

*I Mina'trentai Singko Na Liheslaturan Guåhan*  
**BILL STATUS**

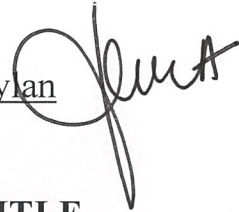
| BILL NO.     | SPONSOR         | TITLE  | DATE INTRODUCED       | DATE REFERRED | CMTE REFERRED | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | FISCAL NOTES | NOTES |
|--------------|-----------------|--|-----------------------|---------------|---------------|---------------------|-----------------------------|--------------|-------|
| 288-35 (COR) | James C. Moylan | AN ACT TO ADD ARTICLE 9, TO CHAPTER 77, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO INFRASTRUCTURE REPAIRS AT THE GUAM MEMORIAL HOSPITAL AUTHORITY. | 2/13/20<br>11:36 a.m. |               |               |                     |                             |              |       |

*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUAHAN*  
2020 (SECOND) Regular Session

Bill No. *288*-35 (*COZ*)

Introduced by:

James C. Moylan



**AN ACT TO *ADD* ARTICLE 9, TO CHAPTER 77, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO INFRASTRUCTURE REPAIRS AT THE GUAM MEMORIAL HOSPITAL AUTHORITY.**

2020 FEB 13 AM 11:36

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that Public Law 35-36 authorized \$10,000,000 to be deposited to the Hospital Capital Improvement Fund (HCI Fund) to allow the Guam Memorial Hospital to address much needed infrastructure repairs including inoperable elevators, leaking roofs, and other issues identified by management. These were funds derived from Fiscal Year 2019 excess revenues, specifically from income and business privilege taxes. The funds have yet to be deposited to this account, and the repairs have yet to be addressed.

Recently, the 35<sup>th</sup> Guam Legislature unanimously passed Bill 210-35, which would essentially cement the language pursued in PL 35-36. Despite numerous inquiries, it was determined that 1). The Fiscal Year 2019 budget is currently being audited, with a report to be completed by April of 2020, 2). The Governor has stipulated that if any surplus is identified, that it will be utilized to bring down the debt, and 3). The provisions in PL 35-36 along with the actual appropriation did not provide a timeline or the list of needed repairs.

1 With this consideration, this Act is being introduced to authorize the Guam  
2 Memorial Hospital Board of Trustees to immediately identify and pursue critical  
3 repairs while being able to offer contributing entities tax credits (in coordination  
4 with the Guam Economic Development Authority) in lieu of contributions. The  
5 mandate in PL 35-36, which outlines a \$10,000,000 deposit to the HCI Fund may  
6 eventually be considered an unfunded mandate, hence, would be qualified as a debt  
7 that the Governor has pledged to reduce. Finally, once the audit on the Fiscal Year  
8 2019 is complete, and excess revenues identified, those monies can be transferred  
9 to the General Fund to assure that other obligations are fulfilled.

10 This Act would allow private entities the opportunity to provide their  
11 services up front, inclusive of capital if needed, in lieu of credits that 1). Would be  
12 capped at no more than \$5,000,000 a year, and 2). Would be equal to their  
13 business privilege tax obligations. Once the mandate identified in PL 35-36 is  
14 made available and deposited into the HCI Fund, any dollar issued in a tax credit  
15 would be replenished back into the General Fund. This process would allow for  
16 the immediate repair of needed upgrades up to a certain amount while waiting for  
17 the bureaucracy process to take its course.

18 The Governor has further reiterated her plans on eventually building a new  
19 hospital, and while there are no contentions on the intention, the reality is that the  
20 process will take years. In the meantime our community has to deal with the  
21 deplorable conditions at GMH. Our manamko have to walk up the stairs because  
22 of the condition of the elevators. While the monies appropriated in PL 35-36 as  
23 well as identified in Bill 210-35 are not sufficient to address all problems at the  
24 public hospital, it is a start, and one desperately needed. This Act if anything  
25 would jumpstart some repairs.

26 **Section 2.** Article 9 is hereby *added* to Chapter 77, Title 12, Guam Code  
27 Annotated to read as follows:



1                   (a) A business, to the extent that such business contributes to  
2                   the cost of the labor, materials, construction, and/or the design for the  
3                   Infrastructure Repairs at GMH pursuant to § 77902, as identified and  
4                   approved by the Guam Economic Development Authority (hereinafter  
5                   shall be referred to as “GEDA”), shall be entitled to credits of  
6                   unpledged business privilege taxes. The basis of the contribution to  
7                   the project shall be the actual cost of the contribution plus the cost of  
8                   transportation from the point of origin to its destination.

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

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

14                  **§77904. Cap on Business Privilege Tax for the Infrastructure**  
15                  **Repairs at the Guam Memorial Hospital Authority.**

16                  (a) The total amount of credits against unpledged business  
17                  privilege taxes for the Infrastructure Repairs at the GMHA, as  
18                  approved by this Act, shall not exceed Ten Million Dollars  
19                  (\$10,000,000) over a two (2) year period. No more than Five Million  
20                  Dollars (\$5,000,000) in tax credits shall be authorized for each year of  
21                  the program.

22                  (b) If, at the expiration of the two (2) year period authorized  
23                  pursuant to this Article, there are still unclaimed authorized tax  
24                  credits, then I Liheslaturan Guahan may, in its discretion, extend the  
25                  eligible period until such time that all eligible tax credits are  
26                  exhausted.

1                   (c) I Liheslaturan Guahan may, in its discretion, extend the  
2                   terms and modify any part of the program based on the need of the  
3                   GMHA.

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

6                   **§77905. GEDA Report.**

7                   GEDA shall submit a report to I Liheslaturan Guahan detailing the  
8                   impact of the program on the business privilege taxes and economic  
9                   activities on Guam. GEDA shall also include in its report its monitoring  
10                  efforts and any other information related to the program. The report shall be  
11                  transmitted to the I Liheslaturan Guahan on an annual basis until the tax  
12                  credit caps pursuant to §77904 of this Article are exhausted.

13                  **§77906. Rules and Regulations.**

14                  GEDA shall implement and monitor the tax credit program authorized  
15                  pursuant to this Article based on rules and regulations already adopted by  
16                  GEDA for previous tax credit programs.

17                  **§77907. Approval of Contributions.**

18                  GEDA shall be responsible for approving the contributions for tax  
19                  credits made towards the labor, materials, construction and/or designs of  
20                  Infrastructure Repairs at the GMHA pursuant to this Article.

21                  **§77908. Regulatory Oversight and Approval.**

22                  The GMHA Board of Trustees shall have regulatory oversight, and  
23                  authority to manage and approve the Infrastructure Repairs at the GMHA  
24                  pursuant to this Article, along with the selection of the contributors, based  
25                  on criteria established by the Guam Services Agency. Any contributor who  
26                  successfully participates in this tax credit program shall have the authority to

1 display the name of their business in an area at GMHA, designated by the  
2 GMH Board of Trustees as a contributor.

3 **§77909. Fines and Penalties.**

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

18 **§77910. Replenishment to the General Fund.**

19 Any funds deposited into the *Hospital Capital Improvement Fund*,  
20 pursuant to the provisions of the funding source outlined in Public Law 35-  
21 36, the amount equal to the amount of tax credits issued pursuant to this Act,  
22 shall be deposited to the General Fund within thirty (30) days of deposit.

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

1      **Section 4. Effective Date.** The Act *shall* become effective upon enactment.