

I MINA'TRENTA NA LIHESLATURAN GUAHAN
2010 (SECOND) Special Session

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Bill No. 1 (5-5)

Introduced by:

Committee on Rules, Natural
Resources, and Federal,
Foreign & Micronesia Affairs

By request of *I Maga'lahaen*
Guahan in accordance with the
Organic Act of Guam

AN ACT TO REPEAL AND RE-ENACT §58A105 OF TITLE 5 G.C.A

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

3 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
4 that in order to purchase the tax-exempt obligations or other financial instruments
5 to be sold to finance the Education Facility (a replacement high school to be
6 located on the existing site of John F. Kennedy High School in Tumon) pursuant to
7 Chapter 58A of Title 5, Guam Code Annotated, investors require certainty that the
8 Lease, Lease-Back, Contract and other agreements relating to the design,
9 construction, maintenance and financing of the Education Facility will be valid and
10 binding obligations when executed and delivered. *I Liheslatura* hereby finds and
11 determines that providing such certainty is in the best interests of the Territory in
12 expeditiously providing safe and modern facilities for the education of its high
13 school population. *I Liheslatura* hereby declares pursuant to §702 of Title 1 Guam

1 Code Annotated, that if and to the extent that Section 2 of this Act must be given
2 retroactive effect to enable the procurement process existing as of the date of
3 enactment of this Act to proceed to completion, such retroactive effect is intended.

4 **Section 2.** §58A105 of Chapter 58A of Title 5, Guam Code Annotated, is
5 hereby repealed and re-enacted to read:

6 "§ 58A105. Procurement. (a) Subject to the approval of *I Liheslaturan Guåhan*,
7 the government of Guam or an Education Agency may solicit Requests for
8 Proposals ('RFP') through the Department of Public Works, in compliance with
9 the Guam Procurement Law, for the financing, design and construction of the
10 Education Facility, together with maintenance of the Education Facility over the
11 term of the Lease -Back, according to the needs of the Education Agency and
12 consistent with this Chapter. Notwithstanding the foregoing, in connection with
13 any amendments to an existing Lease or Lease-Back, the Contractor with respect to
14 such amendments *shall* be the Contractor with respect to the existing Lease or
15 Lease-Back. The RFP *shall* be issued within thirty (30) days of enactment of this
16 Act for replacement of the John F. Kennedy High School Facility on the existing
17 site; may include demolition of such portions of the existing facility as necessary;
18 and *shall* include a requirement that occupancy of the JFK facility take place *no*
19 *later than* nine (9) months after execution of the Contract.

20 (b) Upon the execution and delivery by the Education Agency of the

1 Contract, the Lease, the Lease-Back and any other agreements relating to the
2 design, construction, maintenance and financing of the Education Facility, the
3 Contract, Lease, Lease-Back and such other agreements shall be valid and binding
4 obligations of the Education Agency, enforceable in accordance with their
5 respective terms, notwithstanding any proceedings under Chapter 5 of Title 5 of
6 the Guam Code Annotated to the Contrary; and upon the execution and delivery of
7 the agreement for the purchase of the tax-exempt obligations or other financial
8 instruments that will finance the Education Facility, no proceeding under Chapter 5
9 of Title 5 of the Guam Code Annotated shall be permitted to challenge the validity
10 or enforceability of such agreement, the Contract, the Lease and the Lease-Back, or
11 any other agreements relating to the design, construction, maintenance and
12 financing of the Education Facility.”