

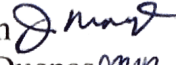


I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
50-36 (COR)	James C. Moylan Christopher M. Dueñas Joanne Brown	AN ACT TO <i>ADD</i> ARTICLE 13, TO CHAPTER 77, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A PUBLIC PRIVATE PARTNERSHIP FOR THE REPAIRS, REHABILITATION, AND/OR MAINTENANCE OF VILLAGE SPORTS FACILITIES.	2/1/21 3:12 p.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 50-36 (COR)

Introduced by:

James C. Moylan 
Christopher M. Duenas 
Joanne M. Brown 

**AN ACT TO *ADD* ARTICLE 13, TO CHAPTER 77,
TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING A PUBLIC PRIVATE PARTNERSHIP
FOR THE REPAIRS, REHABILITATION, AND/OR
MAINTENANCE OF VILLAGE SPORTS FACILITIES.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds
3 that with the government's financial constraints, there are many challenges in
4 assuring that students are provided adequate and safe sports facilities throughout
5 the municipalities. Further, the Limited Gaming Tax Fund, of which 1/3 of those
6 monies are allocated to the Mayor's Council of Guam for the upkeep of village
7 facilities was adversely impacted in 2020 due to the pandemic and may continue to
8 be depleted for most of 2021 and the unforeseeable future. It is with this intent that
9 "outside the box" ideas must be brought to the table to not only achieve the
10 objectives of improving many Village Sports Facilities, but also in assuring that the
11 government's coffers are not too adversely impacted on an annual basis.

12 This Act would allow up to \$2,000,000 to be contributed from private
13 entities for the intent of the Repairs, Rehabilitation, and Maintenance of Village
14 Sports Facilities, in exchange for business privilege and excise tax credits of the
15 equal amount (up to \$1,000,000 of business privilege taxes, and up to \$1,000,000

1 of excise taxes). However, these credits would be available at a cap of no more
2 than \$500,000 a year (\$250,000 of business privilege taxes and \$250,000 of excise
3 taxes) for up to 4 years, thus reducing any major impact towards the General Fund.
4 This “interest-free” loan structure for the government has been utilized for other
5 public upgrades, with the repairs of the Harmon Industrial Park Roadway being the
6 most recent, as well as one upcoming to repair the Auditorium at the Southern
7 High School.

8 The measure would require the Mayor’s Council of Guam to provide a plan
9 of the priority projects which will be addressed by this Act, and this shall include a
10 balanced structure where facilities throughout the island are addressed based on
11 population. This investment would provide many long-term benefits while
12 reducing the financial impact for the government of Guam. At the same time,
13 there will always be opportunities in the future to continue the program if it is
14 proven to be successful.

15 Adequate and workable sports facilities at the municipal level provide many
16 benefits to our communities, most especially with children and teenagers. From
17 opportunities to create healthier lifestyles for island residents, to developing
18 camaraderie through team sports, or even in terms of providing our youth
19 additional after school, weekend, or summer activities. Thus, it is critical to assure
20 that an upkeep of such facilities are prioritized.

21 **Section 2.** A new Article 13 is hereby *added* to Chapter 77, Title 12, Guam Code
22 Annotated to read as follows:

23 **“ARTICLE 13**

24 **TAX CREDITS TO REPAIR, REHABILITATE, AND/OR MAINTAIN**
25 **VILLAGE SPORTS FACILITIES.**

26 § 771301. Applicability of Article.

27 § 771302. Village Sports Facilities.

1 § 771303. Credits Against Unpledged Business Privilege Tax.

2 § 771304. Cap on Business Privilege Taxes for the Repair, Rehabilitation,
3 and/or Maintenance of Village Sports Facilities.

4 § 771305. Credits Against Excise Taxes.

5 § 771306. Cap on Excise Taxes for the Repair, Rehabilitation, and/or
6 Maintenance of Village Sports Facilities.

7 § 771307. GEDA Report

8 § 771308. Rules and Regulations.

9 § 771309. Approval of Contributions and GEDA's Responsibility

10 § 771310. Regulatory Oversight, Approval, and Marketing

11 § 771311. Fines and Penalties.

12 **§ 771301. Applicability of Article.**

13 The provisions of this Article are applicable to the Repair,
14 Rehabilitation, and/or Maintenance of Village Sports Facilities as authorized
15 by this Act.

16 **§ 771302. Village Sports Facilities.**

17 For the purposes of this Article, Village Sports Facilities *shall* mean a
18 public sports facility under the jurisdiction of the Mayors Council of Guam
19 (hereinafter shall be referred to as "MCOG") or a Municipality, which
20 includes, but is not limited to, gymnasiums and baseball, soccer and football
21 fields, and swimming pools, constructed, developed, upgraded, repaired, or
22 maintained by the provisions of this Article.

23 The "MCOG" *shall* submit a list of the priority projects for repair,
24 rehabilitation, and/or maintenance of Village Sports Facilities pursuant to
25 this Article, to The Guam Economic Development Authority (hereinafter
26 shall be referred to as "GEDA") and *I Liheslaturan Guåhan* no more than
27 thirty (30) days from the effective date of this Act. This list *shall* include the

1 estimated costs of the projects and shall represent a population balance of
2 facilities throughout the island. No tax credits authorized by this Act shall
3 be issued until the priority list is provided, and no projects outside of this list
4 shall be part of this program, unless “MCOG” submits a formal
5 correspondence to “GEDA” and I Liheslaturan Guåhan stating the reasons
6 of the amended plan.

7 Notwithstanding any other provisions of the law, if any tax credits
8 pursuant to the cap established in §§ 771303, 771304, 771305 or 771306 of
9 this Chapter remain after satisfactorily completing the priority projects,
10 “GEDA” shall be authorized to approve tax credits for any other
11 rehabilitation projects within Village Sports Facilities, as long it remains
12 within that cap.

13 **§ 771303. Credits Against Unpledged Business Privilege Tax.**

14 (a) A business, to the extent that such business contributes to
15 the cost of the labor, materials, construction, and/or the design for the
16 Repair, Rehabilitation, and/or Maintenance of Village Sports
17 Facilities, as identified and approved by “GEDA” shall be entitled to
18 credits of unpledged business privilege taxes. The basis of the
19 contribution to the project shall be the actual cost of the contribution
20 plus the cost of transportation from the point of origin to its
21 destination.

22 (b) Any unused credits not used in the current tax period may
23 be carried over into subsequent tax periods until such credits are
24 exhausted.

25 (c) The total credits allowed under this Act shall not exceed the
26 actual dollar amount of the expenditures.

1 **§771304. Cap on Business Privilege Tax for the Repair,**
2 **Rehabilitation, and/or Maintenance of Village Sports Facilities.**

3 (a) The total amount of credits against unpledged business
4 privilege taxes for the Repair, Rehabilitation, and/or Maintenance of
5 the Village Sports Facilities shall not exceed One Million Dollars
6 (\$1,000,000) over a four (4) year period. No more than Two Hundred
7 Fifty Thousand Dollars (\$250,000) in tax credits shall be authorized
8 for each year of the program.

9 (b) If, at the expiration of the four (4) year period authorized
10 pursuant to this Article, there are still unclaimed authorized tax
11 credits, then I Liheslaturan Guahan may, in its discretion, extend the
12 eligible period until such time that all eligible tax credits are
13 exhausted.

14 (c) I Liheslaturan Guahan may, in its discretion, extend the
15 terms and modify any part of the program based on the need of the
16 Village Sports Facilities pursuant to this Article.

17 (d) Construction and professional services and equipment,
18 materials and furnishings shall be competitively procured.

19 **§ 771305. Credits Against Excise Taxes.**

20 (a) A business, to the extent that such business contributes to
21 the cost of the labor, materials, construction, and/or the design for the
22 Repair, Rehabilitation, and/or Maintenance of Village Sports
23 Facilities, as identified and approved by “GEDA” shall be entitled to
24 credits of excise taxes. The basis of the contribution to the project
25 shall be the actual cost of the contribution plus the cost of
26 transportation from the point of origin to its destination.

1 (b) Any unused credits not used in the current tax period may
2 be carried over into subsequent tax periods until such credits are
3 exhausted.

4 (c) The total credits allowed under this Act shall not exceed the
5 actual dollar amount of the expenditures.

6 **§771306. Cap on Excise Taxes for the Repair, Rehabilitation, and/or**
7 **Maintenance of Village Sports Facilities.**

8 (a) The total amount of credits against excise taxes for the
9 Repair, Rehabilitation, and/or Maintenance of the Village Sports
10 Facilities shall not exceed One Million Dollars (\$1,000,000) over a
11 four (4) year period. No more than Two Hundred Fifty Thousand
12 Dollars (\$250,000) in tax credits shall be authorized for each year of
13 the program.

14 (b) If, at the expiration of the four (4) year period authorized
15 pursuant to this Article, there are still unclaimed authorized tax
16 credits, then I Liheslaturan Guahan may, in its discretion, extend the
17 eligible period until such time that all eligible tax credits are
18 exhausted.

19 (c) I Liheslaturan Guahan may, in its discretion, extend the
20 terms and modify any part of the program based on the need of the
21 Village Sports Facilities pursuant to this Article.

22 (d) Construction and professional services and equipment,
23 materials and furnishings shall be competitively procured.

24 **§771307. GEDA Report**

25 “GEDA” shall submit a report to I Liheslaturan Guahan detailing the
26 impact of the program on the business privilege taxes and economic
27 activities in Guam. “GEDA” shall also include in its report its monitoring

1 efforts and any other information related to the program. The report *shall* be
2 transmitted to the *I Liheslaturan Guahan* on an annual basis until the tax
3 credit caps pursuant to § 771304 and § 771306 of this Article are exhausted.

4 **§771308. Rules and Regulations.**

5 “GEDA” *shall* implement and monitor the tax credit program
6 authorized pursuant to this Article based on rules and regulations already
7 adopted by “GEDA” for previous tax credit programs.

8 **§771309. Approval of Contributions and GEDA’s Responsibility**

9 “GEDA”, or its designee, *shall* be responsible for approving the
10 contributions made towards the labor, materials, construction and/or designs
11 of the Repair, Rehabilitation, and/or Maintenance of the Village Sports
12 Facilities pursuant to this Article, and to process tax credits pursuant to §
13 771303 and § 771305 of this Chapter and to ensure that such requests are in
14 conformance with law and applicable rules and regulations.

15 **§771310. Regulatory Oversight, Approval, and Marketing**

16 “MCOG” *shall* have the regulatory oversight, and the authority to
17 approve the repair, rehabilitation, and maintenance plan for the Village
18 Sports Facilities pursuant to this Article, along with the selection of the
19 contributors, based on criteria established by the Guam Services Agency.
20 This responsibility *shall be* extended to, but *may not be* limited to, obtaining
21 price quotations, pursuant to applicable procurement rules, regulations, and
22 laws, along with program marketing. “MCOG” *shall* also have the authority
23 to reach out to the community to market this program and seek contributors.

24 “MCOG” *shall* provide copies of all required documents associated
25 with this Act to GEDA, including but not limited to providing necessary
26 reports and updates.

27 **§771311. Fines and Penalties.**

1 To the extent that a company providing materials and services for the
2 project contained herein takes more tax benefits in terms of unpledged
3 business privilege or excise taxes than the actual value of the materials or
4 services contributed to the project authorized herein, that company shall be
5 required to pay all interest and penalties applicable under Guam law and the
6 Internal Revenue Code for failure to pay taxes, in addition to payment of the
7 actual taxes due. To the extent that any individual, officer, director, or other
8 person having interest in a company providing materials or services for the
9 project contained herein knowingly and willingly causes such company to
10 take more tax benefits in terms of business privilege or excise taxes than the
11 actual value of the material or services contributed to the project, such
12 individual shall be guilty of a felony in the third degree punishable by a fine
13 of not less than Five Thousand Dollars (\$5,000) or one (1) year in prison or
14 both.”

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

20 **Section 4. Effective Date.** The Act *shall* become effective upon enactment,
21 however no tax credits pursuant to this Article *shall be* issued until the Mayors
22 Council of Guam submits a priority list of projects for repair, rehabilitation, and/or
23 maintenance of Village Sports Facilities pursuant to this Article is submitted.