

*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
305-35 (COR)	James C. Moylan	AN ACT TO ADD CHAPTER 98 TO DIVISION 4 OF TITLE 10, GUAM CODE ANNOTATED RELATIVE TO A PUBLIC-PRIVATE PARTNERSHIP FOR THE MANAGEMENT OF THE GUAM MEMORIAL HOSPITAL.	2/24/20 10:27 a.m.						

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

Bill No. *305*-35 (*Cor*)

Introduced by:

James C. Moylan 

**AN ACT TO *ADD* CHAPTER 98 TO DIVISION 4 OF  
TITLE 10, GUAM CODE ANNOTATED RELATIVE TO  
A PUBLIC-PRIVATE PARTNERSHIP FOR THE  
MANAGEMENT OF THE GUAM MEMORIAL  
HOSPITAL.**

2020 FEB 24 AM 10:27 *ja*

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds  
3 that Public Law 33-143, which was enacted in 2016, requested the Guam  
4 Economic Development Authority (GEDA) to determine the public's interest for  
5 the management and operation of the Guam Memorial Hospital Authority.  
6 Essentially it requested that GEDA issue a Request for Information (RFI) and that  
7 upon submittal of responses, to present a summary to the Guam Legislature for  
8 further action. It was determined in an official correspondence dated September  
9 23, 2016 from former GEDA Administrator Jay Rojas, to former Speaker Judith  
10 Won Pat that there were three entities which responded positively, and simply  
11 requested that Guam Legislature pursue legislation to request that stakeholders  
12 establish a Request for Proposal to seek a Public-Private Partnership for the  
13 Management and Operations of the Guam Memorial Hospital (GMHA).

14           Unfortunately no actions to pursue such an endeavor were achieved in both  
15 the 33rd or 34th Guam Legislatures, and the concerns then were no different than

1 the concerns outlined today, and that is whether the government of Guam should  
2 continue to pursue managing the GMHA or contracting a professional entity with  
3 experience to instead step in and lead the way. This process not only would  
4 remove any political interference in the operations of the public facility, but would  
5 allow a private entity to bring their knowledge to assure that the objectives and  
6 legal mandates of the public hospital are met.

7 This Act provides a thorough process in pursuing the Public-Private  
8 Partnership through a Performance Management Contract (PMC). It authorizes the  
9 GMHA to develop a Request for Proposal (RFP), which shall be forwarded to the  
10 Guam Legislature for actions. Along with public input, the Guam Legislature  
11 would have to adopt the language for the final RFP, and after enactment by the  
12 Governor of Guam, GMHA (with the efforts of both the Guam Economic  
13 Development Authority and the General Services Agency) would issue the RFP.  
14 After the process closes, responses are submitted, GMHA would then provide a  
15 summary to the Guam Legislature for further action and approval.

16 A PMC, as this Act pursues, could be transferable in the event that a new  
17 GMHA is constructed, if that authority is indeed enacted into law. It may take  
18 years to finance, construct, and open a new facility, however in the meantime we  
19 have a facility that has issues with infrastructure needs and a management structure  
20 that many continue question (and have for years), hence the need to seek  
21 experience outside of the political box. As for what scope of operations should be  
22 outsourced, this is a discussion this Act shall place on the table. It mandates a  
23 process which would be thorough and with realistic timelines being pursued, while  
24 assuring that adequate input is provided by all stakeholders including the public.

25 **Section 2.** A new Chapter 98 is hereby *added* to Division 4 of Title 10,  
26 Guam Code Annotated to read as follows:

27 **“CHAPTER 98**

1 PUBLIC-PRIVATE PARTNERSHIP FOR THE MANAGEMENT OF THE  
2 GUAM MEMORIAL HOSPITAL AUTHORITY THROUGH A  
3 PERFORMANCE MANAGEMENT CONTRACT

4 § 98101. Performance Management Contract.

5 § 98201. Contract Limits.

6 § 98301. Conflicts.

7 § 98101. Performance Management Contract

8 (a) The Board of Trustees (hereinafter referred to as "BOT") of the  
9 Guam Memorial Hospital Authority (hereinafter referred to as "GMHA")  
10 shall be authorized to prepare a Request for Proposal (hereinafter referred to  
11 as "RFP") for a Public-Private Partnership (hereinafter referred to as "PPP")  
12 for the management, operation and maintenance of the Guam Memorial  
13 Hospital Authority through a Performance Management Contract  
14 (hereinafter referred to as "PMC"), subject to the procurement laws of  
15 Guam. The scope of work required through this RFP, shall include the daily  
16 management, operation and maintenance of the GMHA. The BOT shall  
17 work with the Guam Economic Development Authority (hereinafter referred  
18 to as "GEDA") in the preparation of the RFP pursuant to this Chapter.

19 (b) The RFP shall include performance standards which shall provide  
20 operating criteria and guidelines, organizational structure of the management  
21 of GMHA under a PMC, an understanding of the protection of classified  
22 employees of the GMHA, outlining the scope of management which shall be  
23 extended in the PMC, a maintenance plan, a compensation arrangement for  
24 the contract holder, and any pertinent information that the GMHA believes  
25 shall be needed to successfully incentivize potential bidders for the PMC,  
26 while assuring that GMHA's objectives and legal mandates are achieved.

27 (c) The BOT of the GMHA shall have up to ninety (90) days to

1 prepare the RFP, and shall submit the RFP to the Committee on Health of  
2 the Guam Legislature for further action. The Committee on Health shall  
3 introduce the RFP as legislation for further deliberations including at least  
4 two (2) public hearings, and shall have no more than sixty (60) days to act  
5 on the legislation, including any amendments.

6 (d) Upon enactment of the legislation by the Governor of Guam,  
7 which approves the RFP, the BOT of the GMHA, in coordination with  
8 GEDA, shall have up to thirty (30) days to issue the RFP pursuant to this  
9 Chapter. Parties interested in submitting proposals shall have sixty (60)  
10 days to prepare and submit a response to the GMHA. The General Services  
11 Agency Chief Procurement Officer shall be an observer throughout the RFP  
12 process pursuant to this Chapter, shall receive copies of all documents  
13 involved and shall be invited to any meetings regarding the public-private  
14 partnership process pursuant to this Chapter.

15 (e) The BOT of the GMHA shall submit their summary of the results  
16 of the RFP, along with their recommendation, provided, that qualified  
17 offerors have submitted proposals in compliance with the procurement laws  
18 of Guam, to the Committee of Health of the Guam Legislature, no more than  
19 thirty (30) days after the closing date of the RFP. The recommendation shall  
20 be introduced as legislation by the Committee, and the Guam Legislature  
21 shall have no more than sixty (60) days to act on the legislation, and approve  
22 or deny the recommendation. The Guam Legislature shall not make any  
23 amendments to the legislation, and shall hold at least two (2) public hearings  
24 for input.

25 (f) Upon enactment of the legislation by the Governor which shall  
26 approve the recommendation, the BOT of the GMHA shall award a  
27 performance management contract pursuant to the process detailed in this

1        Chapter in no later than ninety (90) days. The Attorney General shall act as  
2        legal advisor during all phases of the solicitation or procurement process and  
3        shall have the authority to extend the timelines as outlined in this Chapter as  
4        it deems necessary.

5        **§ 98201. Contract Limits.**

6        The awarded contract, which is subject to the provisions of this Act, shall be  
7        awarded for periods of not less than ten (10) years, with options to renew every  
8        five (5) years and not to exceed a total of twenty (20) years. The awarded contract,  
9        subject to the provisions of this Act, must contain performance reviews at least  
10       annually by GEDA, and provisions for contract termination and penalty based  
11       upon such review. Any recommendation by GEDA to terminate the contract prior  
12       to its renewal date shall be approved by the Guam Legislature by no less than two  
13       thirds (2/3rds) of the members present who shall vote in the affirmative.

14       **§ 98301. Conflicts.**

15       No contract awarded subject to the provisions of this Act shall be awarded to  
16       any party who has a blood or marital relationship to the third (3rd) degree of  
17       consanguinity with the Administrator of the GMHA, a Board of Trustee Member  
18       of the GMHA, the Governor of Guam, the Lieutenant Governor of Guam, or a  
19       Member of the Guam Legislature.”

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

25       **Section 4. Effective Date.** The act shall become effective immediately  
26 upon enactment.