which they are pledged.

4           **(g) Waiver of Immunity.** Notwithstanding any substantive or  
5 procedural provision of Chapter 6 of Title 5 of the Guam Code  
6 Annotated, the government of Guam waives immunity from any suit or  
7 action in contract on the bonds authorized by this Section, but does *not*  
8 waive sovereign immunity as to the personal liability of elected officials  
9 and employees of the government of Guam.

10           **(h) Form of Bonds; Covenants; Appointment of Fiduciaries;  
11 Other Related Agreements.** The technical form and language of  
12 the refunding bonds, including provisions for execution, exchange,  
13 transfer, registration, paying agency, lost or mutilated bonds,  
14 negotiability, cancellation and other terms, covenants or conditions *not*  
15 inconsistent with this Section, shall be as specified in the certificate or  
16 indenture executed by *I Maga'lahaen Guåhan* authorizing the issuance of  
17 the bonds. The certificate or indenture may appoint one (1) or more  
18 trustees or other fiduciaries authorized to receive and hold in trust the  
19 proceeds of the bonds and moneys relating thereto, to protect the rights  
20 of bondholders and to perform such other duties as may be specified in  
21 the certificate. *I Maga'lahaen Guåhan* is also authorized to execute, on  
22 behalf of the government of Guam, any appropriate agreements,  
23 certificates or other instruments relating to the bonds and the sale of the  
24 bonds, including, but limited to, an agreement, certificate or instrument  
25 subordinating the pledge of revenues securing any other debt to the

1 pledge of revenues securing the refunding bonds.

2 **(i) Authorization for Credit Enhancement.** *I Maga'lahaen*

3 *Guåhan* is authorized to enter into such contracts or agreements with  
4 such banks, insurance companies or other financial institutions as *I*  
5 *Maga'lahaen Guåhan* determines are necessary or desirable to improve the  
6 security and marketability of any bonds authorized by this Section.

7 Such contracts or agreements may contain an obligation to reimburse,  
8 with interest, any such banks, insurance companies or other financial  
9 institutions for advances used to pay principal of or interest on the issue.

10 Any obligations under such contract or agreement shall be payable  
11 solely from the same sources as debt service on the refunding bonds is  
12 payable, and any advance under such agreement, *if necessary*, shall be  
13 treated as creating a reimbursement obligation issued to refund the  
14 refunding bonds.

15 **(j) No Personal Liability.** No employee or elected official

16 of the government of Guam shall be individually or personally liable for  
17 the payment of any amounts due on any bonds issued under this  
18 Section, or for any other liability arising in connection with the bonds;  
19 provided, however, that nothing in this Section shall relieve any  
20 employee or elected official from the performance of any ministerial  
21 duty required by law.

22 **(k) Approval by Guam Economic Development Authority.**

23 Section 50103(k) of Title 12 of the Guam Code Annotated, provides that  
24 agencies and instrumentalities of the government of Guam shall issue  
25 bonds and other obligations only by means of and through the agency

1 of the Guam Economic Development Authority ('GEDA'). No issue of  
2 bonds authorized by this Section shall be sold until the board of  
3 directors of GEDA has adopted a resolution approving the sale of such  
4 issue.

5 (l) **Approval of Terms and Conditions.** Said §50103(k) also  
6 provides that GEDA shall *not* sell any bond without the approval of *I*  
7 *Liheslaturan Guåhan* of the terms and conditions of the issuance of the  
8 bonds. *I Liheslaturan Guåhan* hereby approves the terms and conditions  
9 of the issuance of the bonds authorized by this Section, so long as such  
10 bonds are structured as provided by this Act and achieve the savings  
11 required by this Act. Upon issuance of bonds to refund the 1989 water  
12 bonds, §30 Revenues and other funds held in the bond account for the  
13 1989 water bonds shall be released pursuant to this Act.

14 (m) **Approval by Guam Public Utilities Commission Not**  
15 **Required.** Section 12004 of Title 12 of the Guam Code Annotated  
16 provides that the Guam Waterworks Authority ('GWA') shall *not* enter  
17 into any contractual agreements or obligations which could increase  
18 rates and charges *prior to* the written approval of the Public Utilities  
19 Commission. Because debt service on the refunding bonds issued to  
20 refund the 1989 water bonds is expected to be paid from §30 Revenues  
21 and *not* from GWA revenues, and because the refunding bond indenture  
22 provisions relating to GWA revenues are to be substantially the same as  
23 such provisions in the 1989 water bond indenture, the entry by GWA  
24 into the refunding bond indenture is hereby deemed *not* to increase  
25 rates and charges in and of itself, is hereby authorized and approved,

1 and shall *not* be required to be approved by the Guam Public Utilities  
2 Commission.

3 **(n) Variable Rate Bonds and Interest Rate Hedges.**

4 Refunding bonds issued to refund the 1989 water bonds may be issued  
5 as bonds bearing interest at a variable rate, and *I Maga'lahañ Guåhan* is  
6 authorized to enter into one (1) or more interest rate hedging contracts,  
7 including, but not limited to, arrangements commonly known as swap  
8 agreements, floors, caps and collars, which *I Maga'lahañ Guåhan*  
9 determines to be necessary or appropriate to place the obligations of the  
10 government of Guam, as represented by the refunding bonds and such  
11 interest rate hedging contracts, on a basis other than a fully variable rate  
12 basis, but only under the following terms and conditions, which are  
13 applicable in such circumstances in lieu of the requirements of  
14 Paragraphs (3) and (4) of Subsection (b) of this Section:

15 (1) the initial interest rate hedging contracts, *if any*, must  
16 have an aggregate term of *not less than* two (2) years;

17 (2) each year over the longer of the first five (5) years after  
18 the date of issuance of the bonds or the term of any initial interest  
19 rate hedging contracts, the maximum net annual obligation of the  
20 government, as represented by the refunding bonds and such  
21 interest rate hedging contracts, must be expected, on the basis of  
22 the prior ten (10) years' experience with comparable bonds and  
23 interest rate hedging contracts, *not* to exceed the annual obligation  
24 that the government would have had *if* the refunding bonds had  
25 been issued as fixed-rate, current-interest bonds meeting the

1           **Section 3. Reporting Requirement.**     The General Manager and Board of  
2 Directors of GWA shall submit to the Speaker of *I Liheslaturan Guåhan* a detailed  
3 financial report as follows:

4           (a)     within thirty (30) days of enactment of this Act, a planned  
5 expenditure report of the Three Million Five Hundred Thousand Dollars  
6 (\$3,500,000) to be expended;

7           (b)     within five (5) months of enactment of this Act, a midpoint  
8 expenditure report of actual funds spent; *and*

9           (c)     at ten (10) months of enactment of this Act, a final expenditure  
10 report of funds spent.

11           **Section 4.** The Sum of Three Million Five Hundred Thousand Dollars  
12 (\$3,500,000), which is being saved in the General Fund as result of this Act, is hereby  
13 appropriated from the General Fund to the Guam Waterworks Authority ("GWA").  
14 Such appropriation shall be expended exclusively as according to stipulations  
15 imposed by the Public Utilities Commission in the granting of a rate increase to  
16 GWA on February 24, 2000 and as according to filings submitted by GWA and  
17 approved by the Public Utilities Commission on February 24, 2000. GWA shall *not*  
18 implement any increase in rates, notwithstanding the permission granted to GWA  
19 to do so by the Public Utilities Commission on February 24, 2000, for a period of ten  
20 (10) months commencing on the effective date of this Act, or until such funds  
21 appropriated by this Section are exhausted, whichever is later, again provided that  
22 GWA shall *not* expend funds appropriated in this Section in a manner inconsistent  
23 with stipulations imposed by the Public Utilities Commission in the granting of a  
24 rate increase for GWA on February 24, 2000, and as according to filings submitted  
25 by GWA and approved by the Public Utilities Commission on February 24, 2000,



1 *subject to any lien obligations relating to §30 Revenue.*

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

**CLERK OF THE LEGISLATURE**  
**TRANSMISSION CHECKLIST TO I MAGA'LAHEN GUAHAN**

(Included in File w/ All Bills Transmitted)

BILL NO. 360 (cor)

**FINAL PROOF-READING OF BLUEBACK COPY**

Initialed by: \_\_\_\_\_ and Date: \_\_\_\_\_

- EXHIBITS ATTACHED
- CONFIRM NUMBER OF PAGES
- CAPTION ON CERTIFICATION MATCHES BILL CAPTION
- ENGROSSED SIGN "\*" REMOVED FROM BILL
- 15 SENATORS IN SPONSORSHIP OR CONFIRM OTHERWISE
- CERTIFICATION SIGNED BY SPEAKER & LEGIS. SECRETARY
- EMERGENCY DECLARATION, if any

Confirmed By: \_\_\_\_\_ Dated: \_\_\_\_\_

- HAND CARRY BILL IN BLUEBACK (ORIGINAL & COPY)  
TO THE GOVERNOR. (DANNY, ROBERT OR OTHERS )
- ACKNOWLEDGED COPY W/ ORIGINAL BLUEBACK  
PLACED ON CLERK'S DESK. (Same copy given to Susan)

FILED by: Danny, Robert or others

Office of the Speaker

ANTONIO R. UNPINGCO

Date: 03-10-00

Time: 10:30

Rec'd by: \_\_\_\_\_

Print Name: Alexander

# I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

2000 (SECOND) Regular Session

Date: 3/9/00 *ls*

## VOTING SHEET

SBill No. 360 (COR)

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
AGUON, Frank B., Jr.	✓				
BERMUDES, Eulogio C.	✓				
BLAZ, Anthony C.	//	✓			
BROWN, Joanne M.S.	✓				
CALVO, Eduardo B.		✓			
CAMACHO, Marcel G.	//	✓			
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V	✓				
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	(///)	✓			
PANGELINAN, Vicente C.	✓				
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.	✓				

TOTAL 11 4 \_\_\_\_\_

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence



FILE  
COPY

**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**TWENTY-FIFTH GUAM LEGISLATURE**  
155 Hesler Street, Hagåtña, Guam 96910

February 24, 2000  
( DATE )

Memorandum

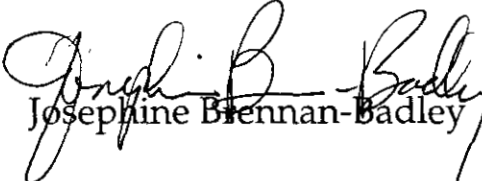
To: Senator ALBERTO C. LAMORENA

From: Clerk of the Legislature

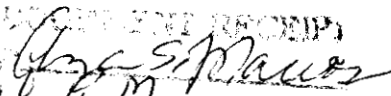
Subject: Report on Bill No. 360(COR)

Pursuant to §7.04 of Rule VII of the 25<sup>th</sup> Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 360(COR), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.

  
Josephine Brennan-Badley

Attachment

KNOWLEDGE RECEIVED RECEIPT  
BY:   
4:46 P.M.  
2/24/00



**Senator Alberto "Tony" Cristobal Lamorena V**

Chairman

**COMMITTEE ON TOURISM, ECONOMIC DEVELOPMENT  
AND PARKS**

Twenty-Fifth Guam Legislature

VOTING SHEET ON  
BILL NO. 360

**AN ACT TO AMEND SECTION 22428 OF  
ARTICLE 4, CHAPTER 22, DIVISION 2 OF  
TITLE 5 OF THE GUAM CODE ANNOTATED  
AS AMENDED BY SECTION 29 OF PUBLIC  
LAW 25-03.**



**RECOMMENDATION TO**

Committee Members	Signature	To pass	Not to pass	Abstain	Place in Inactive File
Senator Alberto "Tony" Lamorena Chairperson					
Senator Joanne M.S. Brown Vice-Chairperson					
Speaker Antonio R. Unpingco					

**MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN**  
**1999 (FIRST) Regular Session**

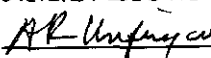
**Bill No. 360 (COR)**

as Substituted by the Committee on Tourism,  
Economic Development & Parks

Introduced by:

A.C. Lamorena, V

J.M.S. Brown



**AN ACT TO AMEND SECTION 22428 OF ARTICLE  
4, CHAPTER 22, DIVISION 2 OF TITLE 5 OF THE  
GUAM CODE ANNOTATED AS AMENDED BY  
SECTION 29 OF CHAPTER IV OF PUBLIC LAW 25-  
03.**

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

**Section 1. Section 22428 of Article 4, Chapter 22, Division 2 of Title 5 as amended by Section 29 of Chapter IV of Public Law 25-03 is amended to read as follows:**

**“Section 22428. Authorization and Approval of Refunding Bonds.**

**(a) Definitions.** The following terms shall have the following meanings when used in this Section:

(1) *‘1989 Water Bonds’* means the Government of Guam Water System Revenue Bonds, Series 1989.

(2) *‘1992 Highway Bonds’* means the Government of Guam Limited Obligation Highway Bonds, 1992 Series A.

(3) *‘Prior Bonds’* means the 1989 water bonds and the 1992

1 highway bonds, to be redeemed or otherwise retired with the proceeds of  
2 refunding bonds and investment earnings thereon.

3 (4) 'Refunding Bond' means a bond issued pursuant to this  
4 Section for the purpose of providing moneys to redeem and [or] otherwise  
5 retire prior bonds, funding any necessary bond reserves and capitalized  
6 interest allocable to the refunding bonds and [or] paying expenses  
7 incurred in connection with the issuance of such refunding bonds.

8 (5) 'Yield' shall have the same meaning as when used in §148  
9 of the Internal Revenue Code of 1986, as amended. That is, 'yield' means  
10 the annual discount rate which, when used to discount all payments of  
11 debt service on an issue of bonds to the date of issuance of the bonds,  
12 using a semiannual compounding interval, results in the aggregate present  
13 value of such payments being equal to the re-offering price to the public  
14 of such bonds.

15 (6) 'Debt service' means the scheduled principal of and interest  
16 on bonds plus fees to be paid for credit enhancement of such bonds.

17 (7) 'Debt Service Savings' means the percentage by which the  
18 present value of debt service on refunding bonds (not including  
19 capitalized interest) is less than the present value of the remaining debt  
20 service on the prior bonds refunded by such refunding bonds. Present  
21 value shall be calculated for this purpose using the yield on the refunding  
22 bonds as the discount rate.

23 (8) '1986 Bonds' means the Government of Guam General  
24 Obligation Bonds, Series 1986, that are no longer outstanding.

1 highway bonds, to be redeemed or otherwise retired with the proceeds of  
2 refunding bonds and investment earnings thereon.

3 (4) 'Refunding Bond' means a bond issued pursuant to this  
4 Section for the purpose of providing moneys to redeem and [or] otherwise  
5 retire prior bonds, funding any necessary bond reserves and capitalized  
6 interest allocable to the refunding bonds and [or] paying expenses  
7 incurred in connection with the issuance of such refunding bonds.

8 (5) 'Yield' shall have the same meaning as when used in §148  
9 of the Internal Revenue Code of 1986, as amended. That is, 'yield' means  
10 the annual discount rate which, when used to discount all payments of  
11 debt service on an issue of bonds to the date of issuance of the bonds,  
12 using a semiannual compounding interval, results in the aggregate present  
13 value of such payments being equal to the re-offering price to the public  
14 of such bonds.

15 (6) 'Debt service' means the scheduled principal of and interest  
16 on bonds plus fees to be paid for credit enhancement of such bonds.

17 (7) 'Debt Service Savings' means the percentage by which the  
18 present value of debt service on refunding bonds (not including  
19 capitalized interest) is less than the present value of the remaining debt  
20 service on the prior bonds refunded by such refunding bonds. Present  
21 value shall be calculated for this purpose using the yield on the refunding  
22 bonds as the discount rate.

23 (8) '1986 Bonds' means the Government of Guam General  
24 Obligation Bonds, Series 1986, that are no longer outstanding.



1                   (9) 'Section 30 Revenues' means the revenues derived by the  
2 government of Guam under 48 U.S.C. §1421h (§30 of the Organic Act of  
3 Guam).

4                   **(b) Authorization of Issuance of Bonds.** *I Maga'lahaen Guåhan* is  
5 authorized to issue on behalf of the government of Guam one (1) or more issues  
6 of bonds of the government consisting of refunding bonds, subject to the  
7 following requirements and limitations:

8                   (1) the issuance of the bonds shall *not* cause a violation of the  
9 debt limitation provisions of 48 U.S.C. §1423a (§11 of the Organic Act  
10 of Guam);

11                   (2) all obligation of the government to pay debt service on, and  
12 the redemption price of, the prior bonds being refunded shall be  
13 discharged concurrently with the issuance of the refunding bonds.  
14 Thereafter, the prior bonds shall be payable solely from and secured  
15 solely by an escrow established for such purpose;

16                   (3) the debt service savings resulting from the issuance of the  
17 refunding bonds shall be *not* less than three percent (3%);

18                   (4) the aggregate amount of scheduled debt service on the  
19 refunding bonds allocable to the refunding of the 1989 water bonds shall  
20 be, in each year to and including the final maturity of such refunding  
21 bonds, less than the maximum annual scheduled debt service on the 1989  
22 water bonds, and the final scheduled maturity date of such refunding  
23 bonds shall be not more than five (5) years after the final scheduled  
24 maturity date of the 1989 water bonds; *and*

1           (5) the aggregate amount of scheduled debt service on the  
2           refunding bonds allocable to the refunding of the 1992 highway bonds  
3           shall be, in each year to and including the final maturity of such refunding  
4           bonds, less than the maximum annual scheduled debt service on the 1992  
5           highway bonds, and the final scheduled maturity date of such refunding  
6           bonds shall be not more than five (5) years after the final scheduled  
7           maturity date of the 1992 highway bonds.

8           **(c) Source of and Security for Payment.** The refunding bonds shall  
9           be payable from and secured by the same source or sources of revenues as the  
10          prior bonds refunded by the issue. Any pledge or lien on revenues or other  
11          moneys authorized to be granted with respect to the prior bonds refunded by the  
12          issue is hereby authorized to be granted with respect to the refunding bonds. *I*  
13          *Liheslaturan Guåhan* hereby finds and declares that it is the policy of the  
14          government of Guam that Section 30 Revenues shall be and remain the primary  
15          source of payment of any bonds issued to refund the 1989 water bonds.

16          **(d) Terms and Conditions Determined by Certificate.** The terms  
17          and conditions of the refunding bonds shall be as determined by *I Maga'låhen*  
18          *Guåhan* by the execution of a certificate or indenture authorizing the issuance  
19          of such bonds. The certificate or indenture shall contain terms and conditions  
20          that are consistent with this Section, and shall include substantially the same  
21          additional bonds tests, rate covenants and other covenants as were applicable  
22          with respect to the prior bonds. The proceeds of the refunding bonds may be  
23          used to fund a bond reserve only if and to the extent that moneys from any bond  
24          reserve for the prior issue are transferred to the escrow from which the prior

1 in the certificate or indenture executed by *I Maga'låhen Guåhan* authorizing the  
2 issuance of the bonds. The certificate or indenture may appoint one (1) or more  
3 trustees or other fiduciaries authorized to receive and hold in trust the proceeds  
4 of the bonds and moneys relating thereto, to protect the rights of bondholders  
5 and to perform such other duties as may be specified in the certificate. *I*  
6 *Maga'låhen Guåhan* is also authorized to execute, on behalf of the government  
7 of Guam, any appropriate agreements, certificates or other instruments relating  
8 to the bonds and the sale of the bonds[-], including, but limited to, an agreement,  
9 certificate or instrument subordinating the pledge of revenues securing any other  
10 debt to the pledge of revenues securing the refunding bonds.

11 (i) **Authorization for Credit Enhancement.** *I Maga'låhen Guåhan*  
12 is authorized to enter into such contracts or agreements with such banks,  
13 insurance companies or other financial institutions as *I Maga'låhen Guåhan*  
14 determines are necessary or desirable to improve the security and marketability  
15 of any bonds authorized by this Section. Such contracts or agreements may  
16 contain an obligation to reimburse, with interest, any such banks, insurance  
17 companies or other financial institutions for advances used to pay principal of  
18 or interest on the issue. Any obligations under such contract or agreement shall  
19 be payable solely from the same sources as debt service on the refunding bonds  
20 is payable, and any advance under such agreement, *if necessary*, shall be treated  
21 as creating a reimbursement obligation issued to refund the refunding bonds.

22 (j) **No Personal Liability.** No employee or elected official of the  
23 government of Guam shall be individually or personally liable for the payment  
24 of any amounts due on any bonds issued under this Section, or for any other

1 liability arising in connection with the bonds; provided, *however*, that nothing in  
2 this Section shall relieve any employee or elected official from the performance  
3 of any ministerial duty required by law.

4 **(k) Approval by Guam Economic Development Authority.** Section  
5 50103(k) of Title 12 of the Guam Code Annotated, provides that agencies and  
6 instrumentalities of the government of Guam shall issue bonds and other  
7 obligations only by means of and through the agency of the Guam Economic  
8 Development Authority ('GEDA'). No issue of bonds authorized by this Section  
9 shall be sold until the board of directors of GEDA has adopted a resolution  
10 approving the sale of such issue.

11 **(l) Approval of Terms and Conditions.** Said §50103(k) also  
12 provides that GEDA shall *not* sell any bond without the approval of *I*  
13 *Liheslaturan Guåhan* of the terms and conditions of the issuance of the bonds.  
14 *I Liheslaturan Guåhan* hereby approves the terms and conditions of the issuance  
15 of the bonds authorized by this Section so long as such bonds are structured as  
16 provided by this Act and achieve the savings required by this Act. Upon  
17 issuance of bonds to refund the 1989 water bonds, Section 30 Revenues and  
18 other funds held in the bond account for the 1989 water bonds shall be released  
19 to and held in the General Fund and shall be expended only upon subsequent  
20 appropriation by act of *I Liheslaturan Guåhan*.

21 **(m) Approval by Guam Public Utilities Commission Not Required.**  
22 Section 12004 of Title 12 of the Guam Code Annotated provides that the Guam  
23 Waterworks Authority shall not enter into any contractual agreements or  
24 obligations which could increase rates and charges prior to the written approval

1 of the Public Utilities Commission. Because debt service on the refunding bonds  
2 issued to refund the 1989 water bonds is expected to be paid from Section 30  
3 Revenues and not from Guam Waterworks Authority revenues, and because the  
4 refunding bond indenture provisions relating to Guam Waterworks Authority  
5 revenues are to be substantially the same as such provisions in the 1989 water  
6 bond indenture, the entry by the Guam Waterworks Authority into the refunding  
7 bond indenture is hereby deemed not to increase rates and charges in and of  
8 itself, is hereby authorized and approved, and shall not be required to be  
9 approved by the Guam Public Utilities Commission.

10 **(n) Variable Rate Bonds and Interest Rate Hedges.** Refunding  
11 bonds issued to refund the 1989 water bonds may be issued as bonds bearing  
12 interest at a variable rate, and *I Maga'låhen Guåhan* is authorized to enter into  
13 one or more interest rate hedging contacts (including but not limited to  
14 arrangements commonly known as swap agreements, floors, caps and collars)  
15 which *I Maga'låhen Guåhan* determines to be necessary or appropriate to place  
16 the obligations of the government of Guam, as represented by the refunding  
17 bonds and such interest rate hedging contracts, on a basis other than a fully  
18 variable rate basis, but only under the following terms and conditions, which are  
19 applicable in such circumstances in lieu of the requirements of paragraphs (3)  
20 and (4) of subsection (b) of this section:

21 (1) the initial interest rate hedging contracts, if any, must have  
22 an aggregate term of not less than two (2) years;

23 (2) each year over the longer of the first five (5) years after the  
24 date of issuance of the bonds or the term of any initial interest rate

1 hedging contracts, the maximum net annual obligation of the government,  
2 as represented by the refunding bonds and such interest rate hedging  
3 contracts, must be expected (on the basis of the prior ten (10) years'  
4 experience with comparable bonds and interest rate hedging contracts) not  
5 to exceed the annual obligation that the government would have had if the  
6 refunding bonds had been issued as fixed-rate, current-interest bonds  
7 meeting the criteria of paragraphs (3) and (4) of subsection (b) of this  
8 section;

9 (3) the aggregate principal amount of refunding bonds  
10 outstanding at the later of the end of the first five (5) years after the date  
11 of issuance of the bonds or the end of the term of any initial interest rate  
12 hedging contacts may not exceed the aggregate principal amount of  
13 refunding bonds that would have been outstanding had the refunding  
14 bonds been issued as fixed-rate, current-interest bonds meeting the  
15 requirements of paragraphs (3) and (4) of subsection (b) of this section;

16 (4) the final scheduled maturity date of such refunding bonds  
17 shall be not more than five (5) years after the final scheduled maturity  
18 date of the 1989 water bonds; and

19 (5) upon any conversion of the variable rate refunding bonds to  
20 fixed rate, any period during which the fixed rate bonds are not subject to  
21 optional redemption shall be less than one and one-half (1 1/2) years."

22 **[(b)] (o) Permitted Investments.** The proceeds of bonds issued by  
23 the government, and any revenues relating to such bonds, may be invested in, but  
24 only in, the types of investments permitted by the certificate or indenture

1           pursuant to which such bonds are issued.

2           **Section 2. Severability.** If *any* provision of this Law or its application to any  
3 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
4 *not* affect other provisions or applications of this Law which can be given effect  
5 without the invalid provisions or application, and to this end the provisions of this Law  
6 are severable.

**COMMITTEE ON TOURISM,  
ECONOMIC DEVELOPMENT AND PARKS**  
I Mina Bente Singko Na Liheslaturan Guåhan  
155 Hesler Street Hagåtña, Guam 96932

**COMMITTEE REPORT**

**ON**

**Bill No. 360**

**An Act to Amend Section 22428 of Article 4, Division 2 of Title 5 of  
the Guam Code Annotated as Amended by Section 29 of Chapter IV  
of Public Law 25-03**

**COMMITTEE MEMBERS**

**Chairman:** Senator Alberto C. Lamorena, V

**Vice Chairperson:** Senator Joanne M.S. Brown

Senator Anthony C. Blaz

Senator Kaleo S. Moylan

Senator Mark Forbes

Senator Simon A. Sanchez, II

Senator Carlotta A. Leon Guerrero

Senator John C. Salas

Senator Frank B. Aguon, Jr.



## COMMITTEE REPORT

Bill No. 360

**An Act to Amend Section 22428 of Article 4, Division 2 of Title 5 of the Guam Code Annotated as Amended by Section 29 of Chapter IV of Public Law 25-03**

### INTRODUCTION

The Committee on Tourism, Economic Development and Parks, along with the Committee Natural Resources, conducted a Joint Public Hearing 9:36 a.m. Wednesday, February 23, 2000 in the Public Hearing Room of the Guam Legislature Temporary Bldg. in Hagåtña.

**Committee Members Present:** Senator A.C. Lamorena, V., Chairman  
Senator J.M.S. Brown, Vice Chairperson  
Senator C.A. Leon Guerrero  
Senator J.C. Salas

**Other Senators Present:** Senator L.F. Kasperbauer  
Senator E.C. Bermudes

**Witnesses:** Ed Untalan, Administrator  
Guam Economic Development Authority  
Stan Dirks, Bond Counsel  
Guam Economic Development Authority  
Jim Scott  
Paine Webber Underwriters  
Bert Johnson, General Manager  
Guam Water Works Authority

### SUMMARY OF TESTIMONY

**Ed Untalan**, Administrator for the Guam Economic Development Authority, provided the committee with a computerized presentation in support of the bill. Before

proceeding with his presentation, Mr. Untalan informed the members that he will cover the Historical Chronology of the existing legislation (P.L. 25-03) relative to the Water Bonds, Mr. Stan Dirks will cover the purpose of the amendments, and that Mr. Jim Scott will present the financial matters as it relates to the bill. Mr. Untalan began his presentation with the Historical Chronology of P.L. 25-03. Mr. Untalan stated that the current law recognizes the need to refund the 1989 Water Bonds to realize savings. However, the existing law only recognizes a fixed rate refunding. With the FY 2000 budget limitations, the condition of the General Fund is unstable at this point. Mr. Untalan continued that with the passage of Bill No. 360, the General Fund could benefit significantly from up-front debt service savings. Furthermore, the existing 1989 Water Bonds are primarily secured by Section 30 revenues, and secondarily secured by net water revenues. Mr. Untalan continued that the harsh reality of it all is that, Guam Water Works Authority's weak financial condition precludes use of water revenues to pay debt service. Because time is of the essence, Mr. Untalan urged the committee to expedite passage of Bill 360.

**Stan Dirks**, Bond Counsel for the Guam Economic Development Authority, presented favorable testimony in support of the bill. Mr. Dirks stated that the finance team's recommendation is to pursue a variable rate funding, which requires an amendment to P.L. 25-03, and continued that the Bond Counsel has prepared the necessary amendments supporting the team's recommendation. Mr. Dirks continued that the purpose of the amendments would be to, authorize variable interest rate bonds and, if market conditions improve, related hedging contracts, authorize capitalized interest to permit acceleration of savings into the current fiscal year, confirm that separate review by the Public Utilities Commission is not required in this case because there is no current impact on water rates from this refunding, and confirm authorization

to continue to subordinate hospital loan and voluntary separation program loan to these refunding bonds.

**Jim Scott**, representing Paine Webber Underwriters, also provided testimony in support of the bill. Mr. Scott presented testimony on the primary financial objectives of the bill. Mr. Scott stated that this refunding achieves objectives such as, creating a flexible financing structure that will provide future restructuring options, subject to legislative approval. Additionally, this refunding will be able to provide Guam Water Works Authority with the time they need to engage their Strategic Planning Process, and lastly, this refunding will generate immediate savings for the General Fund to the tune of \$3.5 million.

**Bert Johnson**, General Manager for the Guam Water Works Authority (GWA), provided the committee with written testimony in support of the bill. In his testimony, Mr. Johnson stated that, the Refunding Bonds contain the same basic provisions as the *Prior Bonds* which are being refunded and pose no new issues with the GWA Board of Directors. The proposed legislation recognizes that the bond indentures shall not affect GWA's rates and charges, and that GWA shall not enter into any contractual agreements or obligations which could increase rates and charges prior to the written approval of the Public Utilities Commission. Attached to the written testimony submitted by Mr. Johnson, is the Resolution adopted by the GWA Board of Directors supporting the proposed bond refunding.

**Ed Untalan**, thanked the committee for the opportunity to present testimony on Bill No. 360. Mr. Untalan further stated that the enactment of Bill No. 360 into law, would provide immediate savings of approximately \$3.5 million for the General Fund, as well as preserve financial flexibility. Mr. Untalan also emphasize the urgency of the passage of the bill because of the fast approaching deadline.

There being no other witnesses appearing on the bill, the Chairman declared Bill No. 360 duly publicly heard.



### **COMMITTEE RECOMMENDATIONS**

The Committee on Tourism, Economic Development and Parks hereby reports out *Bill No. 360* to *I Mina' Bente Singko Na Liheslaturan Guåhan* with the recommendation *To Pass, as Substituted by the Committee*.

**MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN**  
**1999 (FIRST) Regular Session**

Bill No. 360 (for)

Introduced by:

A.C. Lamorena   
J. M.S. Brown 

**AN ACT TO AMEND SECTION 22428 OF ARTICLE  
4, CHAPTER 22, DIVISION 2 OF TITLE 5 OF THE  
GUAM CODE ANNOTATED AS AMENDED BY  
SECTION 29 OF CHAPTER IV OF PUBLIC LAW 25-  
03.**

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

**Section 1. Section 22428 of Article 4, Chapter 22, Division 2 of Title 5 as amended by Section 29 of Chapter IV of Public Law 25-03 is amended to read as follows:**

**"Section 22428. Authorization and Approval of Refunding Bonds.**

**(a) Definitions.** The following terms shall have the following meanings when used in this Section:

(1) '*1989 Water Bonds*' means the Government of Guam Water System Revenue Bonds, Series 1989.

(2) '*1992 Highway Bonds*' means the Government of Guam Limited Obligation Highway Bonds, 1992 Series A.

(3) '*Prior Bonds*' means the 1989 water bonds and the 1992 highway bonds, to be redeemed or otherwise retired with the proceeds of refunding bonds and investment earnings thereon.

(4) '*Refunding Bond*' means a bond issued pursuant to this Section for the purpose of providing moneys to redeem and [or] otherwise retire

1 prior bonds, funding any necessary bond reserves and capitalized interest  
2 allocable to the refunding bonds and or paying expenses incurred in  
3 connection with the issuance of such refunding bonds.

4 (5) '*Yield*' shall have the same meaning as when used in §148 of the  
5 Internal Revenue Code of 1986, as amended. That is, 'yield' means the  
6 annual discount rate which, when used to discount all payments of debt  
7 service on an issue of bonds to the date of issuance of the bonds, using a  
8 semiannual compounding interval, results in the aggregate present value  
9 of such payments being equal to the re-offering price to the public of such  
10 bonds.

11 (6) '*Debt service*' means the scheduled principal of and interest on  
12 bonds plus fees to be paid for credit enhancement of such bonds.

13 (7) '*Debt Service Savings*' means the percentage by which the  
14 present value of debt service on refunding bonds (not including  
15 capitalized interest) is less than the present value of the remaining debt  
16 service on the prior bonds refunded by such refunding bonds. Present  
17 value shall be calculated for this purpose using the yield on the refunding  
18 bonds as the discount rate.

19 (8) '*1986 Bonds*' means the Government of Guam General  
20 Obligation Bonds, Series 1986, that are no longer outstanding.

21 (9) '*Section 30 Revenues*' means the revenues derived by the  
22 government of Guam under 48 U.S.C. §1421h (§30 of the Organic Act of  
23 Guam).

24 **(b) Authorization of Issuance of Bonds.** *I Maga'lahaen Guåhan* is  
25 authorized to issue on behalf of the government of Guam one (1) or more issues

1 of bonds of the government consisting of refunding bonds, subject to the  
2 following requirements and limitations:

3 (1) the issuance of the bonds shall *not* cause a violation of the debt  
4 limitation provisions of 48 U.S.C. §1423a (§11 of the Organic Act of  
5 Guam);

6 (2) all obligation of the government to pay debt service on, and the  
7 redemption price of, the prior bonds being refunded shall be discharged  
8 concurrently with the issuance of the refunding bonds. Thereafter, the  
9 prior bonds shall be payable solely from and secured solely by an escrow  
10 established for such purpose;

11 (3) the debt service savings resulting from the issuance of the  
12 refunding bonds shall be *not* less than three percent (3%);

13 (4) the aggregate amount of scheduled debt service on the  
14 refunding bonds allocable to the refunding of the 1989 water bonds shall  
15 be, in each year to and including the final maturity of such refunding  
16 bonds, less than the maximum annual scheduled debt service on the 1989  
17 water bonds, and the final scheduled maturity date of such refunding  
18 bonds shall be not more than five (5) years after the final scheduled  
19 maturity date of the 1989 water bonds; *and*

20 (5) the aggregate amount of scheduled debt service on the  
21 refunding bonds allocable to the refunding of the 1992 highway bonds  
22 shall be, in each year to and including the final maturity of such refunding  
23 bonds, less than the maximum annual scheduled debt service on the 1992  
24 highway bonds, and the final scheduled maturity date of such refunding  
25 bonds shall be not more than five (5) years after the final scheduled

1 maturity date of the 1992 highway bonds.

2 **(c) Source of and Security for Payment.** The refunding bonds shall be  
3 payable from and secured by the same source or sources of revenues as the prior  
4 bonds refunded by the issue. Any pledge or lien on revenues or other moneys  
5 authorized to be granted with respect to the prior bonds refunded by the issue is  
6 hereby authorized to be granted with respect to the refunding bonds.

7 **(d) Terms and Conditions Determined by Certificate.** The terms and  
8 conditions of the refunding bonds shall be as determined by *I Maga'lahaen*  
9 *Guahan* by the execution of a certificate or indenture authorizing the issuance  
10 of such bonds. The certificate or indenture shall contain terms and conditions  
11 that are consistent with this Section, and shall include substantially the same  
12 additional bonds tests, rate covenants and other covenants as were applicable  
13 with respect to the prior bonds. The proceeds of the refunding bonds may be  
14 used to fund a bond reserve only if and to the extent that moneys from any bond  
15 reserve for the prior issue are transferred to the escrow from which the prior  
16 bonds will be paid. Interest on the refunding bonds may be capitalized for a  
17 period not exceeding fifteen months.

18 **(e) Valid and Binding Obligations, Collection of Revenues.** The  
19 bonds authorized by this Section shall constitute the valid and binding  
20 obligations of the government of Guam. All officers charged by law with any  
21 duty in the collection of any revenues from which debt service on the issue is  
22 payable shall do every lawful thing necessary to collect the amount necessary for  
23 such purpose. The validity of any such bonds shall *not* be affected by the  
24 validity or regularity of any proceedings for the implementation of the capital  
25 improvement projects funded by the prior bonds.



1 this Act and achieve the savings required by this Act.

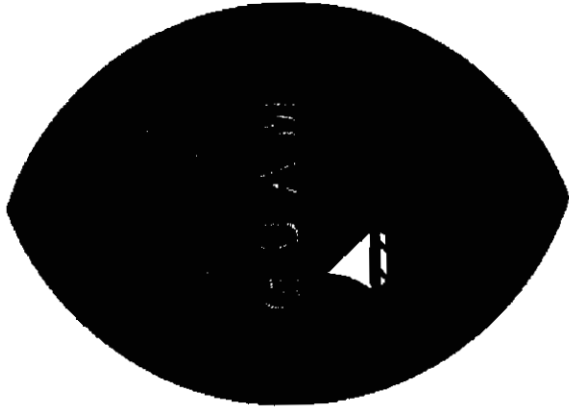
2 **(m) Approval by Guam Public Utilities Commission Not Required.**

3 Section 12004 of Title 12 of the Guam Code Annotated provides that the Guam  
4 Waterworks Authority shall not enter into any contractual agreements or  
5 obligations which could increase rates and charges prior to the written approval  
6 of the Public Utilities Commission. Because debt service on the refunding bonds  
7 issued to refund the 1989 water bonds is expected to be paid from Section 30  
8 Revenues and not from Guam Waterworks Authority revenues, and because the  
9 refunding bond indenture provisions relating to Guam Waterworks Authority  
10 revenues are to be substantially the same as such provisions in the 1989 water  
11 bond indenture, the entry by the Guam Waterworks Authority into the refunding  
12 bond indenture is hereby deemed not to increase rates and charges in and of  
13 itself, is hereby authorized and approved, and shall not be required to be  
14 approved by the Guam Public Utilities Commission.

15 **(n) Variable Rate Bonds and Interest Rate Hedges.** Refunding bonds  
16 issued to refund the 1989 water bonds may be issued as bonds bearing interest  
17 at a variable rate, and I Maga'lahaen Guahan is authorized to enter into one or  
18 more interest rate hedging contracts (including but not limited to arrangements  
19 commonly known as swap agreements, floors, caps and collars) which I  
20 Magalahaen Guahan determines to be necessary or appropriate to place the  
21 obligations of the government of Guam, as represented by the refunding bonds  
22 and such interest rate hedging contracts, on a basis other than a fully variable  
23 rate basis, but only under the following terms and conditions, which are  
24 applicable in such circumstances in lieu of the requirements of paragraphs (3)  
25 and (4) of subsection (b) of this section:

*Presentation to:*

# **I Liheslaturan Guahan**



**February 23, 2000**

# Historical Chronology

## Existing Legislation (P.L. 25-03):

- Recognizes the need to refund the 1989 Water Bonds for savings
- Authorizes only a fixed rate refunding

## General Fund Condition:

- FY 2000 Budget limitations
- The General Fund could benefit significantly from upfront debt service savings

# Historical Chronology

- The existing 1989 Water Bonds are primarily secured by Section 30 revenues, and secondarily secured by net water revenues
- Harsh Reality: GWA's current weak financial condition precludes use of water revenues to pay debt service
- GWA Initiatives
  - Preliminary Strategic Plan Process
  - Business Improvement Plan
  - Partnership and/or Rate Solutions

# Current Status

1. The finance team's recommendation is to pursue a variable rate refunding, which requires an amendment to the existing legislation
2. Bond Counsel has prepared the necessary amendments supporting the team's recommendation

# Legislative Amendments

## *Purpose of Amendments*

- ✓ Authorize variable interest rate bonds and, if market conditions improve, related hedging contracts
- ✓ Authorize capitalized interest to permit acceleration of savings into current fiscal year
- ✓ Confirm that separate review by PUC is not required in this case because there is no current impact on water rates from this refunding
- ✓ Confirm authorization to continue to subordinate hospital loan and voluntary separation program loan to these refunding bonds

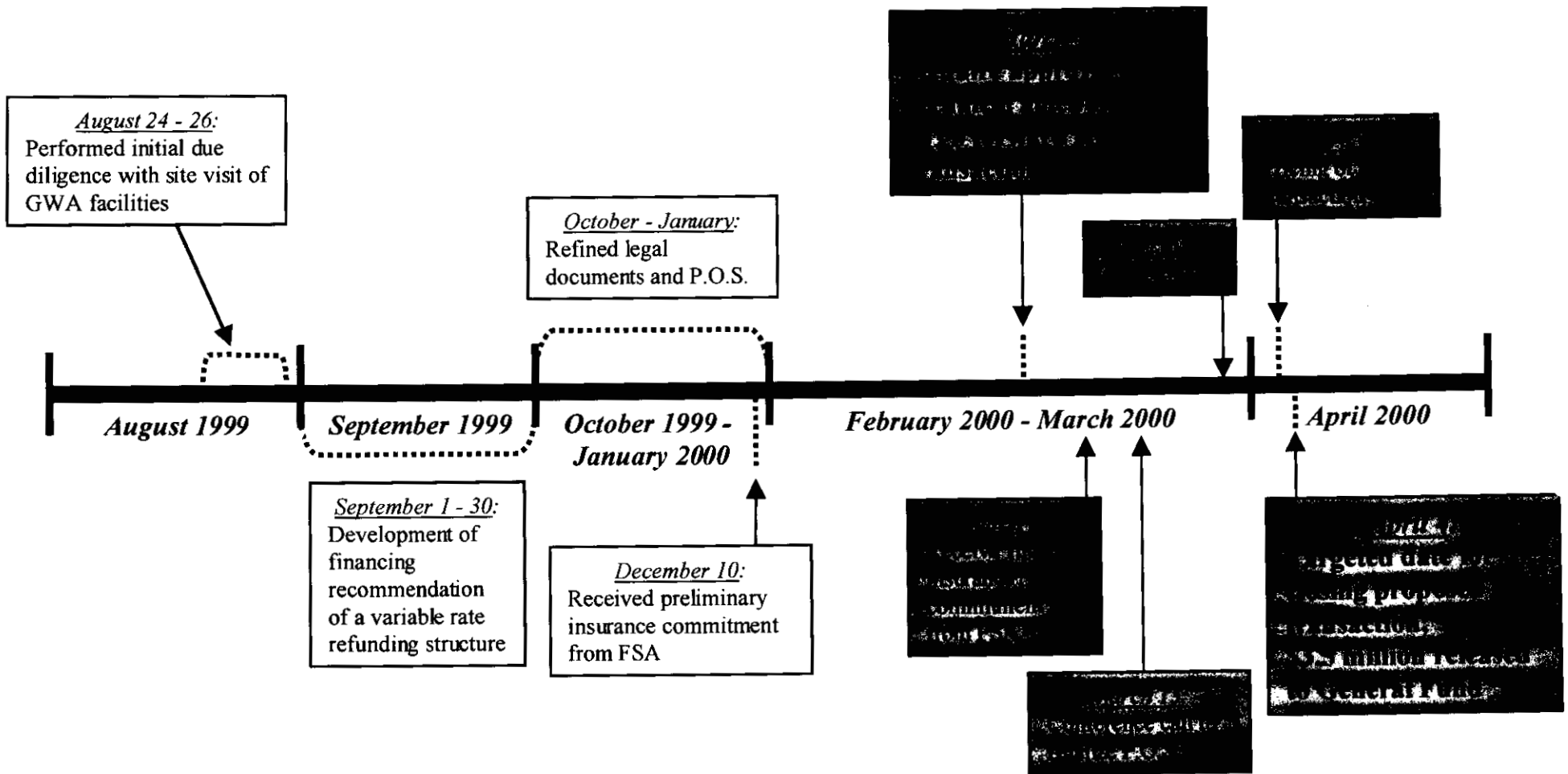
# Primary Financing Objectives

*This refunding achieves the following objectives:*

- ✓ Creates a flexible financing structure that will provide future restructuring options, subject to Legislative approval
- ✓ Provides time for GWA to engage in their Strategic Planning Process
- ✓ Generates immediate savings for the General Fund - \$3.5 million

# Progress To Date

*The financing team has made considerable progress to date and legislative approval is required to move forward*





# Evaluation of Fixed Rate Refunding

*A fixed rate refunding does not generate sufficient savings in the current market environment and requires considerable time to execute*

## Fixed Rate Refunding

### Benefits

- + Locks-in known savings level today

### Issues

- Fixed rate bond sale will not generate sufficient savings in current market
- Extensive due diligence and disclosure required and underlying rating necessary
- Likely to be sold as non-callable bonds (bonds would not be able to be called prior to maturity)
- Costly to refinance/restructure non-callable debt

# Evaluation of Variable Rate Refunding

*A variable rate refunding can be executed within the current window of opportunity while achieving all of the objectives*

## Variable Rate Refunding

### Benefits

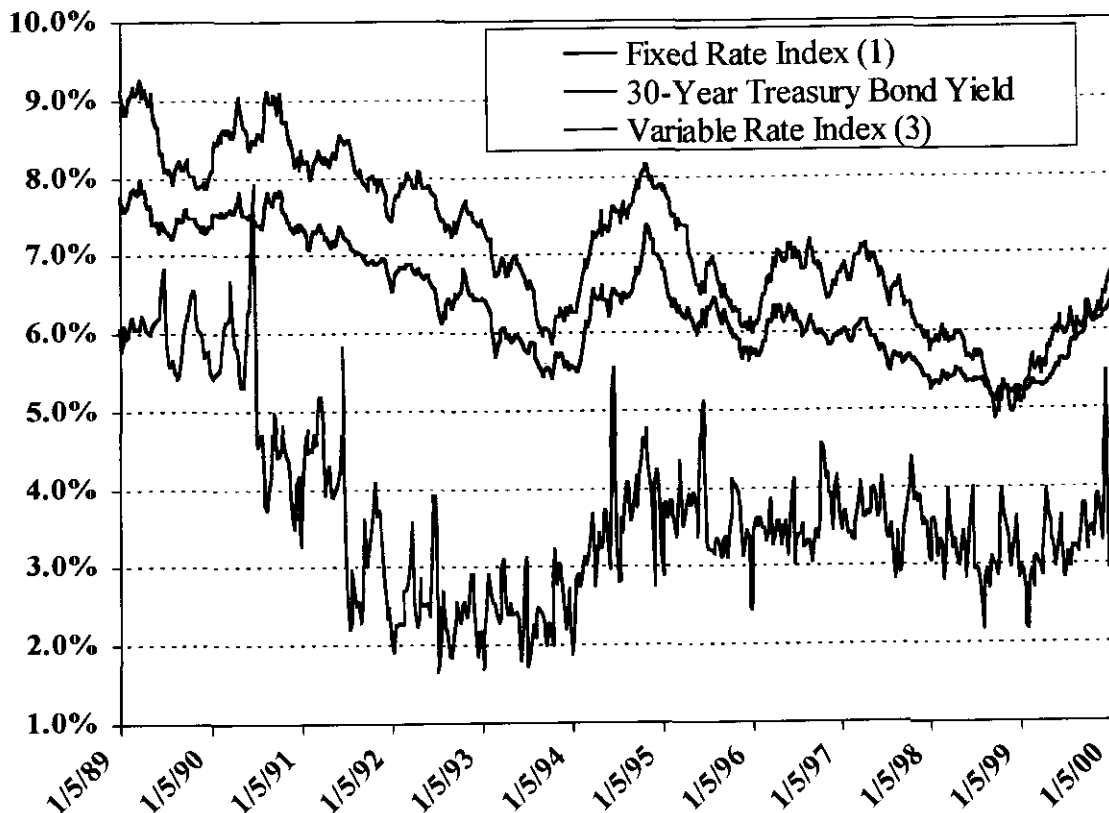
- + Able to meet accelerated timeframe
- + Lower cost debt translates into greater budgetary savings to General Fund
- + Retain the advance refunding opportunity for the bonds
- + Proposed form of bonds eliminates the cost for a liquidity facility as well as financial disclosure to a commercial bank
- + Underlying ratings not required

### Issues

- Interest rates may vary over time

# Short-Term Market Perspective

*Variable rate debt historically has provided the lowest cost of funds*



## **Today's Market\*:**

Fixed Rate 30-Year Index <sup>(1)</sup> :	6.29%
Fixed Rate 10-Year Index <sup>(2)</sup> :	5.38%
Variable Rate Index <sup>(3)</sup> :	3.53%

## **Variable Rate Index Averages<sup>(3)</sup>:**

3 Year:	3.45%
5 Year:	3.53%
10 Year:	3.57%

\* As of 2/11/00.

(1) Bond Buyer Revenue Bond Index.

(2) Insured Municipal Market Data 10-Year Yield.

(3) BMA Variable Rate Index.

# Form of Variable Rate Bonds

## *Auction Rate Certificates (“ARCs”)*

- ARCs are variable rate tax-exempt debt
- Interest rates are reset by a “Dutch Auction” process
- A “Dutch Auction” process, similar to that used for U.S. Treasury auctions, allows interest rates to be established through competitive bids
- ARCs may be called, at no cost, on any interest payment date

# Legislative Approval Considerations

## *Approval of Bill #360 ...*

- ✓ Provides immediate savings of approximately \$3.5 million for the General Fund as of closing
- ✓ Preserves refinancing flexibility

# Financing Schedule

*Critical milestones to maximize savings*

<b>Legislative Approval of Amendment</b>	<b>Immediately</b>
<b>Mail P.O.S.</b>	<b>March 27</b>
<b>Pricing</b>	<b>April 3</b>
<b>Closing</b>	<b>April 4</b>



## GUAM WATERWORKS AUTHORITY

Government of Guam

Post Office Box 3010, Hagåtña, Guam 96932

Phone: (671)479-7823/7820 Fax: (671)649-0158

**FEB 22 2000**

The Honorable Joann M.S. Brown  
Senator, 25<sup>th</sup> Guam Legislature  
130 Aspinal Street, Suite 200  
Hagatna, Guam 96910

Re: Testimony on Bill 360 (COR)

Dear Senator Brown:

Thank you for providing GWA with the opportunity to testify on Bill 360 (COR), An Act to Amend Section 22428 of Article 4, Chapter 22, Division 2 of Title 5 of the Guam Code Annotated as amended by Section 29 of Chapter IV of Public Law 25-03.

The attached GWA Resolution 99-21 conveys the Board's support for the proposed bond refunding. The Refunding Bonds contain the same basic provisions as the "Prior Bonds" which are being refunded and pose no new issues with the Board. Indeed, the proposed legislation recognizes that the bond indentures shall not affect GWA's rates and charges, and that GWA "...shall not enter into any contractual agreements or obligations which could increase rates and charges prior to the written approval of the Public Utilities Commission." [Section 22428 (m)]

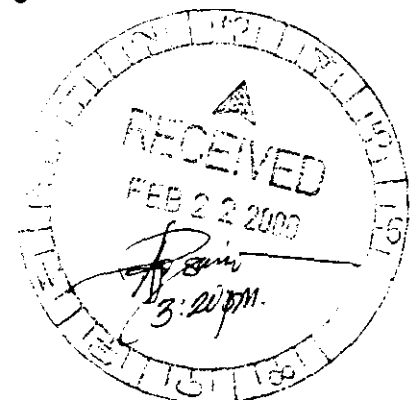
The bill further states that, "... the entry by the Guam Waterworks Authority into the refunding bond indenture is hereby deemed not to increase rates and charges in and of itself..." [Section 22428 (m)]

The Guam Waterworks Authority therefore supports Bill 360 (COR).

Very truly yours,

**HERBERT J. JOHNSTON, JR.**  
Acting General Manager

Attachment: GWA Resolution 99-21



**RESOLUTION NO. 99-21**  
**OF THE BOARD OF DIRECTORS OF THE**  
**GUAM WATERWORKS AUTHORITY**

**RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF GOVERNMENT OF  
GUAM WATER SYSTEM BONDS, 1999 SERIES A; APPROVING FORMS OF A  
CERTIFICATE OF THE GOVERNOR AND AN OFFICIAL STATEMENT AND OTHER  
RELATED DOCUMENTS, AGREEMENTS AND ACTIONS; AND AUTHORIZING  
THE EXECUTION AND DELIVERY THEREOF**

**WHEREAS**, pursuant to Sections 6128 and 6132 of the Government Code of Guam, as amended, and Section 22428 of Division 2 of Title 5 of the Guam Code Annotated, as it may be amended from time to time (collectively, the "Act"), the Governor of Guam (the "Governor") is authorized to issue on behalf of the Government of Guam (the "Government") one or more issues of bonds of the Government consisting of refunding bonds, subject to the requirements and limitations set forth in the Act;

**WHEREAS**, pursuant to the Act, such refunding bonds may be issued for the purpose of providing moneys to redeem or otherwise retire certain prior bonds, funding any necessary bond reserves and capitalized interest allocable to the refunding bonds or paying expenses incurred in connection with the issuance of such refunding bonds;

**WHEREAS**, pursuant to the Act, such refunding bonds shall be payable from and secured by the same source or sources of revenue as the prior bonds refunded by the issue of refunding bonds;

**WHEREAS**, this Board of Directors (the "Board") of the Guam Waterworks Authority ("GWA") has determined that it is in the public interest to redeem or otherwise retire certain prior bonds (the "Prior Bonds") secured by certain revenues of the Government and GWA, and has further determined that it is in the public interest for the Government to issue bonds (the "Bonds") pursuant to the Act for such purpose; and

**WHEREAS**, as required by Section 50103(k) of Title 12, Guam Code Annotated (the "GEDA Law"), the Legislature of Guam has, pursuant to the Act, approved the terms and conditions of the issuance, under the conditions set forth in the Act and as such conditions may be amended from time to time, of Bonds for the purposes set forth herein; and

**WHEREAS**, the GEDA Law also requires that the Bonds be issued by means of and through the agency of the Guam Economic Development Authority ("GEDA"); and

**WHEREAS**, this Board by this resolution desires to request that the Governor and GEDA approve the issuance and sale of the Bonds in accordance with the requirements of the Act and the GEDA Law; and



**WHEREAS**, there have been presented to this Board proposed substantially final forms of a certificate of the Governor pursuant to which the Bonds are proposed to be issued by the Government (the "Certificate") and a preliminary official statement relating to the Bonds;

**NOW THEREFORE, BE IT RESOLVED**, by this Board as follows:

Section 1. The Chairman of this Board (the "Chairman") and the General Manager (the "General Manager") shall hereinafter be referred to as the "Designated Officers."

Section 2. The form of Certificate presented to this meeting is hereby approved, with such additions, changes and modifications (including designation of the Trustee (as defined in the Certificate)) as the Designated Officers may approve upon consultation with the Administrator of GEDA and legal counsel, such approval to be conclusively evidenced by the execution of such Certificate by one or more of the Designated Officers, each of whom is hereby authorized and directed to execute and deliver the same.

Section 3. The issuance of one or more series of Bonds pursuant to the Act and the Certificate is hereby authorized in an aggregate amount not to exceed \$39,000,000. Such Bonds shall be issued in such amount at such time as the Governor deems appropriate, bear interest at fixed or variable interest rates (established in accordance with the Act) and mature not later than July 1, 2014. Such Bonds shall be limited obligations payable solely from the revenues and other assets of the Government and GWA pledged for such purpose and shall not otherwise be a debt or liability of the Government of Guam.

Section 4. The form of preliminary official statement presented to this meeting, is hereby approved, with such additions, changes and modifications as the Designated Officers may approve upon consultation with legal counsel, such approval to be conclusively evidenced by the execution of a certificate deeming final the preliminary official statement for purposes of Rule 15c2-12 of the Securities and Exchange Commission by one or more of the Designated Officers, who are hereby authorized and directed to execute the same and to authorize the underwriter of the Bonds to distribute such preliminary official statement to potential purchasers of the Bonds and other interested parties. The Designated Officers are hereby authorized to execute and cause to be delivered a final official statement to purchasers of the Bonds and other interested parties.

Section 5. The Designated Officers are hereby authorized and directed to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to effectuate the purposes of this resolution, including, without limitation, a tax certificate and a continuing disclosure agreement.





# Ufisina Para I Minaolek Guåhan

**Senator Alberto "Tony" Cristobal Lamorena V**

Mina'Bente Singko Na Liheslaturan Guåhan  
(Twenty-Fifth Guam Legislature)



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## WAIVER OF FISCAL NOTE

In accordance with §9105 of Title 2 of the Guam Code Annotated, I hereby certify that prompt committee action on **Bill No. 360**, as Substituted by the Committee on Tourism, Economic Development and Parks, is necessary to the proper conduct of legislative business. Therefore, I am waiving requirement of a Fiscal Note on **Bill No. 360**, as Substituted by the Committee.



ALBERTO C. LAMORENA, V  
Chairman  
Committee on Tourism,  
Economic Development & Parks

NOV 23 1999

**MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
1999 (FIRST) Regular Session**

Bill No. 369(a)

Introduced by:

A.C. Lamorena   
J. M.S. Brown 

**AN ACT TO AMEND SECTION 22428 OF ARTICLE  
4, CHAPTER 22, DIVISION 2 OF TITLE 5 OF THE  
GUAM CODE ANNOTATED AS AMENDED BY  
SECTION 29 OF CHAPTER IV OF PUBLIC LAW 25-  
03.**

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

**Section 1. Section 22428 of Article 4, Chapter 22, Division 2 of Title 5 as amended by Section 29 of Chapter IV of Public Law 25-03 is amended to read as follows:**

**"Section 22428. Authorization and Approval of Refunding Bonds.**

**(a) Definitions.** The following terms shall have the following meanings when used in this Section:

(1) '*1989 Water Bonds*' means the Government of Guam Water System Revenue Bonds, Series 1989.

(2) '*1992 Highway Bonds*' means the Government of Guam Limited Obligation Highway Bonds, 1992 Series A.

(3) '*Prior Bonds*' means the 1989 water bonds and the 1992 highway bonds, to be redeemed or otherwise retired with the proceeds of refunding bonds and investment earnings thereon.

(4) '*Refunding Bond*' means a bond issued pursuant to this Section for the purpose of providing moneys to redeem and [or] otherwise retire

1 prior bonds, funding any necessary bond reserves and capitalized interest  
2 allocable to the refunding bonds and ~~or~~ paying expenses incurred in  
3 connection with the issuance of such refunding bonds.

4 (5) '*Yield*' shall have the same meaning as when used in §148 of the  
5 Internal Revenue Code of 1986, as amended. That is, 'yield' means the  
6 annual discount rate which, when used to discount all payments of debt  
7 service on an issue of bonds to the date of issuance of the bonds, using a  
8 semiannual compounding interval, results in the aggregate present value  
9 of such payments being equal to the re-offering price to the public of such  
10 bonds.

11 (6) '*Debt service*' means the scheduled principal of and interest on  
12 bonds plus fees to be paid for credit enhancement of such bonds.

13 (7) '*Debt Service Savings*' means the percentage by which the  
14 present value of debt service on refunding bonds (not including  
15 capitalized interest) is less than the present value of the remaining debt  
16 service on the prior bonds refunded by such refunding bonds. Present  
17 value shall be calculated for this purpose using the yield on the refunding  
18 bonds as the discount rate.

19 (8) '*1986 Bonds*' means the Government of Guam General  
20 Obligation Bonds, Series 1986, that are no longer outstanding.

21 (9) '*Section 30 Revenues*' means the revenues derived by the  
22 government of Guam under 48 U.S.C. §1421h (§30 of the Organic Act of  
23 Guam).

24 **(b) Authorization of Issuance of Bonds.** *I Maga'lahan Guåhan* is  
25 authorized to issue on behalf of the government of Guam one (1) or more issues

1 of bonds of the government consisting of refunding bonds, subject to the  
2 following requirements and limitations:

3 (1) the issuance of the bonds shall *not* cause a violation of the debt  
4 limitation provisions of 48 U.S.C. §1423a (§11 of the Organic Act of  
5 Guam);

6 (2) all obligation of the government to pay debt service on, and the  
7 redemption price of, the prior bonds being refunded shall be discharged  
8 concurrently with the issuance of the refunding bonds. Thereafter, the  
9 prior bonds shall be payable solely from and secured solely by an escrow  
10 established for such purpose;

11 (3) the debt service savings resulting from the issuance of the  
12 refunding bonds shall be *not* less than three percent (3%);

13 (4) the aggregate amount of scheduled debt service on the  
14 refunding bonds allocable to the refunding of the 1989 water bonds shall  
15 be, in each year to and including the final maturity of such refunding  
16 bonds, less than the maximum annual scheduled debt service on the 1989  
17 water bonds, and the final scheduled maturity date of such refunding  
18 bonds shall be not more than five (5) years after the final scheduled  
19 maturity date of the 1989 water bonds; *and*

20 (5) the aggregate amount of scheduled debt service on the  
21 refunding bonds allocable to the refunding of the 1992 highway bonds  
22 shall be, in each year to and including the final maturity of such refunding  
23 bonds, less than the maximum annual scheduled debt service on the 1992  
24 highway bonds, and the final scheduled maturity date of such refunding  
25 bonds shall be not more than five (5) years after the final scheduled

1 maturity date of the 1992 highway bonds.

2 **(c) Source of and Security for Payment.** The refunding bonds shall be  
3 payable from and secured by the same source or sources of revenues as the prior  
4 bonds refunded by the issue. Any pledge or lien on revenues or other moneys  
5 authorized to be granted with respect to the prior bonds refunded by the issue is  
6 hereby authorized to be granted with respect to the refunding bonds.

7 **(d) Terms and Conditions Determined by Certificate.** The terms and  
8 conditions of the refunding bonds shall be as determined by *I Maga'lahaen*  
9 *Guâhan* by the execution of a certificate or indenture authorizing the issuance  
10 of such bonds. The certificate or indenture shall contain terms and conditions  
11 that are consistent with this Section, and shall include substantially the same  
12 additional bonds tests, rate covenants and other covenants as were applicable  
13 with respect to the prior bonds. The proceeds of the refunding bonds may be  
14 used to fund a bond reserve only if and to the extent that moneys from any bond  
15 reserve for the prior issue are transferred to the escrow from which the prior  
16 bonds will be paid. Interest on the refunding bonds may be capitalized for a  
17 period not exceeding fifteen months.

18 **(e) Valid and Binding Obligations, Collection of Revenues.** The  
19 bonds authorized by this Section shall constitute the valid and binding  
20 obligations of the government of Guam. All officers charged by law with any  
21 duty in the collection of any revenues from which debt service on the issue is  
22 payable shall do every lawful thing necessary to collect the amount necessary for  
23 such purpose. The validity of any such bonds shall *not* be affected by the  
24 validity or regularity of any proceedings for the implementation of the capital  
25 improvement projects funded by the prior bonds.

1           **(f) Appropriation.** The revenues described in Subsection (c) of this  
2 Section are hereby continuously appropriated for the purposes for which they are  
3 pledged.

4           **(g) Waiver of Immunity.** Notwithstanding any substantive or procedural  
5 provision of Chapter 6 of Title 5 of the Guam Code Annotated, the government  
6 of Guam waives immunity from any suit or action in contract on the bonds  
7 authorized by this Section, but does not waive sovereign immunity as to the  
8 personal liability of elected officials and employees of the government of Guam.

9           **(h) Form of Bonds; Covenants; Appointment of Fiduciaries; Other  
10 Related Agreements.** The technical form and language of the refunding bonds,  
11 including provisions for execution, exchange, transfer, registration, paying  
12 agency, lost or mutilated bonds, negotiability, cancellation and other terms,  
13 covenants or conditions not inconsistent with this Section, shall be as specified  
14 in the certificate or indenture executed by *I Maga'lahaen Guåhan* authorizing the  
15 issuance of the bonds. The certificate or indenture may appoint one (1) or more  
16 trustees or other fiduciaries authorized to receive and hold in trust the proceeds  
17 of the bonds and moneys relating thereto, to protect the rights of bondholders  
18 and to perform such other duties as may be specified in the certificate. *I*  
19 *Maga'lahaen Guåhan* is also authorized to execute, on behalf of the government  
20 of Guam, any appropriate agreements, certificates or other instruments relating  
21 to the bonds and the sale of the bonds.

22           **(i) Authorization for Credit Enhancement.** *I Maga'lahaen Guåhan* is  
23 authorized to enter into such contracts or agreements with such banks, insurance  
24 companies or other financial institutions as *I Maga'lahaen Guåhan* determines are  
25 necessary or desirable to improve the security and marketability of any bonds



1 authorized by this Section. Such contracts or agreements may contain an  
2 obligation to reimburse, with interest, any such banks, insurance companies or  
3 other financial institutions for advances used to pay principal of or interest on the  
4 issue. Any obligations under such contract or agreement shall be payable solely  
5 from the same sources as debt service on the refunding bonds is payable, and  
6 any advance under such agreement, *if necessary*, shall be treated as creating a  
7 reimbursement obligation issued to refund the refunding bonds.

8 **(j) No Personal Liability.** No employee or elected official of the  
9 government of Guam shall be individually or personally liable for the payment  
10 of any amounts due on any bonds issued under this Section, or for any other  
11 liability arising in connection with the bonds; provided, *however*, that nothing in  
12 this Section shall relieve any employee or elected official from the performance  
13 of any ministerial duty required by law.

14 **(k) Approval by Guam Economic Development Authority.** Section  
15 50103(k) of Title 12 of the Guam Code Annotated, provides that agencies and  
16 instrumentalities of the government of Guam shall issue bonds and other  
17 obligations only by means of and through the agency of the Guam Economic  
18 Development Authority ('GEDA'). No issue of bonds authorized by this Section  
19 shall be sold until the board of directors of GEDA has adopted a resolution  
20 approving the sale of such issue.

21 **(l) Approval of Terms and Conditions.** Said §50103(k) also provides  
22 that GEDA shall *not* sell any bond without the approval of *I Liheslaturan*  
23 *Guåhan* of the terms and conditions of the issuance of the bonds. *I Liheslaturan*  
24 *Guåhan* hereby approves the terms and conditions of the issuance of the bonds  
25 authorized by this Section so long as such bonds are structured as provided by

1 this Act and achieve the savings required by this Act.

2 **(m) Approval by Guam Public Utilities Commission Not Required.**

3 Section 12004 of Title 12 of the Guam Code Annotated provides that the Guam  
4 Waterworks Authority shall not enter into any contractual agreements or  
5 obligations which could increase rates and charges prior to the written approval  
6 of the Public Utilities Commission. Because debt service on the refunding bonds  
7 issued to refund the 1989 water bonds is expected to be paid from Section 30  
8 Revenues and not from Guam Waterworks Authority revenues, and because the  
9 refunding bond indenture provisions relating to Guam Waterworks Authority  
10 revenues are to be substantially the same as such provisions in the 1989 water  
11 bond indenture, the entry by the Guam Waterworks Authority into the refunding  
12 bond indenture is hereby deemed not to increase rates and charges in and of  
13 itself, is hereby authorized and approved, and shall not be required to be  
14 approved by the Guam Public Utilities Commission.

15 **(n) Variable Rate Bonds and Interest Rate Hedges.** Refunding bonds  
16 issued to refund the 1989 water bonds may be issued as bonds bearing interest  
17 at a variable rate, and I Maga'lahaen Guahan is authorized to enter into one or  
18 more interest rate hedging contacts (including but not limited to arrangements  
19 commonly known as swap agreements, floors, caps and collars) which I  
20 Magalahaen Guahan determines to be necessary or appropriate to place the  
21 obligations of the government of Guam, as represented by the refunding bonds  
22 and such interest rate hedging contracts, on a basis other than a fully variable  
23 rate basis, but only under the following terms and conditions, which are  
24 applicable in such circumstances in lieu of the requirements of paragraphs (3)  
25 and (4) of subsection (b) of this section:

1                   (1) The initial interest rate hedging contracts, if any, must have an  
2                   aggregate term of not less than two years;

3                   (2) each year over the longer of the first five years after the date of  
4                   issuance of the bonds or the term of any initial interest rate hedging  
5                   contracts, the maximum net annual obligation of the government, as  
6                   represented by the refunding bonds and such interest rate hedging  
7                   contracts, must be expected (on the basis of the prior ten years'  
8                   experience with comparable bonds and interest rate hedging contracts) not  
9                   to exceed the annual obligation that the government would have had if the  
10                   refunding bonds had been issued as fixed-rate, current-interest bonds  
11                   meeting the criteria of paragraphs (3) and (4) of subsection (b) of this  
12                   section;

13                   (3) the aggregate principal amount of refunding bonds outstanding  
14                   at the later of the end of the first five years after the date of issuance of  
15                   the bonds or the end of the term of any initial interest rate hedging  
16                   contracts may not exceed the aggregate principal amount of refunding  
17                   bonds that would have been outstanding had the refunding bonds been  
18                   issued as fixed-rate, current-interest bonds meeting the requirements of  
19                   paragraphs (3) and (4) of subsection (b) of this section; and

20                   (4) the final scheduled maturity date of such refunding bonds shall  
21                   be not more than five (5) years after the final scheduled maturity date of  
22                   the 1989 water bonds.

23                   **(b) Permitted Investments.** The proceeds of bonds issued by the government,  
24 and any revenues relating to such bonds, may be invested in, but only in, the types of  
25 investments permitted by the certificate or indenture pursuant to which such bonds are

1 issued


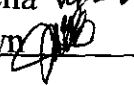
2 **Section 2. Severability.** If any provision of this Law or its application to any  
3 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
4 not affect other provisions or applications of this Law which can be given effect  
5 without the invalid provisions or application, and to this end the provisions of this Law  
6 are severable.

NOV 23 1999

**MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
1999 (FIRST) Regular Session**

Bill No. 360 (old)

Introduced by:

A.C. Lamorena   
J. M.S. Brown 

**AN ACT TO AMEND SECTION 22428 OF ARTICLE  
4, CHAPTER 22, DIVISION 2 OF TITLE 5 OF THE  
GUAM CODE ANNOTATED AS AMENDED BY  
SECTION 29 OF CHAPTER IV OF PUBLIC LAW 25-  
03.**

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

**Section 1. Section 22428 of Article 4, Chapter 22, Division 2 of Title 5 as amended by Section 29 of Chapter IV of Public Law 25-03 is amended to read as follows:**

**"Section 22428. Authorization and Approval of Refunding Bonds.**

**(a) Definitions.** The following terms shall have the following meanings when used in this Section:

(1) '*1989 Water Bonds*' means the Government of Guam Water System Revenue Bonds, Series 1989.

(2) '*1992 Highway Bonds*' means the Government of Guam Limited Obligation Highway Bonds, 1992 Series A.

(3) '*Prior Bonds*' means the 1989 water bonds and the 1992 highway bonds, to be redeemed or otherwise retired with the proceeds of refunding bonds and investment earnings thereon.

(4) '*Refunding Bond*' means a bond issued pursuant to this Section for the purpose of providing moneys to redeem and [or] otherwise retire

1 prior bonds, funding any necessary bond reserves and capitalized interest  
2 allocable to the refunding bonds and ~~or~~ paying expenses incurred in  
3 connection with the issuance of such refunding bonds.

4 (5) '*Yield*' shall have the same meaning as when used in §148 of the  
5 Internal Revenue Code of 1986, as amended. That is, 'yield' means the  
6 annual discount rate which, when used to discount all payments of debt  
7 service on an issue of bonds to the date of issuance of the bonds, using a  
8 semiannual compounding interval, results in the aggregate present value  
9 of such payments being equal to the re-offering price to the public of such  
10 bonds.

11 (6) '*Debt service*' means the scheduled principal of and interest on  
12 bonds plus fees to be paid for credit enhancement of such bonds.

13 (7) '*Debt Service Savings*' means the percentage by which the  
14 present value of debt service on refunding bonds (not including  
15 capitalized interest) is less than the present value of the remaining debt  
16 service on the prior bonds refunded by such refunding bonds. Present  
17 value shall be calculated for this purpose using the yield on the refunding  
18 bonds as the discount rate.

19 (8) '*1986 Bonds*' means the Government of Guam General  
20 Obligation Bonds, Series 1986, that are no longer outstanding.

21 (9) '*Section 30 Revenues*' means the revenues derived by the  
22 government of Guam under 48 U.S.C. §1421h (§30 of the Organic Act of  
23 Guam).

24 **(b) Authorization of Issuance of Bonds.** *I Maga'lahaen Guåhan* is  
25 authorized to issue on behalf of the government of Guam one (1) or more issues

1 of bonds of the government consisting of refunding bonds, subject to the  
2 following requirements and limitations:

3 (1) the issuance of the bonds shall *not* cause a violation of the debt  
4 limitation provisions of 48 U.S.C. §1423a (§11 of the Organic Act of  
5 Guam);

6 (2) all obligation of the government to pay debt service on, and the  
7 redemption price of, the prior bonds being refunded shall be discharged  
8 concurrently with the issuance of the refunding bonds. Thereafter, the  
9 prior bonds shall be payable solely from and secured solely by an escrow  
10 established for such purpose;

11 (3) the debt service savings resulting from the issuance of the  
12 refunding bonds shall be *not* less than three percent (3%);

13 (4) the aggregate amount of scheduled debt service on the  
14 refunding bonds allocable to the refunding of the 1989 water bonds shall  
15 be, in each year to and including the final maturity of such refunding  
16 bonds, less than the maximum annual scheduled debt service on the 1989  
17 water bonds, and the final scheduled maturity date of such refunding  
18 bonds shall be not more than five (5) years after the final scheduled  
19 maturity date of the 1989 water bonds; *and*

20 (5) the aggregate amount of scheduled debt service on the  
21 refunding bonds allocable to the refunding of the 1992 highway bonds  
22 shall be, in each year to and including the final maturity of such refunding  
23 bonds, less than the maximum annual scheduled debt service on the 1992  
24 highway bonds, and the final scheduled maturity date of such refunding  
25 bonds shall be not more than five (5) years after the final scheduled

1 maturity date of the 1992 highway bonds.

2 **(c) Source of and Security for Payment.** The refunding bonds shall be  
3 payable from and secured by the same source or sources of revenues as the prior  
4 bonds refunded by the issue. Any pledge or lien on revenues or other moneys  
5 authorized to be granted with respect to the prior bonds refunded by the issue is  
6 hereby authorized to be granted with respect to the refunding bonds.

7 **(d) Terms and Conditions Determined by Certificate.** The terms and  
8 conditions of the refunding bonds shall be as determined by *I Maga'lahaen*  
9 *Guåhan* by the execution of a certificate or indenture authorizing the issuance  
10 of such bonds. The certificate or indenture shall contain terms and conditions  
11 that are consistent with this Section, and shall include substantially the same  
12 additional bonds tests, rate covenants and other covenants as were applicable  
13 with respect to the prior bonds. The proceeds of the refunding bonds may be  
14 used to fund a bond reserve only if and to the extent that moneys from any bond  
15 reserve for the prior issue are transferred to the escrow from which the prior  
16 bonds will be paid. Interest on the refunding bonds may be capitalized for a  
17 period not exceeding fifteen months.

18 **(e) Valid and Binding Obligations, Collection of Revenues.** The  
19 bonds authorized by this Section shall constitute the valid and binding  
20 obligations of the government of Guam. All officers charged by law with any  
21 duty in the collection of any revenues from which debt service on the issue is  
22 payable shall do every lawful thing necessary to collect the amount necessary for  
23 such purpose. The validity of any such bonds shall *not* be affected by the  
24 validity or regularity of any proceedings for the implementation of the capital  
25 improvement projects funded by the prior bonds.



1           **(f) Appropriation.** The revenues described in Subsection (c) of this  
2 Section are hereby continuously appropriated for the purposes for which they are  
3 pledged.

4           **(g) Waiver of Immunity.** Notwithstanding any substantive or procedural  
5 provision of Chapter 6 of Title 5 of the Guam Code Annotated, the government  
6 of Guam waives immunity from any suit or action in contract on the bonds  
7 authorized by this Section, but does not waive sovereign immunity as to the  
8 personal liability of elected officials and employees of the government of Guam.

9           **(h) Form of Bonds; Covenants; Appointment of Fiduciaries; Other  
10 Related Agreements.** The technical form and language of the refunding bonds,  
11 including provisions for execution, exchange, transfer, registration, paying  
12 agency, lost or mutilated bonds, negotiability, cancellation and other terms,  
13 covenants or conditions not inconsistent with this Section, shall be as specified  
14 in the certificate or indenture executed by *I Maga'lahren Guåhan* authorizing the  
15 issuance of the bonds. The certificate or indenture may appoint one (1) or more  
16 trustees or other fiduciaries authorized to receive and hold in trust the proceeds  
17 of the bonds and moneys relating thereto, to protect the rights of bondholders  
18 and to perform such other duties as may be specified in the certificate. *I  
19 Maga'lahren Guåhan* is also authorized to execute, on behalf of the government  
20 of Guam, any appropriate agreements, certificates or other instruments relating  
21 to the bonds and the sale of the bonds.

22           **(i) Authorization for Credit Enhancement.** *I Maga'lahren Guåhan* is  
23 authorized to enter into such contracts or agreements with such banks, insurance  
24 companies or other financial institutions as *I Maga'lahren Guåhan* determines are  
25 necessary or desirable to improve the security and marketability of any bonds

1 authorized by this Section. Such contracts or agreements may contain an  
2 obligation to reimburse, with interest, any such banks, insurance companies or  
3 other financial institutions for advances used to pay principal of or interest on the  
4 issue. Any obligations under such contract or agreement shall be payable solely  
5 from the same sources as debt service on the refunding bonds is payable, and  
6 any advance under such agreement, *if necessary*, shall be treated as creating a  
7 reimbursement obligation issued to refund the refunding bonds.

8 **(j) No Personal Liability.** No employee or elected official of the  
9 government of Guam shall be individually or personally liable for the payment  
10 of any amounts due on any bonds issued under this Section, or for any other  
11 liability arising in connection with the bonds; provided, *however*, that nothing in  
12 this Section shall relieve any employee or elected official from the performance  
13 of any ministerial duty required by law.

14 **(k) Approval by Guam Economic Development Authority.** Section  
15 50103(k) of Title 12 of the Guam Code Annotated, provides that agencies and  
16 instrumentalities of the government of Guam shall issue bonds and other  
17 obligations only by means of and through the agency of the Guam Economic  
18 Development Authority ('GEDA'). No issue of bonds authorized by this Section  
19 shall be sold until the board of directors of GEDA has adopted a resolution  
20 approving the sale of such issue.

21 **(l) Approval of Terms and Conditions.** Said §50103(k) also provides  
22 that GEDA shall *not* sell any bond without the approval of *I Liheslaturan*  
23 *Guåhan* of the terms and conditions of the issuance of the bonds. *I Liheslaturan*  
24 *Guåhan* hereby approves the terms and conditions of the issuance of the bonds  
25 authorized by this Section so long as such bonds are structured as provided by

1 this Act and achieve the savings required by this Act.

2 **(m) Approval by Guam Public Utilities Commission Not Required.**

3 Section 12004 of Title 12 of the Guam Code Annotated provides that the Guam  
4 Waterworks Authority shall not enter into any contractual agreements or  
5 obligations which could increase rates and charges prior to the written approval  
6 of the Public Utilities Commission. Because debt service on the refunding bonds  
7 issued to refund the 1989 water bonds is expected to be paid from Section 30  
8 Revenues and not from Guam Waterworks Authority revenues, and because the  
9 refunding bond indenture provisions relating to Guam Waterworks Authority  
10 revenues are to be substantially the same as such provisions in the 1989 water  
11 bond indenture, the entry by the Guam Waterworks Authority into the refunding  
12 bond indenture is hereby deemed not to increase rates and charges in and of  
13 itself, is hereby authorized and approved, and shall not be required to be  
14 approved by the Guam Public Utilities Commission.

15 **(n) Variable Rate Bonds and Interest Rate Hedges.** Refunding bonds

16 issued to refund the 1989 water bonds may be issued as bonds bearing interest  
17 at a variable rate, and I Maga'lahen Guahan is authorized to enter into one or  
18 more interest rate hedging contacts (including but not limited to arrangements  
19 commonly known as swap agreements, floors, caps and collars) which I  
20 Magalahen Guahan determines to be necessary or appropriate to place the  
21 obligations of the government of Guam, as represented by the refunding bonds  
22 and such interest rate hedging contracts, on a basis other than a fully variable  
23 rate basis, but only under the following terms and conditions, which are  
24 applicable in such circumstances in lieu of the requirements of paragraphs (3)  
25 and (4) of subsection (b) of this section:

1                   (1) The initial interest rate hedging contracts, if any, must have an  
2 aggregate term of not less than two years;

3                   (2) each year over the longer of the first five years after the date of  
4 issuance of the bonds or the term of any initial interest rate hedging  
5 contracts, the maximum net annual obligation of the government, as  
6 represented by the refunding bonds and such interest rate hedging  
7 contracts, must be expected (on the basis of the prior ten years'  
8 experience with comparable bonds and interest rate hedging contracts) not  
9 to exceed the annual obligation that the government would have had if the  
10 refunding bonds had been issued as fixed-rate, current-interest bonds  
11 meeting the criteria of paragraphs (3) and (4) of subsection (b) of this  
12 section;

13                   (3) the aggregate principal amount of refunding bonds outstanding  
14 at the later of the end of the first five years after the date of issuance of  
15 the bonds or the end of the term of any initial interest rate hedging  
16 contracts may not exceed the aggregate principal amount of refunding  
17 bonds that would have been outstanding had the refunding bonds been  
18 issued as fixed-rate, current-interest bonds meeting the requirements of  
19 paragraphs (3) and (4) of subsection (b) of this section; and

20                   (4) the final scheduled maturity date of such refunding bonds shall  
21 be not more than five (5) years after the final scheduled maturity date of  
22 the 1989 water bonds.

23                   **(b) Permitted Investments.** The proceeds of bonds issued by the government,  
24 and any revenues relating to such bonds, may be invested in, but only in, the types of  
25 investments permitted by the certificate or indenture pursuant to which such bonds are

1 issued

2           **Section 2. Severability.** If any provision of this Law or its application to any  
3 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
4 not affect other provisions or applications of this Law which can be given effect  
5 without the invalid provisions or application, and to this end the provisions of this Law  
6 are severable.