



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

30-09-0338
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 3/13/09
Time 4:45 P
Received by [signature]

2009 MAR 16 AM 8:37 PM

Honorable Judith T. Won Pat, Ed.D
Speaker
I Mina Trenta Na Liheslaturan Guahan
155 Hessler Street
Hagåtña Guam 96910

13 MAR 2009

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 2(LS), AN ACT TO ADD A NEW CHAPTER 12 TO DIVISION 2 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE SUPERINTENDENT OF EDUCATION TO ESTABLISH A PUBLIC CORPORATION FOR THE PURPOSE OF ADVANCING EXCELLENCE IN EDUCATION; AND TO BE KNOWN AS THE "FOUNDATION FOR PUBLIC EDUCATION ACT OF 2009", which I have vetoed.

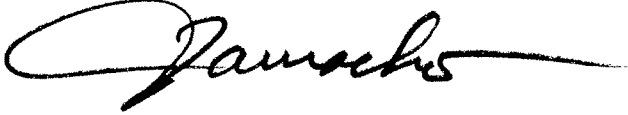
Bill 2 attempts to create a Public Corporation for the purpose of receiving donations for the Guam Public School System. While any legislation that attempts to help our children received a quality education is to be commended, we must also be very cautious with the creation of new government entities that will lead to long term financial obligations. Bill 2 seeks to create a new layer of government at the same time it draws attention away from the need for more accountability of GPSS funds.

According to recent local news reports, GPSS is missing nearly \$90,000 in donations provided to Southern High School. This is not an isolated incident and highlights the need to ensure that funding provided to the school system is used to the best benefit of students. It is not clear that a public corporation, as envisioned in Bill 2, would provide additional accountability or financial safeguards.

Existing public corporations, such as the Guam Visitors Bureau and the Guam Economic Development Authority, are generally considered to be government entities. The Supreme Court of Guam has held in Guam Radio v. GEDCA, 2000 Guam 1, that "GEDCA's status as a public corporation indicates that it is an 'official body of the territory of Guam.'" The creation of a new government entity to receive education donations does not effectively address accountability concerns, but it does add new layers of bureaucracy at a time when the government of Guam is already struggling financially.

As stated in a previous veto message, the intent of this legislation could be accomplished without government intervention by the creation of a non-public corporation formed by interested parties. I urge the Legislature to consider such alternatives that will achieve our goal of improving education and fiscal accountability without committing to long term financial obligations that may not produce desired results.

Sinseru yan Magâhet,

A handwritten signature in black ink, appearing to read 'Camacho', with a long horizontal flourish extending to the right.

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


cc: All Senators

Attachment

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

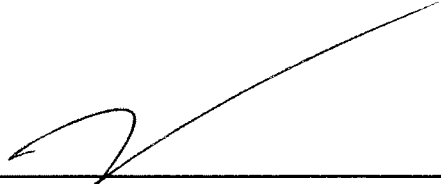
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 2 (LS), "AN ACT TO ADD A NEW CHAPTER 12 TO DIVISION 2 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE SUPERINTENDENT OF EDUCATION TO ESTABLISH A PUBLIC CORPORATION FOR THE PURPOSE OF ADVANCING EXCELLENCE IN EDUCATION; AND TO BE KNOWN AS THE 'FOUNDATION FOR PUBLIC EDUCATION ACT OF 2009',"** was on the 27th day of February, 2009, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

Attested:



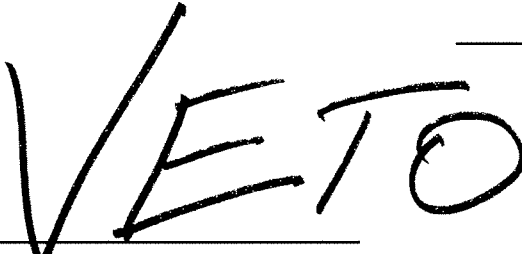
vicente c. pangelinan
Acting Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 3 day of MAR, 2009, at 4:04 o'clock P.M.



A. RACHULAP
Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 2 (LS)

As substituted by
the Committee on Education.

Introduced by:

Judith T. Won Pat, Ed.D.

T. R. Muña Barnes

T. C. Ada

F. B. Aguon, Jr.

F. F. Blas, Jr.

E. J.B. Calvo

B. J.F. Cruz

J. V. Espaldon

Judith P. Guthertz, DPA

Adolpho B. Palacios, Sr.

v. c. pangelinan

M. J. Rector

R. J. Respicio

Telo Taitague

Ray Tenorio

AN ACT TO *ADD* A NEW CHAPTER 12 TO DIVISION 2 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE SUPERINTENDENT OF EDUCATION TO ESTABLISH A PUBLIC CORPORATION FOR THE PURPOSE OF ADVANCING EXCELLENCE IN EDUCATION; AND TO BE KNOWN AS THE “FOUNDATION FOR PUBLIC EDUCATION ACT OF 2009”.

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

2 **Section 1. Foundation for Public Education Act of 2009.** A new Chapter 12
3 of Division 2 of Title 17, Guam Code Annotated, is *added* to read:

4 **“Chapter 12**

5 **Foundation for Public Education Act of 2009**

1 **§12101. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
2 finds that creating the best public school education is the responsibility of the
3 entire community. This means *not only* parents and educators, but also
4 businesses, community groups, associations, philanthropists and citizens.
5 Currently, the Guam Public School System is authorized to receive monetary
6 donations, which are promptly deposited into the Every Child is Entitled to an
7 Adequate Education Fund (Fund). The provisions of the existing Fund are too
8 restrictive in regards to how private contributions to the Guam Public School
9 System can be utilized, therefore a mechanism needs to be put in place to more
10 efficiently handle such contributions. In many communities, public education
11 foundations serve as a conduit between schools and communities, often funding
12 projects that fall outside the scope of the schools' operating budgets. The
13 missions of these public education foundations are to mobilize regional and
14 community resources to support and impact public education through
15 initiatives, programs, and practices designed to improve student performance
16 and advance quality educational opportunities for all children.

17 It is, therefore, the intent of *I Liheslaturan Guåhan*, that a separate
18 mechanism, one that would promote the improvement of the general welfare of
19 public education on Guam inclusive of philanthropic and community service
20 endeavors, must be established. This can be accomplished with the creation of a
21 "Foundation for Public Education".

22 **§12102. Short Title.** This Chapter may be cited as the "Foundation
23 for Public Education Act of 2009."

24 **§12103. Authorization to Receive Funds.** The Superintendent is
25 hereby authorized to establish a public, not-for-profit corporation that *shall* be
26 separate and apart from the government of Guam and the Guam Public School

1 System for the purposes of being able to accept private gifts, donations,
2 endowments, services in-kind, grants and other money which may be offered in
3 support of the Guam Public School System. All such private gifts, donations,
4 endowments, services in-kind, grants and other money *shall* be in accordance
5 with the laws of Guam and subject to reasonable conditions.

6 **§12104. Custody and Expenditure of Funds.** Such funds as are
7 received *shall* be deposited into a fund as established by the public corporation
8 and known as the Foundation for Public Education Fund (the Fund).
9 Expenditures *shall* be made from the Fund in accordance with such conditions
10 as may be attached to the private gifts, donations, endowments, services in-
11 kind, and grants. *No more than* ten percent (10%) of the total corpus of the
12 Fund *shall* be utilized for administrative costs.

13 **§12105. Composition of Foundation Board of Directors.** The
14 public corporation, as initially established by the Superintendent of Education,
15 *shall* be comprised of a nine (9) member board of directors. The
16 Superintendent *shall* appoint the charter directors of said corporation and each
17 charter director will serve an initial term of one (1) year. The Superintendent of
18 Education *shall* serve as temporary chairperson, and *shall* convene the first
19 meeting of the Foundation. At its first meeting the Foundation *shall* elect from
20 among its members its officers in accordance with its established by-laws. At
21 least two (2) of its members *shall* be alumni of the Guam Public School System,
22 formerly the Guam Department of Education. For the purposes of this
23 provision, an alumnus is defined as any one (1) person having attended the
24 Guam Public School System for one (1) complete school year. *At least* one (1)
25 member *shall* have accounting experience *or* a professional background in
26 accounting. *At least* one (1) member *shall* have experience or professional

1 background in marketing or advertising. *At least* one (1) member *shall* have
2 legal experience or professional background in the law. *At least* one (1)
3 member *shall* have experience or professional background as a fund manager.
4 The remaining members of the Foundation *shall* be of diverse backgrounds
5 from the community, who have resided on Guam for *at least* three (3) years.
6 Upon establishment of the public corporation, said corporation *shall* establish in
7 its articles of incorporation and by-laws the manner of appointment and length
8 of service for Board Members and all other rules and regulations relative to
9 operations, investments and programs through which all private gifts,
10 donations, endowments, services in-kind, grants and other money *shall* be
11 granted back to the Guam Public School System. The established bylaws *shall*
12 reflect the qualifications and the makeup of the Board of Directors as
13 enumerated in this Section. In the event of a vacancy on the charter board of
14 directors, the Superintendent of Education, *or* the Chairperson of the Guam
15 Education Policy Board should the Superintendent of Education be
16 incapacitated, *shall* appoint a replacement for the unexpired term. The initial
17 meeting of the public corporation *shall* be convened by the Superintendent of
18 the Guam Public School System.

19 **§12106. Preferred Qualifications of Foundation Directors.** The
20 preferred qualification for Foundation Directors appointed by the
21 Superintendent and subsequent Foundation Directors appointed in accordance
22 with this Act *shall* be: (a) adequate time to dedicate to the work of the
23 Foundation; (b) displayed loyalty to the public schools; and (c) previous
24 nonprofit board membership experience.

25 **§12107. Foundation Information Published on Website.** The
26 Foundation *shall* publish information regarding its activities on a monthly basis.

1 The information may include, but *not be limited to*, financial statements,
2 meeting minutes and agendas, and any other information that the Foundation
3 may deem beneficial to the general public.

4 The Guam Public School System *shall* make their website available to
5 the Foundation for the purpose of publishing the above required information.

6 **§12108. Reporting Information.** The Foundation *shall* transmit
7 quarterly reports detailing information pertaining to the contributions made to
8 and expenditures from the Foundation Fund to *I Liheslaturan Guåhan* and to
9 the Office of the Public Auditor of Guam.”

10 **Section 2. §§7115, 7116, 7117, and 7118 of Chapter 7 of Title 17 GCA, are**
11 **hereby repealed.**

12 **Section 3. Transfer of Funds.** *Any* fund balances available in the Every
13 Child is Entitled to an Adequate Public Education Fund *shall* be transferred to the
14 Foundation for Public Education Fund. The transfer of funds *shall only* occur upon
15 the successful formation of the Foundation for Public Education, to include
16 registration with the Department of Revenue and Taxation as a nonprofit organization
17 consistent with the provisions of Section 501(c)(3) of the Internal Revenue Code of
18 1986.