

EDDIE BAZA CALVO
Governor



RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

April 19, 2011

31-11-441

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Unu Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

A/19/11
5:04 pm
RMM

Dear Madame Speaker:

Transmitted herewith is Substitute Bill No. 64-31 (COR) "AN ACT TO ADD A NEW §7112.1 TO DIVISION 2, CHAPTER 7 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM DEPARTMENT OF EDUCATION (GDOE) TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP FOR THE MANAGEMENT OF THE MAINTENANCE, OPERATION AND REPAIR OF GDOE FACILITIES", which I signed into law on April 18, 2011 as **Public Law 31-29**.

Senseramente,


EDDIE BAZA CALVO

Attachment: copy of Bill

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

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

This is to certify that **Substitute Bill No. 64-31 (COR), "AN ACT TO ADD A NEW §7112.1 TO DIVISION 2, CHAPTER 7 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM DEPARTMENT OF EDUCATION (GDOE) TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP FOR THE MANAGEMENT OF THE MAINTENANCE, OPERATION AND REPAIR OF GDOE FACILITIES"**, was on the 4th day of April, 2011, duly and regularly passed.

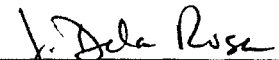


Judith T. Won Pat, Ed.D.
Speaker

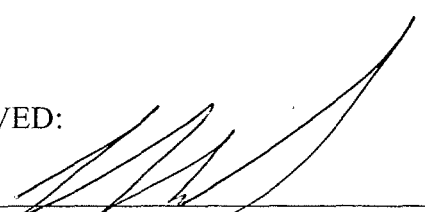
Attested:


Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 7th day of April, 2011, at 09:50 o'clock A.M.


J. Dela Rosa
Assistant Staff Officer
Maga'lahaen's Office

APPROVED:


EDWARD J.B. CALVO
I Maga'lahaen Guåhan

APR 18 2011

Date: _____

Public Law No. 31-29

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 64-31 (COR)

As substituted by the Committee on Youth, Cultural Affairs,
General Government Operations, Procurement and Public Broadcasting
and the Author, and amended on the Floor.

Introduced by:

Aline A. Yamashita, Ph.D.
T .C. Ada
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Duenas
Sam Mabini, Ph.D.
Judith P. Guthertz, DPA
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
v. c. pangelinan
R. J. Respicio
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Judith T. Won Pat, Ed.D.

**AN ACT TO *ADD* A NEW §7112.1 TO DIVISION 2,
CHAPTER 7 OF TITLE 17, GUAM CODE ANNOTATED,
RELATIVE TO AUTHORIZING THE GUAM
DEPARTMENT OF EDUCATION (GDOE) TO ENTER
INTO A PUBLIC-PRIVATE PARTNERSHIP FOR THE
MANAGEMENT OF THE MAINTENANCE,
OPERATION AND REPAIR OF GDOE FACILITIES.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds

3 that the Guam Department of Education (GDOE) continues to be plagued with

1 issues throughout its facilities, resulting – over the years – in the temporary closure
2 of some. There are currently forty-one (41) schools in the GDOE inventory, of
3 which more than half are over forty (40) years old. As facilities get older the cost
4 of maintenance increases. In some cases, the damages to facilities from natural
5 disasters occurring almost ten (10) years ago still have yet to be addressed.

6 *I Liheslaturan Guåhan* further finds that maintenance and repair budgets for
7 GDOE have been insufficient to accomplish needed tasks. Annually, GDOE
8 receives about forty percent (40%) of the overall government of Guam fiscal year
9 budget appropriations. Approximately eighty percent (80%) of the GDOE
10 appropriation is used for personnel with the remainder divided among GDOE’s
11 operations, of which education-related activities are the most important. It is
12 therefore imperative that the GDOE has the ability to provide its Facilities and
13 Maintenance (F&M) Division employees proper training, and that maintenance
14 activities are prioritized and streamlined using best-management practices
15 established by industry standards to achieve optimum results, and to ensure that
16 quality standards are maintained.

17 Furthermore, *I Liheslaturan Guåhan* finds that the Guam Waterworks
18 Authority and the Guam Power Authority have engaged in public-private
19 partnerships with positive results. Different audits on GDOE have also
20 recommended that GDOE utilize the public-private partnership concept.
21 Therefore, *I Liheslatura* intends to provide GDOE the ability to enter into a public-
22 private partnership for the management of the maintenance, operation and repair of
23 GDOE facilities.

24 **Section 2.** A new §7112.1 is hereby *added* to Chapter 7, Division 2 of
25 Title 17, Guam Code Annotated, to read:

26 **“§7112.1. Public-Private Partnership for the Management of**
27 **the Maintenance, Operation and Repair of GDOE Facilities.**

1 (a) The Guam Department of Education (GDOE) *shall* solicit
2 proposals or bids from qualified parties for the management of the
3 maintenance, operation and repair of GDOE facilities. Such solicitation
4 *shall* be subject to the procurement laws of the government of Guam. The
5 solicitation *shall* include in its scope of work at a minimum, but *not* limited
6 to:

7 (1) An energy savings performance contract (ESPC) in
8 which the Contractor provides design-build services, inclusive of the
9 acquisition of energy and water efficient fixtures, operations and
10 maintenance services, with guaranteed utility savings which *shall* be
11 used to pay the Contractor.;

12 (2) Facilities & Maintenance personnel training;

13 (3) A five (5)-year plan to address and ensure compliance
14 with the Adequate Education Act found in Public Law 28-45 and
15 other applicable public health and safety requirements.

16 GDOE *shall* issue such solicitation one hundred twenty (120) days
17 after the enactment of this Section.

18 The procurement process *shall* adhere to the mandates of Public Law
19 30-157 relative to the duties of the Attorney General. In the event the
20 GDOE finds that it is in its best interests to enter into a contract for the
21 management of the GDOE facilities, the conditions set forth in this §7112.1
22 *shall* apply to such contract.

23 (b) Notwithstanding any other provision of law or regulation, the
24 GDOE may enter into a public-private partnership agreement pursuant to
25 this Section §7112.1 for a period *up to* fifteen (15) years. The initial term of
26 such an agreement *shall* be for a period of *at least* five (5) years.

1 (c) Initial Investment. The Contractor *shall* be required to
2 purchase or finance a minimum of Five Million Dollars (\$5,000,000) in
3 equipment acquisition or structural repairs and upgrades of GDOE facilities
4 within one (1) year from the execution of the contract.

5 (d) Special Terms.

6 (1) The principal performance manager of the selected
7 Contractor *shall* have a minimum of ten (10) years of experience in
8 managing the operation and maintenance of educational, residential,
9 or food service facilities;

10 (2) The Contractor must be licensed on Guam to perform the
11 requisite services at the time of contract execution; and

12 (3) All GDOE Facilities and Maintenance Division
13 employees *shall* continue to be employees of the government of
14 Guam, and subject to the applicable personnel rules and regulations of
15 the GDOE.

16 (e) Contract Performance Reviews. All contracts awarded subject
17 to the provisions of this Act must contain performance reviews at least
18 annually, and provisions for contract termination *or* penalty based upon such
19 review.

20 (f) GDOE Maintenance Division employees *shall* have the option
21 to transfer to another line or autonomous agency or department of the
22 government within ninety (90) days of the GDOE contract with a PMC
23 without losing their pay grade, leave, or other benefits, *provided*, that a
24 vacancy exists in the receiving agency and the employee meets the
25 qualification requirements.”

26 **Section 3. Effective Date.** This Act *shall not* take effect until a payment
27 source or a budget for the initial Five Million Dollars (\$5,000,000) and the

1 amounts required for the remainder of the fifteen (15) year contract period is
2 submitted to and approved by *I Liheslaturan Guåhan* (the Guam Legislature).

3 **Section 4. Severability.** *If* any provision of this law or its application to
4 any person *or* circumstance is found to be invalid *or* contrary to law, such
5 invalidity *shall not* affect other provisions or applications of this law which can be
6 given effect.

6

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2011 (FIRST) Regular Session

Date: 4/4/11

VOTING SHEET

SBill No. 64-31(COR)

Resolution No. _____

Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
ADA, V. Anthony	✓				
BLAS, Frank F., Jr.	✓				
CRUZ, Benjamin J. F.					EA
DUENAS, Christopher M.	✓				
GUTHERTZ, Judith Paulette	✓				
MABINI, Sam	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera		✓			
RESPICIO, Rory J.	✓				
RODRIGUEZ, Dennis G., Jr.	✓				
SILVA TAIJERON, Mana	✓				
WON PAT, Judith T.	✓	✓			
YAMASHITA, Aline A.	✓				

TOTAL

12 2 _____ _____ 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote

EA = Excused Absence



March 15, 2011

The Honorable Judith T. Won Pat
Speaker
I Mina' Trentai Unu Na Liheslatuaran Guahan
31st Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

VIA: The Honorable Rory J Respicio
Chairperson, Committee on Rules

RE: Committee Report on Bill No. 64-31 (LS) As Substituted

Dear Speaker Won Pat:

Transmitted herewith is the Report of Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting the on Substitute Bill No.64-31(COR) – “An Act To *Add* § 7112.1 To Chapter 7, Division 2, Title 17, Guam Code Annotated, Relative To Authorizing The Guam Department Of Education To Enter Into A Public-Private Partnership For The Management Of The Maintenance, Operation And Repair Of GDOE Facilities.”- sponsored by Senator Aline Yamashita.

Committee votes are as follows:

<u>3</u>	TO DO PASS
_____	TO NOT PASS
<u>4</u>	TO REPORT OUT ONLY
_____	TO ABSTAIN
_____	TO PLACE IN INACTIVE FILE

Sincerely,

BENJAMIN J.F. CRUZ
Chairperson

2011 MAR 15 AM 9:13
100



COMMITTEE REPORT

ON

SUBSTITUTE BILL 64-31 (COR)

“An Act To *Add* § 7112.1 To Chapter 7, Division 2, Title 17, Guam Code Annotated, Relative To Authorizing The Guam Department Of Education To Enter Into A Public-Private Partnership For The Management Of The Maintenance, Operation And Repair Of GDOE Facilities.”



March 14, 2011

MEMORANDUM

TO: All Members
Committee on Youth, Cultural Affairs, Procurement, General
Government Operations and Public Broadcasting

FROM: Vice Speaker Benjamin J.F. Cruz

SUBJECT: Committee Report on Bill No. 64-31 (COR) As Substituted

Transmitted herewith for your consideration is the Committee Report on Bill No.64-31(COR) –
“An Act To Add § 7112.1 To Chapter 7, Division 2, Title 17, Guam Code Annotated, Relative To
Authorizing The Guam Department Of Education To Enter Into A Public-Private Partnership For
The Management Of The Maintenance, Operation And Repair Of GDOE Facilities.”

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Substitute Bill No. 64-31(COR)
- Bill No. 64-31(COR)
- Public Hearing Sign-in Sheet
- Testimony of Dr. Nerissa Bretania Underwood
- Testimony of Haya District
- Testimony of Billy Cruz
- Testimony of John M. Benavente
- Testimony of John Ilaos
- Testimony of Ronal Ayuyu
- Testimony of Luchan Principal
- Testimony of Team Kattan
- Testimony of Team Lagu
- Testimony of David Leddy
- Testimony of Monty McDowell
- Testimony of Matt Rector
- COR Referral of Bill No. 64-31(LS)
- Fiscal Note Waiver
- Notices of Public Hearing
- Public Hearing Agenda

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Benjamin J.F. Cruz'.

BENJAMIN J.F. CRUZ
Chairperson



COMMITTEE VOTING SHEET

**SUBSTITUTE BILL 64-31(COR) "AN ACT TO ADD § 7112.1
 TO CHAPTER 7, DIVISION 2, TITLE 17, GUAM CODE
 ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM
 DEPARTMENT OF EDUCATION TO ENTER INTO A
 PUBLIC-PRIVATE PARTNERSHIP FOR THE
 MANAGEMENT OF THE MAINTENANCE, OPERATION
 AND REPAIR OF GDOE FACILITIES."**

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
CRUZ, BENJAMIN J.F. Chairperson				✓		
MUÑA BARNES, TINA ROSE Vice-Chairperson						
WON PAT, JUDITH T. Speaker and Ex-Officio Member				3/15/11		
ADA, THOMAS C. Member		✓ 3/15/11				
GUTHERTZ, JUDITH P. Member				✓		
RESPICIO, RORY J. Member						
RODRIGUEZ, DENNIS G. JR. Member						
ADA, V. ANTHONY Member						
DUENAS, CHRISTOPHER Member				✓ 3/15/11		
MABINI, SAM Member		✓ 3/15/11				
YAMASHITA, ALINE Member		✓ 3/15/11				



Committee Report Digest

LOVERVIEW

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting convened a public hearing on Wednesday, February 17, 2011 at 9:00 a.m. in the Public Hearing Room of *I Liheslatura*. Among the items on the agenda was the consideration of Substitute Bill No.64-31(COR) – “An Act To *Add* § 7112.1 To Chapter 7, Division 2, Title 17, Guam Code Annotated, Relative To Authorizing The Guam Department Of Education To Enter Into A Public-Private Partnership For The Management Of The Maintenance, Operation And Repair Of GDOE Facilities.”

Public Notice Requirements

All legal requirements for public notices were met, with requests for publication sent to all senators on February 10 via email and fax. Notices of the hearing were published in the Marianas Variety Guam edition on February 10 and February 15. Copies of the hearing notices are appended to the report.

Senators Present

Senator Tina Rose Muna Barnes, Acting Chairperson
Senator Judith P. Guthertz, DPA, Committee Member
Senator Thomas C. Ada, Committee Member
Senator V. Anthony Ada, Committee Member
Senator Christopher M. Duenas, Committee Member
Senator Sam Mabini, Ph.D., Committee Member
Senator Aline A. Yamashita, Ph.D., Committee Member
Senator Mana Silva Tajjeron

The public hearing was called to order at 9:02 a.m.

II. SUMMARY OF TESTIMONY AND DISCUSSION

Acting Committee Chairperson Tina Rose Muña Barnes called the public hearing to order at 9:02 a.m. and announced the morning's agenda. Senator Guthertz, the sponsor of the bill, requested that Bill No. 8-31(COR) be heard first. Senator Tom Ada objected to the change in the agenda since Bill No. 8-31(COR) was scheduled for the afternoon session. Acting Chairperson Muña Barnes acknowledged the objection and agreed to accept testimony on Bill 8 -31(COR) during both morning and afternoon sessions.

Ed Leon Guerrero is a former manager of Facilities at GDOE. He was alarmed that no job posting was ever put out. He says the job can be done if they had funding and manpower. He said that his crew was limited as well but he certainly did a better job than is currently being done. He is for the hiring of more personnel but said that personnel and management needed to be held accountable for doing the job they are hired to do.

Anita Manibusan is a parent of children of Southern high. Years ago they had their own custodians there were no problems. She agrees with minimal outsourcing but doesn't believe that the school should provide supplies. PTO meets every 2 Saturday to clean the exterior of the campus. She understands that money is tight but she wonders if it's cost effective to hire private contractors when they aren't there all the time.

Ron Ayuyu says he wonders about funding and that's his concern. He says her intention is good, but are they going to mandate funding. He wants clarification in black and white on funding source. If funding is mandated then he is for Bill 64.

Agustin Manalisay says he is in support if there is a funding source. He would go with Yamashita's bill as long as they have funding and are companies that taxes and spend money on Guam. He worries about fly by night companies coming in and taking money and leaving.

Joseph B. Perez claims they only need funding, manpower, equipment, and resources. He compares it to military and claims that he had adequate resources and could complete his missions because of it. He is against Bill 64. His claims they did it before, and will do it again they just lack manpower, equipment and resources.

Joe S. San Agustin is in support but he's concerned about funding. He is still waiting for a report that was promised when the law mandating the hiring freeze was passed. He is for Bill 64 if funding is mandated.

III. FINDINGS AND RECOMMENDATIONS

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting finds that testimony has promoted open dialogue to craft a substitute bill that addresses issues brought up during the public hearing and in written testimony.

These revisions are meant to ensure that the Guam Department of Education is given the ability to address long-standing maintenance issues so that GDOE may focus on its core mission of education.

Substitute Bill No. 64-31 (COR

The following revisions to Bill No. 64-31(COR) are contained in Substitute Bill No. 64-31(COR). The title has been *AMENDED* as follows:

AN ACT TO *ADD* § 7112.1 TO CHAPTER 7, DIVISION 2, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM DEPARTMENT OF EDUCATION TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP THROUGH A PERFORMANCE FOR THE MANAGEMENT CONTRACT FOR OF THE MAINTENANCE, OPERATION AND MAINTENANCE REPAIR OF GDOE OF ITS STRUCTURAL AND GROUNDS FACILITIES.

- **Section 1. Legislative Findings and Intent** has been rewritten.
- **Section 2** has been *AMENDED* as follows:
 - “§ 7112.1. **Public-Private Partnership Authorization through a Performance Management Contract for the management of the maintenance, operation and repair of GDOE facilities.**
 - A solicitation will be issued 120 days after section enactment.
 - Minimum scope of work has been added:
 - Acquisition of energy and water efficient fixtures;
 - F&M personnel training;
 - A five-year plan to address and ensure compliance with the 14 points of the Adequate Education Act and applicable public health and safety requirements.

Item (b) **Powers and Duties** has been replaced with (b) **Initial Investment** requiring the contractor “to purchase or finance a minimum of \$5 million in equipment acquisition or structural repairs and upgrades of GDOE facilities within one (1) year from the execution of the contract.”

Item (c) **Special Terms** has been changed, with the removal of Nos. 4 through 9, to the following:

(1) The principal performance manager of the selected contractor *shall* have a minimum of 10 years of experience in managing the operation and maintenance of educational, residential, or food service facilities;

(2) The contractor must be licensed on Guam to perform the requisite services at the time of contract execution; and,

(3) All GDOE F&M Division employees *shall* continue to be employees of the government of Guam, and subject to the applicable personnel rules and regulations of the GDOE.

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting to which was referred Bill No. 64-31 (COR), hereby submits these findings to *I Mina' Trentai Unu na Liheslaturan Guahan* and reports out Substitute Bill No. 64-31(COR) with the recommendation TO REPORT OUT ONLY.

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

BILL NO. 64-31 (COR)

As substituted by the Committee on Youth, Cultural Affairs,
Governmental Operations, Procurement and Public Broadcasting
and the Author

Introduced by:

A.A. YAMASHITA, PhD
T.C. ADA

**AN ACT TO ADD § 7112.1 TO CHAPTER 7, DIVISION 2,
TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO
AUTHORIZING THE GUAM DEPARTMENT OF
EDUCATION TO ENTER INTO A PUBLIC-PRIVATE
PARTNERSHIP FOR THE MANAGEMENT OF THE
MAINTENANCE, OPERATION AND REPAIR OF GDOE
FACILITIES.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan*
3 finds that the Guam Department of Education (hereinafter GDOE) continues
4 to be plagued with issues throughout its facilities, resulting – over the years
5 – in the temporary closure of some. There are currently 41 schools in the
6 GDOE inventory, of which more than half are over 40 years old. As
7 facilities get older the cost of maintenance increases. In some cases, the
8 damages to facilities from natural disasters occurring almost 10 years ago
9 still have yet to be addressed.

10 *I Liheslaturan Guahan* further finds that maintenance and repair
11 budgets for GDOE have been insufficient to accomplish needed tasks.
12 Annually, GDOE receives about 40 percent of the overall government of
13 Guam fiscal year budget appropriations. Approximately 80 percent of the

1 GDOE appropriation is used for personnel with the remainder divided
2 among GDOE’s operations, of which education-related activities are the
3 most important. It is therefore imperative that the GDOE has the ability to
4 provide its Facilities and Maintenance (F&M) Division employees proper
5 training and that maintenance activities are prioritized and streamlined using
6 best-management practices established by industry standards to achieve
7 optimum results, and to ensure that quality standards are maintained.

8 Furthermore, *I Lihesturan Guahan* finds that Guam Waterworks
9 Authority and the Guam Power Authority have engaged in public-private
10 partnerships with positive results. Different audits on GDOE have also
11 recommended that GDOE utilize the public-private partnership concept.
12 Therefore, *I Liheslatura* intends to provide GDOE the ability to enter into a
13 public-private partnership for the management of the maintenance, operation
14 and repair of GDOE facilities.

15 **Section 2. A new 17 GCA § 7112.1 is hereby *added to read:***

16 **“§ 7112.1. Public-Private Partnership for the management of the**
17 **maintenance, operation and repair of GDOE facilities.**

18 The Guam Department of Education (GDOE) *shall* solicit proposals or
19 bids from qualified parties for the management of the maintenance,
20 operation and repair of GDOE facilities. Such solicitation *shall* be subject to
21 the procurement laws of the government of Guam. The solicitation *shall*
22 include in its scope of work at a minimum, but not limited to:

- 23 1. Acquisition of energy and water efficient fixtures;
- 24 2. Facilities & Maintenance personnel training;
- 25 3. A five-year plan to address and ensure compliance with the Adequate
26 Education Act found in Public Law 28-45 and other applicable public
27 health and safety requirements.

1 GDOE *shall* issue such solicitation one hundred twenty (120) days
2 after enactment of this section.

3 The procurement process *shall* adhere to the mandates of Public Law
4 30-157 relative to the duties of the Attorney General. In the event the
5 GDOE finds that it is in its best interests to enter into a contract for the
6 management of the MOR of GDOE facilities, the following conditions shall
7 apply to such contract:

8 **(a).** Notwithstanding any other provision of law or regulation, the
9 GDOE may enter into a public-private partnership agreement pursuant to
10 this section §7112.1 for a period up to fifteen (15) years. The Initial Term of
11 such an agreement *shall* be for a period of at least five (5) years.

12 **(b). Initial Investment.** The contractor *shall* be required to purchase
13 or finance a minimum of \$5 million in equipment acquisition or structural
14 repairs and upgrades of GDOE facilities within one (1) year from the
15 execution of the contract.

16 **(c). Special Terms.**

17 (1) The principal performance manager of the selected
18 contractor *shall* have a minimum of 10 years of experience in
19 managing the operation and maintenance of educational, residential,
20 or food service facilities;

21 (2) The contractor must be licensed on Guam to perform the
22 requisite services at the time of contract execution; and,

23 (3) All GDOE Facilities and Maintenance Division employees
24 *shall* continue to be employees of the government of Guam, and
25 subject to the applicable personnel rules and regulations of the GDOE.

26 **(d). Contract Performance Reviews.** All contracts awarded subject to
27 the provisions of this Act must contain performance reviews at least


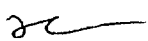
1 annually, and provisions for contract termination *or* penalty based upon
2 such review."


3 **Section 3. Severability.** *If* any provision of this law or its application
4 to any person *or* circumstance is found to be invalid *or* contrary to law, such
5 invalidity *shall not* affect other provisions or applications of this law which
6 can be given effect.

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

BILL NO. 124-31 (Cob)

Introduced by:

A.A. YAMASHITA, PhD 
T.C. ADA 

2011 FEB -2 PM 12: 59 

AN ACT TO ADD § 7112.1 TO CHAPTER 7, DIVISION 2, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM DEPARTMENT OF EDUCATION TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP THROUGH A PERFORMANCE MANAGEMENT CONTRACT FOR THE MANAGEMENT, OPERATION AND MAINTENANCE OF ITS STRUCTURAL AND GROUNDS FACILITIES.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan*

3 finds that the Department of Education continues to be plagued with issues
4 throughout its facilities. Instructional time has been disrupted as students
5 have been dismissed because of structural and environmental problems that
6 include issues involving plumbing and electrical infrastructure, structural
7 integrity, sewage overflows, pest infestation and other sanitation concerns.
8 For the past few years, after various inspections, schools were shut down
9 until corrective measures were taken. Since, School Year 2008-2009, the
10 students, faculty and staff of John F. Kennedy High School have been
11 displaced due to the disrepair and history of maintenance and structural
12 dilemmas of the Tamuning campus. Southern High School students have
13 been unable to use all of the Santa Rita campus facilities – including its fine

1 arts auditorium, gymnasium, Olympic-size pool, sports fields – and have
2 continually dealt with air conditioning and plumbing issues. Many of the
3 forty-one (41) public schools in the Guam Department of Education
4 inventory face similar circumstances. While many are well aware of the
5 state of disrepair of our schools, many may not be aware that the state of
6 affairs of the classrooms and the school facilities have a significant impact
7 on the educational experience of our students. Additionally, the routine
8 deferral of maintenance until the facility is no longer functional often results
9 in greater maintenance costs, and on many occasions the loss of instructional
10 time.

11 *I Liheslatura* intends to provide a means to ensure that all facilities are
12 properly maintained at high standards and employees are afforded the
13 training, skills and resources to effectively perform their duties, so students
14 can learn and teachers can continue to educate in facilities that are safe,
15 secure and sanitary.

16 *I Liheslatura* intends to provide a proven model that will ensure the
17 procurement, training, and support of employees is implemented. *I*
18 *Liheslatura* finds that previously established Performance Management
19 Contracts (hereinafter referred to as “PMCs”) within the government of
20 Guam such as the Guam Power Authority and the Guam Waterworks
21 Authority. The PMCs have yielded outstanding cost savings generally
22 realized through preventative maintenance measures, enhanced reliability,
23 enhanced employee training opportunities and ultimately have resulted in
24 improved services.

25 **Section 2. A new 17 GCA § 7112.1 is hereby *added* to read:**
26 **“§ 7112.1. Public-Private Partnership Authorization through a**
27 **Performance Management Contract.** The Department of Education

1 (hereinafter "Department") is authorized to issue a Multi-Step Bid (MSB) or
2 an Invitation for Bid (IFB) that solicits proposals from qualified parties for
3 the management, operation and maintenance of its structural and grounds
4 facilities through a performance management contract. The PMC
5 procurement process shall be subject to the procurement laws of the
6 Government of Guam. The scope of work required *shall* include the daily
7 operation and maintenance of its facilities and equipment, initiating repairs
8 to the facilities inclusive of all parts and labor, minimum performance
9 standards and conducting all preventive maintenance on DOE facilities,
10 including the acquisition for replacement of such equipment.

11 The procurement *shall* include minimum performance standards that
12 will provide operating criteria, guidelines and requirements to provide for
13 cost savings, quality improvement and efficiency of services, performance of
14 employees and equipment life span.

15 The Guam Department of Education shall issue a Multi-step Bid or
16 Bid within sixty (60) days after this bill has been enacted into law. Bidders
17 shall be provided a reasonable period of time to provide a response to
18 procurement given the complexities associated with preparing a bid. To
19 ensure that services provided by the General Services Agency Chief
20 Procurement Officer (hereinafter "CPO") to other government of Guam
21 departments and agencies are not jeopardized, *I Liheslaturan Guahan* finds
22 and intends that the participation of the CPO in the PMC procurement
23 process is an administrative obligation of the CPO's office and not a
24 condition that affects the method of source selection, solicitation, or award
25 of a contract. The CPO *shall* receive copies of all documents involved and
26 *shall* be invited to any meetings regarding the public-private partnership
27 process specified in this Section.

1 The Department *shall* review all proposals that have been properly
2 submitted and in compliance with the procurement laws of Guam and the
3 provisions of this Section within one hundred and eighty (180) days of
4 enactment and may award a performance management contract if it remains
5 in the best interest of the Department to do so. The procurement process
6 *shall* adhere to the mandates of Public Law 30-157 relative to the duties of
7 the Attorney General.

8 **(a).** Notwithstanding any other provision of law or regulation, the
9 Department may enter into a Performance Management Contract pursuant to
10 this section §7112.1 for a period up to and not to exceed fifteen (15) years.
11 The Initial Term of such a management contract shall be for a period of at
12 least five (5) years. The Department shall also have the option renew the
13 contract for two separate terms of (five) 5 years each.

14 Nothing herein shall repeal, limit, or otherwise prohibit any law or
15 regulation authorizing the Department to enter into any contract for a longer
16 period. In addition, the Department is authorized to set aside reasonable
17 amounts of its budget to cover the expenses associated with this obligation.

18 **(b). Powers and Duties.** The Department may contract with a
19 business entity to perform the duties, including rendering expert technical
20 and financial assistance in the operation and maintenance of Department
21 facilities.

22 **(c). Special Terms.**

23 (1) The contracted business entity pursuant to this Section must have a
24 minimum of ten (10) years of proven experience in management and
25 operation of educational facilities.

26 (2) The entity must be licensed on Guam to perform the requisite
27 services at the time the contract is entered into. Licensure shall not be a

1 required submission for the bids.

2 (3) All facilities and maintenance employees of the Facilities and
3 Maintenance Division of the Guam Department of Education shall be
4 managed by the PMC. These employees, however, shall continue to be
5 employees of the government of Guam, and the contracted business entity
6 *shall* report to the Department superintendent.

7 (4) Notwithstanding any other provision of law, the PMC is
8 authorized to reorganize the facilities and maintenance employees of the
9 Department in a manner that provides the best cost benefit to DOE while
10 ensure that services are improved. Any plan to reorganize such employees
11 shall receive the approval of the Guam Board of Education prior to being
12 implemented.

13 (5) The PMC shall be entitled to occupy a portion of the Department's
14 facilities approved by the Guam Board of Education for the purpose of
15 providing the services specified in the procurement rent free, as long as this
16 does not interfere with any school operation.

17 (6) The PMC shall provide specific plans and targets for training of
18 the Department's facilities and maintenance personnel in all relevant
19 aspects. The PMC shall develop a training plan for each year it is under
20 contract on how it intends to train Department personnel. The Department
21 may reassign any qualified persons, displaced as a result of the provisions of
22 this section to other areas within the Department where they will receive the
23 appropriate training to effectively carry out the mission of the Department.

24 (7) The PMC shall provide annual facilities O&M and Capital budgets
25 to the Department not later than a date specified by the Department for the
26 delivery of such in the procurement.

27 (8) The PMC shall be required to carry the following types and

1 amounts of insurance from an insurance company licensed on Guam to
2 provide insurance in the types specified below:

3 A. General business liability insurance of at least one million
4 dollars (\$1,000,000) from a surety licensed on Guam;

5 B. Fidelity insurance on all personnel who directly work for the
6 PMC in the amount of five-hundred thousand dollars (\$500,000).

7 C. Other insurance as the Department may require.

8 (9) The PMC shall be required to maintain a certain number of key
9 personnel on Guam at all times, aside from vacation, medical treatment and
10 training, who shall manage the contract as specified in the procurement. The
11 PMC shall provide the full-time on Guam personnel specified below to assist
12 the Department with the implementation of the PMC contract.

13 Administrative personnel do not count towards this figure. The PMC shall
14 at a minimum provide the following personnel who shall be located on
15 Guam at all times:

16 A. Financial Planner - who is proficient in capital and O&M
17 planning as required under the procurement and has at least ten (10)
18 years demonstrable experience in planning O&M and capital budgets
19 for facilities repair and maintenance of the scope required under the
20 procurement.

21 B. Maintenance Supervisor - who has at least ten (10) years
22 demonstrable experience in managing facilities maintenance and
23 repair on schools.

24 C. Engineer - who has at least ten (10) years demonstrable
25 experience in working on facilities planning and facilities
26 maintenance and capital planning for public schools or the
27 equivalent.

1 D.Planner/Scheduler - who has at least ten (10) years of
2 experience in planning and scheduling facilities maintenance
3 and repair.

4 E. Office Manager / Budget Officer - who has at least seven (7)
5 years experience in developing and managing O&M budgets of
6 the type required for this procurement.

7 F. General Manager – this position will require at least ten (10)
8 years experience in running an organization of similar scope
9 and size to what is required under the scope of work for the
10 PMC.

11 **(d). Contract Performance Reviews.** All contracts awarded subject
12 to the provisions of this Act must contain performance reviews at least
13 annually, and provisions for contract termination *or* penalty based
14 upon such review."

15 **Section 7. Severability.** *If* any provision of this law or its application
16 to 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 law which
18 can be given effect without the invalid provisions or applications, and to this
19 end the provisions of this law are severable.

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER

Chairman, Committee on Youth, Cultural Affairs, Procurement,
General Government Operations, and Public Broadcasting.
Web Address: www.senatorbjcruz.com



I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN
The 31st Guam Legislature • senator@senatorbjcruz.com
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PUBLIC HEARING SIGN-IN SHEET

Thursday, February 17, 2011- 9:00A.M.-4:00P.M.

I Liheslatura • Public Hearing Room • Hagatna, Guam

Bill No. 64-31 (COR) - A.A. Yamashita, Ph.D. / T.C. Ada - An act to add §7112.1 to Chapter 7, Division 2, Title 17, Guam Code Annotated, relative to authorizing the Guam Department of Education to enter into a public-private partnership through a performance management contract for the management, operation and maintenance of its structural and grounds facilities.

NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS
Mart Redo	GFT	OPPOSE	yes	yes		
Monty McDowell	AME	oppose	NO	YES	649-6488	
John S.B. Brown	SELF	Both	✓	✓	4777223	jngoy@comcast.net
Nerissa Lunderwood	DOE	support	yes	yes	475-0457	nlunderwood@doe.gu
Billy Cruz	DOE	oppose	✓			
Rose Rene Taitano	Private	oppose		✓	645-31208	P.O. Box 11403 y's u
John San Antonio	Private/CEB	support		✓	687-5552	jasa39@johncan.com
Ronald A. Ayman	GEB	support	✓			
Rosey Joseph	GDOE	support		✓	475-0619	
CELESTIN SALMANSKI	GDOE	r		✓	475-0619	
Edward Leon Guzman	Public	yes		✓	632-2510	Edward and Evelyn Guzman
John Panant		yes	✓	✓	647-2603	johnpanant@ito.net
John Ilao	JMI-Edison	yes	✓	✓	649-5449	johnilao@jmiguam.com
DANIEL PEREZ	SELF	YES/NO		✓	458-5144	



DEPARTMENT OF EDUCATION OFFICE OF THE SUPERINTENDENT

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Nerissa Bretania Underwood, Ph.D.
Superintendent of Education

February 17, 2011

Honorable Benjamin J.F. Cruz, Vice Speaker
Chairman
Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting
I Mina'Trentai-Unu Na Liheslaturan Guahan
155 Hesler Place
Hagatna, Guam 96910

RE: Testimony in Support for Bill No. 64-31: An Act to Add § 7112.1 to Chapter 7, Division 2, title 17, Guam Code Annotated, Relative to Authorizing the Guam Department of Education to Enter into a Public-Private Partnership Through a Performance Management Contract for the Management, Operation and Maintenance of Its Structural and Grounds Facilities

Hafa Adai Vice Speaker Cruz!

I am writing as the Superintendent of the Department of Education (DOE) to express my support for the passage of Bill No. 64-31.

The state of disrepair at many of our island's schools has been fodder for media stories and community concern for the last several years, if not decades. The failing buildings and lack of necessary maintenance on our school campuses has led not only to the excessive stretching of DOE's maintenance department but to the outright closing of some schools due to concerns for the safety of students and staff.

I do not deny that the maintenance of our educational facilities needs improvement. But I do want to stress that the inadequate state of our schools is in no way the result of a lack of commitment from DOE's custodial and maintenance staff. In fact, the opposite is true. The DOE maintenance and custodial employees are exceptionally committed to the daunting task of maintaining the forty-one school campuses and the DOE administrative offices. These individuals often use their personal equipment when none is available from DOE to perform tasks to ensure plumbing, security, air conditioning, and other necessary services are present at our schools and offices. These employees have also continued to perform without adequate funding for needed equipment or for training to provide them with updated information to better perform their jobs. The need for a change in the way DOE's facilities are maintained is a reflection not of employee commitment, but of the budget and practical challenges the Department faces on a yearly, and even daily, basis.

The effects of campuses that are inadequately maintained reach beyond student and staff safety. Whenever a school is closed by regulatory agencies or due to emergency issues with plumbing or power, instruction is disrupted. And when school campuses are in such disrepair that students cannot use certain classrooms, playgrounds, or exercise facilities, students are unable to take full advantage of the curricular program.

Subject: Testimony in Support for Bill No. 64-31
February 17, 2011
Page 2 of 2

specialized experience in institutional facilities management. The PMC is expected to provide the equipment necessary for the DOE custodial and maintenance staff to properly perform their work. The PMC is also expected to work on preventive maintenance and not merely emergency repair.

A meeting was held on February 14, 2011 with the maintenance and custodial staff. Also present in that meeting were Senator Aline Yamashita, Senator Tom Ada and John Benavente. The intent of the meeting was to allow the affected staff to ask questions regarding Bill No. 64-31. Our maintenance and custodial staff have raised a number of questions and concerns. They were assured that these would be addressed.

As stated in Bill No. 64-31, other agencies have had the opportunity to use a PMC and have had great success. I ask that the Legislature provide DOE with this same opportunity by passing this Bill.

Senseramente,


NERISSA BRETANIA UNDERWOOD, Ph.D.

cc: Chairman and Members, GEB
Senator Aline Yamashita
Senator Tom Ada

HAYA DISTRICT

F.Q. Sanchez Elem., H.S. Truman Elem., Inarajan Elem., M.A. Sablan Elem., Merizo M.M. Elem., M.U. Lujan Elem., Talofoto Elem., Inarajan Middle School, Oceanview School, Southern High School, J.P. Torres Alternative

Response to Bills No. 8-31 and 64-31

The HAYA School Administrators do not support Bill No. 8-31 for reasons stated below:

We do not want to deal with the current maintenance and custodial issues and concerns we are experiencing with funding, supplies, equipment and employees who are not performing effectively.

The HAYA School Administrators have selected to support Bill No. 64-31 for the reasons stated below:

- It will allow the administrators to focus more on the academic/curricular programs and issues.
- All necessary supplies and equipment will be provided for by the PMC.
- All PMC employees will be trained and skilled to effectively carry out their duties.
- It is a Performance Based Company and the administrators will not have to worry about evaluating the personnel.

Recommended Amendments to the Bill: Include language that the PMC will address and be responsible for cases of emergencies such as/but not limited to:

Typhoon/shelter duty, Vandalism, Burglaries, Fire, Earthquakes, Floods, etc...

LUCHAN PRINCIPAL INPUT ON BILLS 8-31 and 64-31.

Bill 8-31

Luchan principals do not agree with Bill 8-31 lifting the freeze on maintenance and custodial /janitorial personnel at the Department of Education (DOE). We prefer maintenance to be contracted out to private custodial vendors using a Performance Management contract. Privatizing the custodial and maintenance through a Performance Management contract will provide better management and operations for all school facilities.

Bill 64-31

Luchan principals support Bill 64-31 authorizing Department of Education (DOE) to enter into a Performance Management based contract. We see that the Performance Management structure would provide for a more efficient service to DOE. Maintenance workers will be better utilized. Facilities and equipment will be better monitored and maintained.

Team KATTAN

Response to Bill 8-31 & Bill 64-31

Adacao Elementary, B.P. Carbullido Elementary, J.Q. San Miguel Elementary, P.C. Lujan Elementary, Ordot Chalan Pago Elementary, Capt. Henry Price Elementary, Agueda I. Johnston Middle School, Luis P. Untalan Middle School, George Washington High School		
1.	<i>Response to Bill 8-31</i>	<ul style="list-style-type: none">▪ The Kattan schools are not in support to Bill 8-31 since we all disagree to employ in-house maintenance and completely employing just GDOE custodial/janitorial.▪ We all have been so dissatisfied with the response, efficiency, and work performance of the current in-house maintenance.▪ As far as employing custodial/janitorial, having both a partial outsource and GDOE custodial/janitorial would be more ideal in the schools.▪ Many of the current schools utilize our GDOE custodians to perform other related tasks/assignments such as assisting with student supervision.
2.	<i>Response to Bill 64-31</i>	<ul style="list-style-type: none">▪ The Kattan schools are all in support to Bill 64-31▪ Equitable on maintenance funding should be distributed evenly such as the a/c repairs and/or replacement.▪ Standards need to be clearly defined▪ Constant communication with the schools need to be a common practice prior to performing work and work completion in the schools.



Nerissa Bretania Underwood <nbunderwood@gdoe.net>

Lagu input for Bills 8-31 and 64-31

1 message

Julie Mendiola <jtmendiola@gdoe.net>

Tue, Feb 15, 2011 at 3:03 PM

To: Nerissa Bretania Underwood <nbunderwood@gdoe.net>, Arlene Unpingco2 <arunpingco@gdoe.net>, Anthony Cepeda2 <ahcepeda@gdoe.net>, Beth Perez <bnperez@gdoe.net>, Beverly San Agustin <bsanagustin@gdoe.net>, Carla Benita Masnayon <cdmasnayon@gdoe.net>, Carolyn Camacho <cdcamacho@gdoe.net>, Darlene Larimer <dclarimer@gdoe.net>, Dexter Fullo <dbfullo@gdoe.net>, Kenneth Denusta <ksdenusta@gdoe.net>, Melissa Limo <mdlimo@gdoe.net>, Robb Malay <rhmalay@gdoe.net>, "Robert G. Martinez" <rgmartinez@gdoe.net>, Vangie Iglesias2 <eiglesias@gdoe.net>, Yolanda Gabriel <ysgabriel@gdoe.net>

2/15/11

Hi Dr. Underwood,

Our Lagu principals met yesterday and we have the following input(s) for Bills #8-31 & 64-31:

Bill #8-31: Our Lagu team is not in favor for this bill. This bill still will require DOE to provide materials & supplies. Based on previous experiences, we will not have all the funds to purchase needed supplies, etc. Currently, most of our schools are either partial or fully outsourced. Administrators do not have to worry about manpower, materials & supplies. Admin can focus their time and effort at other things.

Bill #64-31

1. On page 2, paragraph #2, we would like to know what "model" the senator is referring to.
2. On page 4, #c1, we would like to see the businesses have a minimum of ten (10) years of proven SATISFACTORY experience in management and
3. On page 6, #c, we would like to see the eengineer with at least ten (10) years of SATISFACTORY and demonstrable experience.....
4. We would like to see a performance based evaluation done every quarter. If the contractor/vendor is not performing to the contents of the contract, we need to ensure that we are able to either cancel the contract, etc.
5. Also, if the contractor received three unsatisfactory monthly ratings, we would like to have a provision in the contact in which we can cancel the contract due to their poor performance evaluation, etc.
6. If our government employees are going to be under the PMC, will this allow the employees to do other duties when needed? Such as: student supervision and to cover classes when teacher/subs are not available. If not, can we have this provision included? To allow the employees to do other duties as assigned by the administrator?

We hope this helps. If you have any questions or need more information, please do not hesitate to contact me.

Thank You,

Julie Mendiola - Lagu Management Team Leader



ADVANCE MANAGEMENT INC.

The Building Maintenance & Real Estate Service Professionals

February 28, 2011

198 Adrian Sanchez Street, Suite #7, Harmon, Guam 96913 - 4456 • Tel: (671) 649-6488 • Fax: (671) 646-3739

Vice Speaker Benjamin J.F. Cruz
Chairman, Committee on Youth,
Cultural Affairs, General Government
Operations, Procurement and Public Broadcasting
155 Hesler Place
Hagåtña, Guam 96910

RE: Testimony against Bill No. 64-31(COR)

Reference: Management and Curriculum audit for the Guam Public School System – Final Report – Evergreen Solutions, LLC – April 13, 2009

Håfa Adai!

I write to provide testimony against Bill No. 64-31 for the below reasons.

I have called Guam home for more than 40 years and absolutely love and cherish this island but unfortunately I, as the rest of the community, have had to endure the displeasure of watching our Public Schools and support facilities deteriorate. In the case of John F. Kennedy High School, deteriorate to the point of repair by replacement, sad indeed.

In 2009 Evergreen Solutions, LLC was contracted to evaluate all aspects of the then “Guam Public School System now referred to as Guam Department of Education.” As proven professionals in the field of Facilities Maintenances we reviewed with great interest Chapter 6 Facilities. Some highlights:

- GDOE Facilities and Maintenance Department is responsible for the operation and maintenance of 37 schools, but this function has been outsourced to a public-private partnership for the GEFF or leased schools.
- John F. Kennedy High School is currently being demolished and replaced
- Portions for other schools, i.e., Oceanview Middle School, are closed and condemned
- Four new schools have been constructed since 1999: Adacco Elementary, Liguán Elementary, Astumbo Middle and Ukudo High School
- Half the elementary schools were built over 40 years ago while five were built over 50 years ago
- It was found, not surprisingly, that the maintenance functions of the Facilities and Maintenance Department has over the many years been neither sufficiently preventive nor immediately responsive to meet the needs of GDOE facilities. In addition, a significant deferred maintenance backlog seems to have built-up, leaving most of the 37 schools in poor to fair condition.
- GDOE teachers appear to be strongly dissatisfied with maintenance and the timeliness of repairs.

e-mail: ami@amiguam.com • website: www.amiguam.com

Contractor License #: 5633 Business License #: 13-901854-2 Real Estate License #: CB-214

2-28/11

- Concerns were a severe shortage of working restrooms
- Peak manning in the Maintenance Department was 180 personal in 1995 now some 79 due to Public Law 27-32 of 2002 which froze new hiring and promotions in maintenance, custodial and food service ranks. Privatization or outsourcing was envisioned but to date GDOE has not developed an official policy for outsourcing maintenance work. Evergreen used standards common within our industry, in particular the number of maintenance personnel needed for the square footage of facilities. The 37 schools equates to some 1,892,872 square feet and a skilled train maintenance person should be able maintain 107,439 square feet. Based on this standard only 18 maintenance workers should be needed for a well-functioning and effective maintenance staff at GDOE.

I could go on and on about Evergreens Audit but they simply expressed what I believe we all know; Facilities Maintenance is not GDOE's core competency, education is. Standards are set high for highly educated and certified teachers while simple continuing education accompanied by proper tooling and maintenance management IT Infrastructure lacks in the non-core competency of Facilities Maintenance and its personnel.

The report reflects throughout it the highly clean and well-maintained condition of the four GEFf leased schools whose maintenance is outsourced. I am proud to say that our company, Advance Management, Inc. or AMI, is that outsourced company. It further alludes to a recommendation to use similar concepts throughout all GDOE facilities. The incorporation of GDOE employees as employees of the outsource vendor is mentioned.

Bill 64-31 intent is to require a Performance Management Contract similar to that formulated within the Guam Power Authority whereby the PMC Contractor manages the facilities, equipment and Government employees. The Bill further requires that PMC Contractor must have ten years of proven "experience in management and operation of educational facilities."

My fellow owners of AMI have successfully built its business in probably the most difficult United States venue, that of the island of Guam in the middle of the Pacific Ocean. We have a 20+-year history of delivering quality service at reasonable rates. We have several friendly Guam based competitors equally capable of achieving similar high quality work but of course in my arrogance I think AMI is the leader of the pack.

If we couple the years of our local business success with Bill 64-13 requirements and I am left with a sour taste in my mouth and hurt in my heart. The ten-year requirement of proven "experience in management and operation of educational facilities" restricts local companies, even AMI with our superior record, from bidding. Also, this language in the bill basically says: "Yes. AMI you have done superior work at our four leased schools in all aspects of maintenance but your not good enough for the other 37."

I beg to differ, AMI and many other Guam vendors have positioned themselves to help the community maintain facilities day in and day out in a standard conducive to the best learning environment possible.

It is also time to get GDOE non-core competency employees, in this case Facilities Maintenance personnel, off the Government roles and onto the private section roles. Guam is blessed with Public Law 26-111 calling for employees to be paid at the current U.S.DOL Wage Determination; this for example provides a Custodian with an income over \$11.50 per hour. This includes some \$3.50 per hour in health & welfare, two weeks vacation, ten holidays and more. The private sector companies whose competencies is facilities maintenance must continual train and tool its employees to maintain a competitive edge and for the greater good of the company, its customers and its familia known as employees.

In conclusion, I urge senators of the Guam Legislature to not pass Bill No. 64-31 as written and introduced. Bill 64-31 should be rewritten to require that the recommendations of Chapter 6 of the Evergreen Audit be implemented as soon as humanly possible

Senseramente,

A handwritten signature in black ink that reads "Monty McDowell". The signature is written in a cursive, flowing style.

Monty McDowell
Chief Executive Officer and Principal Broker
Advance Management, Inc.

CC: Senators, Guam Legislature



Nerissa Bretania Underwood, Ph.D.
Superintendent of Education

**GUAM DEPARTMENT OF
EDUCATION**

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Billy P. Cruz
Manager, Acting

February 17, 2011

Honorable Benjamin J.F. Cruz, Vice Speaker
Chairman
Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and
Public Broadcasting
I Mina'Trentai-Unu Na Liheslaturan Guahan
155 Hesler Place
Hagatna, Guam 96910

RE: Testimony in Support for Bill 64-31: An Act to Add § 7112.1 to Chapter 7, Division 2, title 17, Guam Code Annotated, relative to authorizing the Guam Department of Education to enter into a Public-Private Partnership Through a Performance Management Contract for the Management, Operation and Maintenance of Its Structural and Grounds Facilities

Hafa Adai Vice Speaker Cruz,

Thank you for the opportunity to testify on Bill No. 64-31. A meeting was held on February 14, 2011 with the maintenance and custodial staff and the authors of Bill No. 64-31, Senator Aline Yamashita and Senator Tom Ada.

The maintenance and custodial staff have expressed concerns about the lack of materials, equipment, tools, training and promotional opportunities. We have been assured by the authors of this bill that the Performance Management Contract (PMC) will in fact improve the working conditions of our employees by addressing these concerns.

In light of these assurances, I support the passage of Bill no. 64-31.

Senseramente,

Handwritten signature of Billy P. Cruz in black ink.
BILLY P. CRUZ



GUAM WATERWORKS AUTHORITY

"Good Water Always"

Post Office Box 3010, Hagatna, Guam 96932

Phone: (671) 646-7810 Fax: (671) 647-2621

February 17, 2011

To: Senator Aline Yamashita; Senator Tom Ada
From: General Manager, Consolidated Utility Services
Subject: Bill no. 64-31

Hafa Adai,

Thank you for the opportunity to testify on Bill no. 64-31 relative to authorizing the Department of Education to enter into a private-Public partnership through a performance management contract.

I fully support the bill because I sincerely believe a Performance Management Contract can help the GDOE meet the needs of our island school facilities and improve the learning environment of our students. Furthermore, through such a contract, the employees of GDOE can be provided with the parts, materials, tools, equipment, training, asset management system, work order system to name a few which has perennially been inadequate in order for the fine working employees to do their job effective, efficiently and with a strong sense of pride. I have been involved with such similar private-public partnerships for over 15 years.

Performance management contracts have been in existence at Guam Power Authority since 1996 and in Guam Waterworks Authority since 2007. There are currently over 235 Government employees working in this type of partnership, 160 employees at Guam Power Authority' power plants and 75 employees at Guam Waterworks authority wastewater system. In addition, I believe the Port Authority of Guam is pursuing a similar contract for its port operations and maintenance.

The success of these contracts at GPA and GWA is obvious in the much improved level of service from these areas. I will note that the improvements were made by the employees and their success occurred because the Legislature thru their authorization of PMC contracts gave our employees the mechanism to get the resources they needed to do the job. Today we have very proud employees in GPA and GWA. I expect the same will happen for the fine employees of GDOE.

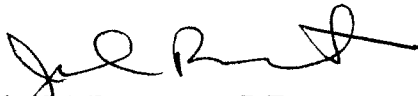
GDOE will be implementing capital improvement projects utilizing ARRA funds totaling over \$30M... My question becomes what happens once all this infrastructure is in place. Without a structured and sustained preventive maintenance program, the infrastructure will not be available for acceptable use by future generations of students.

As was seen in our utilities, our employees need the continuous focus and support from management in order to operate and maintain our facilities. Employees needed a focus and committed management team which had the authority to use their expertise and implement the needed programs because they had procurement and budgetary control. The private management team will typically consist of an experienced General Manager, a procurement manager, a training and safety manager, an operations manager to handle day to day operations and an engineer to address technical root causes and determine the capital improvement projects needed. Currently some of these expertise are shared by many areas and often focus is certainly less than acceptable.

Our employees under a PMC continue to be Government employees paid and recruited by the utility just like the rest of our utility employees and not the PMC. Employees have the full protection of the Civil Service Commission as provided by Law for all government employees. They continue to have all benefits provided to all government employees.

We at the utilities are willing to assist the GDOE in its process to put in place this program. I believe the program can work for GDOE and will continue to be available to assist on the matter. We believe the employees of GDOE can get the job done, but must have a program what Bill 64-31 offers to do so.

Si Yuus Ma'ase



John M. Benavente, P.E.

Testimony in Favor of Bill No.: 64-31

Mr. Chairman, Senators, Members of the Committee, Good morning and thank you for the opportunity to appear before you today.

My name is John Ilao. I am currently the vice president of our family-owned business, JMI-Edison who has been doing business with various government of Guam entities, including GPA, GWA, and GDOE for more than 30 years now!

We have been a vendor to GPA & GWA before and after the Performance Management Contracts. Our business has been a victim of these PMC contracts. We have seen our business volume with divisions of these agencies with PMC contracts, decrease to almost zero after the PMC contract has been put in place. This is because the Contracts allowed the PMC contractors total control of procurement. Thus the contractors, in order to save money for the agency, procured mostly from off-island sources.


What is wrong with this scenario, you might ask. Well Mr. Chairman & Senators, when equipment, materials and supplies are bought from off-island companies, our Guam dollars are also sent off-island to pay for those items. Therefore the Guam economy loses those dollars which could have been circulating on Guam. I have read in some economic magazine that there is a money multiplier effect of 5 times

In other words, if the PMC contractor buys \$85M worth of items from off-island, Guam loses \$85M that could be circulating in our economy. On the other hand, if the contractor buys the same items for \$100M from a Guam supplier, the \$15M profit margin from the transaction would be circulating in our economy in the form of payroll to employees, rent, and other expenses that generate business activity on Guam, such that its gross effect on our economy is equivalent to having \$75M injected into Guam.

We have also seen the net effect of these PMC contracts. We don't have rolling power outages now; we have reliable power; and our power plants are operating efficiently. We don't have sewage overflows; and the GWA pump stations and sewage treatment plants are maintained properly. We know first hand (because we interact with them regularly) that the GPA & GWA employees working at these sites are happy that they are getting the training, the tools, and other resources they need to perform their jobs effectively, to be productive, and to have that sense of accomplishment at the end of everyday.

Therefore, I must say that I am in favor of Bill No.: 64-31 with a little procurement twist. **Please add language in the Bill that will make the PMC contractor exert its best efforts to patronize local vendors.** We believe this language is necessary to protect the interest of small local vendors; we believe this is the right way to go; and we believe this is best for Guam.

Thank you very much.


John R. Ilao
Vice President



RONALD A. AYUYU
Chairman

GUAM EDUCATION BOARD

P. O. Box DE
Hagåtña, Guam 96932
Telephone Numbers: (671) 300-1627/1629
Facsimile Number: (671) 475-0597
Website Address: www.gdoe.net/gepb



ROSIE R. TAINATONGO
Vice-Chairperson

February 17, 2011

ELECTED MEMBERS

Haya District
Rosie R. Tainatongo

Kattan District
Ronald Ayuyu

Lagu District
Joe S. San Agustin

Luchan District
Jose Q. Cruz, Ed. D.

EXOFFICIO MEMBERS

Student Representative

**Business Sector
Representative**

GFT Representative

**Mayors' Council
Representative**

EXECUTIVE SECRETARY

Nerissa Bretania Underwood,
Ph.D.
Superintendent

Honorable Benjamin J.F. Cruz, Vice Speaker
Chairman
Committee on Youth, Cultural Affairs, Procurement, General Government
Operations, and Public Broadcasting
I Mina'Trentai Unu Na Liheslaturan Guahan
155 Hesler Place
Hagatna, Guam 96910

RE: Testimony in Support for Bill No. 64-31: An Act to Add § 7112.1 to Chapter 7, Division 2, Title 17, Guam Code Annotated, Relative to Authorizing the Guam Department of Education to Enter into a Public-Private partnership Through a Performance Management Contract for the Management, Operation and Maintenance of Its Structural and Grounds Facilities


Hafa Adai Vice Speaker Cruz!

I am writing as the Chairman of the Guam Education Board to express my support for the passage of Bill No. 64-31.

I am sure you are aware of the difficulties the Department of Education (DOE) has faced over the last several years with regard to the maintenance and repair of its schools. Though we have dedicated custodial and maintenance employees, they are faced with shortages in budgets, a lack of tools and equipment, and generally insufficient resources to do all that needs to be done in our buildings. I believe Bill No. 64-31 will help DOE address these issues by allowing us to explore the use of a Performance Management Contracts (PMC) for our facilities department.

If Bill No. 64-31 is passed, I expect a PMC will help our department to maintain sufficient inventory so that school repairs can be done on a timely basis. I expect the PMC to analyze financial resources and prepare budgets that will enable the department to make efficient equipment purchases. I expect the PMC to bring to the table significant experience in large scale facilities management. And I expect the PMC to work with our current hard working DOE staff to improve training opportunities and the efficiency of our custodial and maintenance departments.

The legislative intent of Bill No. 64-31 states that other local government departments have had success with PMCs. I believe DOE can be another of these success stories, and for that reason I ask that Bill No. 64-31 be passed.


RONALD A. AYUYU
Chairman

cc: Senator Aline Yamashita

Matt Rector
President

Tim Fedenko
Vice-President

Sanjay Sharma
Secretary

James Lujan
Treasurer



AFT Local 1581
AFL-CIO

February 16, 2011

Committee on Youth, Cultural Affairs,
Procurement, General Government Operations,
And Public Broadcasting

RE: Testimony against Bill 64-31

Buenas yan Håfa Adai!!! To the honorable members of the Guam 31st Legislature, My name is Matt Rector and I am here to testify as the President of GFT, Guam's Local Union on Bill 64-31. While I understand and share the frustration of the Bill's authors with the state of disrepair of our public schools, I do not believe this bill will solve the challenges of maintenance at DOE schools and thus I highly encourage you as a committee to vote against it.

The challenges DOE faces when it comes to maintenance are a result of two factors: Finances and the prohibition of the Department hiring more than the necessary maintenance personnel. Actually, it is amazing what they have been able to accomplish given these constraints.

As we all know this legislature struggles year after year to provide the Department of Education with the funding they need to effectively run our school system. I know that it is never easy to provide the additional resources within our current economy until we have gotten to the point where almost all of the money allocated to the department goes to pay salaries leaving very little left for support services. This is a fact so now we have to look at how we can start moving forward to meet these challenges and of course the answer must be that we provide DOE with additional resources for maintenance. Unfortunately this bill not only doesn't provide a mechanism for providing the additional resources but it creates a whole other layer of costs funneling large quantity of our limited resources into corporate profits that have no stake in the future of our great island.

The legislative findings and intent of this bill state that it is based on the success of PMC's at the Guam Power Authority and Guam Water works Authority which "have yielded outstanding cost savings". I don't believe that this is true. In fact I would argue that if we actually had good empirical data we would find out that exactly the opposite is true. The successes and progress of GPA and GWA have not been as a result of some magic produced by the Corporations that are now profiting from our public utilities but from the increase in funding that both of these agencies are now receiving. We the people of Guam, our children and our children's children have at this point accumulated hundreds of millions of dollars in debt to pay for all of these improvements and maintenance and we have seen the huge increases in our water and power bills that have been instituted to pay for them. While this is neither the time or the place to debate how much of this debt is justified, the question we the people need answered is how much of our massive rate increases are going to pay for the corporate profits of these PMC's?

The next issue with this bill is how will it be funded? GPA and GWA generate their own revenue which is constantly increased by the Public Utilities Commission to fund these PMC's, but in this bill there is absolutely no mechanism for DOE to generate the additional revenues needed to fund this PMC if it were to become law. That means that without the Legislature appropriating enough money to pay for the legally binding PMC contract the money will have to be taken from our children's class rooms. This will force the DOE to lay off teachers and administrators and purchase fewer text books and supplies. I don't believe that it will be good for our children to have bright and shiny buildings that don't have enough teachers, text books and learning materials.

In conclusion, while I applaud the intent of this bill in its attempts to fix DOE's infrastructure this just isn't the way to do it. The first thing we need to do is establish a mechanism that will provide DOE with the additional resources they need to provide our children and their teachers and staff with the safe, healthy and well maintained facilities that they deserve.

Si Yu'os Ma'ase for your consideration,



Matt Rector
President



GUAM CHAMBER OF COMMERCE
PARTNERS IN PROGRESS

February 17, 2011

THE HONORABLE SENATOR BENJAMIN J.F. CRUZ
Chairman
Committee on Youth, Cultural Affairs, Procurement,
General Government Operations, and Public Broadcasting
155 Hesler Place
Hagåtña, Guam 96910

Subject: **Bill No. 64-31(COR)** – *An act to add §7112.1 to Chapter 7, Division 2, Title 17, Guam Code Annotated, Relative to Authorizing the Guam Department of Education to Enter into a Public-Private Partnership through performance management contract for the management, operation and maintenance of its structural and grounds facilities.*

Håfa Adai, Mr. Chairman!

On behalf of the Guam Chamber of Commerce, thank you for the opportunity to provide our comments relating to Bill 64-31. We applaud the authors of the bill for their intent to provide safe and well-maintained facilities to reinforce positive learning environments for our children, teachers and administrators. This process has been too long in coming and should be acted on immediately.

We highly recommend that the Committee and the authors review the Management and Curriculum Audit for the Guam Public School System finalized by Evergreen Solutions, LLC in April 2009. Facilities/Safety & Security is addressed in Chapter 6 of the document, which outlines the current unsatisfactory conditions of most of the education facilities on Guam. The audit makes a number of recommendations, including:

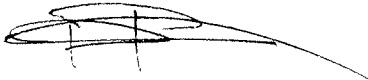
- The rebid of custodial services as part of a total outsourced maintenance and custodial package for the Department of Education;
- The overhaul of the maintenance operation of the Department thoroughly, radically, and completely; and,
- Establishing as a permanent method of facilities improvement a public-private partnership arrangement for the construction and maintenance of all future schools as well as for the renovation and expansion of existing facilities.

Bill No. 64-31 outlines specifically how the performance management contract is let including the requirement to maintain key personnel on Guam, which establishes a ten-year minimum experience required for a financial planner, a maintenance supervisor, an engineer, a general manager and a scheduler. Seven years experience is required of an office manager and/or budget officer. We caution the Committee to review this requirement as it presents limitations on the type of company eligible to do the work. For the most part this is not technical work but these requirements are quite restrictive and would have the tendency to increase the cost of the contract.

They may in fact prevent good, hardworking local entrepreneurial companies from participating in the opportunity to bid on the contract. The bid should simply be competitive and should be awarded based on capacity, efficiencies and merit.

Thank you, Mr. Chairman, for the opportunity to provide feedback on the bill. We would be happy to sit with you and the Committee for further discussion. We thank the authors for their vision and hope that we can work quickly for solutions such as this as well as others recommended by Evergreen Solutions to facilitate well-maintained and cheerful learning environments that our students, teachers, administrators and the people of Guam deserve.

Sincerely,

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

DAVID P. LEDDY
President



COMMITTEE ON RULES

I Mina'trentai Unu na Libeslaturan Guåhan • The 31st Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

2011 FEB 17
PH 4: 11

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

February 17, 2011

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

Memorandum

MAJORITY MEMBERS:

Speaker
Judith T. Won Pat

Vice Speaker
Benjamin J. F. Cruz

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

To: Pat C. Santos
Clerk of the Legislature

From: Senator Rory J. Respicio
Chairperson, Committee on Rules

Subject: Fiscal Notes

Hafa Adai!

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

- Bill Nos.:
- 32-31 (COR)
 - 39-31 (COR)
 - 42-31 (COR)
 - 43-31 (COR)
 - 46-31 (COR)
 - 57-31 (COR)
 - 64-31 (COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!



BUREAU OF BUDGET & MANAGEMENT RESEARCH

OFFICE OF THE GOVERNOR

Post Office Box 2950, Hagåtña Guam 96932

FELIX P. CAMACHO
GOVERNOR

BERTHA M. DUENAS
DIRECTOR

MICHAEL W. CRUZ, M.D.
LIEUTENANT GOVERNOR

FACSIMILE INFORMATION PAGE

PLEASE DELIVER TO: Senator Rory Respicio

ATTENTION: _____

FACSIMILE NUMBER: 472-3547

FROM: DPMR

Total Pages (Including Cover): - 9 -

RE: Fiscal Note of Bill NO. 34-31 (WR) waiver of Bill
Nos. 32-31 (WR), 42-31 (WR), 46-31 (WR), + 57-31 (WR),
cc: Fiscal Note of Bill Nos. 34-31 (WR) or 43-31 (WR)

COMMENTS:

originals + copies of fiscal notes + waivers to be
picked up via central files.

Thank-you! ☺

NOTICE:

If you do not receive legible copies of all pages being transmitted, please contact the Bureau.
Our phone numbers are: (671) 475-9412 / 9106. Our fax number is: (671) 472-2825

Bureau of Budget & Management Research
Fiscal Note of Bill No. 64-31 (COR)

Bill Title (Preamble): AN ACT TO ADD §7112.1 TO CHAPTER 7, DIVISION 2, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM DEPARTMENT OF EDUCATION TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP THROUGH A PERFORMANCE MANAGEMENT CONTRACT FOR THE MANAGEMENT, OPERATION AND MAINTENANCE OF ITS STRUCTURAL AND GROUNDS FACILITIES.

Department/Agency Appropriation Information	
Dept./Agency Affected: Guam Department of Education	Dept./Agency Head: Narrissa Bretania-Shaffer
Department's General Fund (GF) appropriation(s) to date: General Fund to Department of Education Operational Fund (DOEOF)	\$163,276,054
Department's Other Fund (Specify) appropriation(s) to date: Public Library Resource Fund (PLRF), Healthy Futures Fund (HFF), Territorial Education Facilities Fund (TEFF), School Lunch Cash Collection, SAE/Child Nutritional Reimbursement Fund, Indirect Cost Fund	\$21,845,797
Total Department/Agency Appropriation(s) to date:	\$185,121,851

Fund Source Information of Proposed Appropriation			
	General Fund:	Other (Specify): Special Funds	Total:
FY 2011 Adopted Revenues	\$0	\$0	\$0
FY Appro. to P.L. 30-196 thru 30-239	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of Current FY (if applicable)	Second Year	Third Year	Fourth Year	Fifth Year
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Other Fund:	\$0	\$0	\$0	\$0	\$0	\$0
Total I/	\$0	\$0	\$0	\$0	\$0	\$0

1. Does the bill contain "revenue generating" provisions? // Yes /X/ No
 If Yes, see footnote
2. Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A // Yes // No
 If no, what is the additional amount required? \$ _____
3. Does the Bill establish a new program/agency? // N/A // Yes /X/ No
 If yes, will the program duplicate existing programs/agencies? // N/A // Yes /X/ No
 Is there a federal mandate to establish the program/agency? /X/ N/A // Yes // No
4. Will the enactment of this Bill require new physical facilities? // Yes /X/ No
5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: // Yes /X/ No
 // Requested agency comments not received by due date /X/ Other: Time constraint

Analyst (s): Joe Certeza Date: 02/14/2011 Director: Benita Manglona Date: FEB 17 2011
2/10/11 Acting, Benita A. Manglona

Footnote: The Bill has a potential fiscal impact for additional funding requirements. However, in its present form, such impact cannot be determined at this time.



COMMITTEE ON RULES

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155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

2011 FEB -11 11:07:36
lmm

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

February 3, 2011

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

MEMORANDUM

MAJORITY MEMBERS:

Speaker
Judith T. Won Pat

Vice Speaker
Benjamin J. F. Cruz

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

To: **Pat Santos**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio**
Chairperson, Committee on Rules

Subject: **Referral of Bill Nos. 64-31 (COR) through 66-31 (COR)**

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 64-31 (COR) and 66-31 (COR).

Senator
Thomas C. Ada

Please ensure that the subject bills are referred, in my name, to the respective committees, as shown on the attachment. I also request that the same be forwarded to all Senators of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

Should you have any questions, please feel free to contact our office at 472-7679.

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Si Yu'os ma'åse!

Senator
Christopher M. Duenas

(3) Attachments

I Mina'Trentai Unu Na Liheslaturan Guåhan

Bill Log Sheet

February 2, 2011

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date) Passed? Fail? Vetoed? Overridden Public Law
64-31 (COR)	A.A. Yamashita, PhD T.C. Ada	AN ACT TO <i>ADD</i> § 7112.1 TO CHAPTER 7, DIVISION 2, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM DEPARTMENT OF EDUCATION TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP THROUGH A PERFORMANCE MANAGEMENT CONTRACT FOR THE MANAGEMENT, OPERATION AND MAINTENANCE OF ITS STRUCTURAL AND GROUNDS FACILITIES.	2/02/11 12:59 a.m.	2/3/11		Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting.			

Chris Carillo

From: Chris Carillo [chris.carillo@senatorbjcruz.com]
Sent: Wednesday, February 09, 2011 12:14 PM
To: 'Senator Adolpho B. Palacios'; 'Senator Adolpho Palacios'; 'Senator Aline Yamashita'; 'Senator Ben Pangelinan'; 'Senator Chris Duenas'; 'Senator Dennis Rodriguez Jr.'; 'Senator Frank F. Blas, Jr.'; 'Senator Judi Guthertz'; 'Senator Judith Guthertz'; 'Senator Mana Silva Tajeron'; 'Senator Rory J. Respicio'; 'Senator Tina Muna Barnes'; 'Senator Tom Ada'; 'Senator Tony Ada'; 'Senator Tony Ada'; 'Speaker Judi Won Pat'; 'Vice Speaker Benjamin JF Cruz'; 'Vice Speaker BJ Cruz'; 'imis@guamlegislature.org'; 'Therese Tertaje'; 'sgtarms@guamlegislature.org'; 'yong@guamlegislature.org'; 'clerksoffice@guamlegislature.org'; 'sem@guamlegislature.org'; 'vparriola@teleguam.net'; 'jamespcastro@gmail.com'; 'mark sayama'; 'fbtorres@yahoo.com'; 'phillipsguam@gmail.com'; 'etajalle@guamlegislature.org'; 'Lisa Cipollone'; 'sonedera-salas@guamlegislature.org'; 'chris.budasi@guamlegislature.org'; 'jcamacho@senatorada.org'; 'Doreen Garcia'; 'Cyrus@senatorada.org'; 'Nicole Santos'; 'jennifer.lj.dulla@gmail.com'; 'joseacruz17@yahoo.com'; 'mike.lidia9@gmail.com'; 'carlospguam@yahoo.com'; 'Chris Carillo'; 'peterig@gmail.com'; 'jonatwork2010@gmail.com'; 'richie ruw'; 'Crunabrecht@guamlegislature.org'; 'anaaleah@yahoo.com'; 'joff manibusan'; 'Leslie Gatan'; 'olivampalacios@gmail.com'; 'Coy Torres'; 'senatorsam'
Subject: 1st Notice of Public Hearing
Attachments: 02072011 memo frbjcruz re. First notice of public hearing for Feb 17,2011.pdf

All Senators and staff,

Please be advised that the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting will conduct a Public Hearing on **Thursday, February 17, 2011** in the Legislature's Public Hearing Room at 9 a.m.. I made a correction, apologies to Senator Yamashita.... Here is the correct bill listing.

Senseramente,

Chris Carillo
Office of the Vice-Speaker, Senator Benjamin J.F.Cruz
Chairman, Committee on Youth, Cultural Affairs, Procurement,
General Government Operations, and Public Broadcasting

I Mina Trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
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Web Address: <http://www.senatorbjcruz.com>
E-mail: chris.carillo@senatorbjcruz.com

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February 7, 2011

MEMORANDUM

TO: All Senators

FROM: Senator Tina R. Muna Barnes
Acting Chairperson, Committee on Youth, Cultural Affairs, Procurement,
General Government Operations, and Public Broadcasting

RE: First Public Hearing Notice on February 17th 2011

Please be advised that the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting will conduct a Public Hearing on Thursday, February 17, 2011 in the Legislature's Public Hearing Room for the following:

9:00 AM - Bill No. 4-31(LS) (Muña Barnes) - An act to authorize the Antonio B. Won Pat International Airport Authority, Guam to issue differential pay to EMT-B certified firefighters of Aircraft Rescue and Fire Fighting Unit.

Bill No. 12-31(COR) (Guthertz) - An act to amend § 5601(G), Part (A) of Article 11, Chapter 5 of Title 5, Guam Code Annotated; to further define and expand its definition relative to the Public Official Financial Disclosure Act.

Bill No. 18-31(COR) (Tom Ada) - An act to *repeal and reenact* §67101.8 of Chapter 67 of Title 21, Guam Code Annotated, to fulfill the mandate of P.L. 30-199 by providing for the establishment of the Guam Building Code Council.

Bill No. 58-31(COR) - (Tony Ada) An act to add a new §4128 to Chapter 4 of 4GCA relative to authorizing the granting of administrative leave for volunteer sign language and foreign language interpreters.

1:30 PM - Bill No. 19-31(COR) (Won Pat) - An act to amend Section 5105 of Title 5 Guam Code Annotated relative to the duties of the Attorney General in procurement oversight and advisement.

Bill No. 48-31(COR) (Won Pat) - An act to *add* § 5213A, 5220, and 5425A to Title 5 Guam Code Annotated relative to providing temporary expedited procurement procedures to assist with the disbursement of stimulus funds under the "2009 American Recovery and Reinvest Act".

Bill No. 8-31(LS) - (Guthertz) An act to add a new sub item (E) to § 3112(A)(16), of Chapter 4, of Title 17, Guam Code Annotated, relative to lifting the hiring freeze of maintenance and custodial/janitorial personnel at the Department of Education and authorizing the Guam Education Policy Board to permit in-house maintenance, custodial and janitorial services for facilities maintenance services in all Department of Education schools.

Bill No. 64-31(COR) – (Yamashita) An act to *add* §7112.1 to Chapter 7, Division 2, Title 17, Guam Code Annotated, relative to authorizing the Guam Department of Education to enter into a public-private partnership through a performance management contract for the management, operation and maintenance of its structural and grounds facilities.

Written testimonials should be submitted to the Office of the Vice Speaker Benjamin J.F. Cruz, 155 Hesler Place, Hagama Guam 96910, via facsimile to 477-2522, or via email to chris.carillo@senatorjfcruz.com. We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or accommodations please contact Garrett Duenas at the Office of the Vice Speaker Benjamin J.F. Cruz at 477-2521 or via email at garrett.duenas@senatorjfcruz.com.

cc: Clerk of the Legislature
Protocol
Audio/Visual
All Media

Chris Carillo

From: Chris Carillo [chris.carillo@senatorbjcruz.com]
Sent: Tuesday, February 15, 2011 9:08 AM
To: 'Senator Adolpho B. Palacios'; 'Senator Adolpho Palacios'; 'Senator Aline Yamashita'; 'Senator Ben Pangelinan'; 'Senator Chris Duenas'; 'Senator Dennis Rodriguez Jr.'; 'Senator Frank F. Blas, Jr.'; 'Senator Judi Guthertz'; 'Senator Judith Guthertz'; 'Senator Mana Silva Taijeron'; 'Senator Rory J. Respicio'; 'Senator Tina Muna Barnes'; 'Senator Tom Ada'; 'Senator Tony Ada'; 'Senator Tony Ada'; 'Speaker Judi Won Pat'; 'Vice Speaker Benjamin JF Cruz'; 'Vice Speaker BJ Cruz'; 'mis@guamlegislature.org'; 'Therese Terlaje'; 'sgtarms@guamlegislature.org'; 'yong@guamlegislature.org'; 'clerksoffice@guamlegislature.org'; 'sem@guamlegislature.org'; 'vparriola@teleguam.net'; 'director@gec.guam.gov'; 'jamespcastro@gmail.com'; 'mark sayama'; 'fbtorres@yahoo.com'; 'phillipsguam@gmail.com'; 'etajalle@guamlegislature.org'; 'Lisa Cipollone'; 'sonedera-salas@guamlegislature.org'; 'chris.budasi@guamlegislature.org'; 'jcamacho@senatorada.org'; 'Doreen Garcia'; 'Cyrus@senatorada.org'; 'Nicole Santos'; 'jennifer.lj.dulla@gmail.com'; 'josecruzjr17@yahoo.com'; 'mike.lidia9@gmail.com'; 'carlospguam@yahoo.com'; 'Chris Carillo'; 'peterlg@gmail.com'; 'jonatwork2010@gmail.com'; 'richie ruw'; 'Cmunabrecht@guamlegislature.org'; 'anaaleah@yahoo.com'; 'jeff manibusan'; 'Leslie Gatan'; 'oliviampalacios@gmail.com'; 'Coy Torres'; 'senatorsam'
Subject: Public Hearing on 2/17/2011
Attachments: 0217 Public Hearing 1st Notice (2).doc

Hafa Adai,

This is your 48 hour notice for the Committee on Youth, Cultural Affairs, General Government Operations, Procurement, and Public Broadcasting's public hearing on Thursday February 17th 2011. Attached is the memo... Thanks

Senseramente,

Chris Carillo
Office of the Vice-Speaker, Senator Benjamin J.F.Cruz
Chairman, Committee on Youth, Cultural Affairs, Procurement,
General Government Operations, and Public Broadcasting

I Mina'Trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96910
Phone: (671) 477-2520/1
Fax: (671) 477-2522
Web Address: <http://www.senatorbjcruz.com>
E-mail: chris.carillo@senatorbjcruz.com

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February 15, 2011

MEMORANDUM

TO: All Senators

FROM: Senator Tina R Muna Barnes
Acting Chairperson, Committee on Youth, Cultural Affairs, Procurement,
General Government Operations, and Public Broadcasting

RE: First Public Hearing Notice on February 17th 2011

Please be advised that the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting will conduct a Public Hearing on **Thursday, February 17, 2011** in the Legislature's Public Hearing Room for the following:

9:00 AM - Bill No. 4-31(LS) (Muña Barnes) – An act to authorize the Antonio B. Won Pat International Airport Authority, Guam to issue differential pay to EMT-B certified firefighters of Aircraft Rescue and Fire Fighting Unit.

Bill No. 12-31(COR) (Guthertz) – An act to amend § 5601(G), Part (A) of Article 11, Chapter 5 of Title 5, Guam Code Annotated; to further define and expand its definition relative to the Public Official Financial Disclosure Act.

Bill No. 18-31(COR) (Tom Ada) – An act to *repeal and reenact* §67101.8 of Chapter 67 of Title 21, Guam Code Annotated, to fulfill the mandate of P.L. 30-199 by providing for the establishment of the Guam Building Code Council.

Bill No. 58-31(COR) – (Tony Ada) An act to add a new §4128 to Chapter 4 of 4GCA relative to authorizing the granting of administrative leave for volunteer sign language and foreign language interpreters.

1:30 PM - Bill No. 19-31(COR) (Won Pat) – An act to amend Section 5105 of Title 5 Guam Code Annotated relative to the duties of the Attorney General in procurement oversight and advisement.

Bill No. 48-31(COR) (Won Pat) - An act to *add* § 5213A, 5220, and 5425A to Title 5 Guam Code Annotated relative to providing temporary expedited procurement procedures to assist with the disbursement of stimulus funds under the "2009 American Recovery and Reinvest Act".

Bill No. 8-31(LS) – (Guthertz) An act to add a new sub item (E) to § 3112(A)(16), of Chapter 4, of Title 17, Guam Code Annotated, relative to lifting the hiring freeze of maintenance and custodial/janitorial personnel at the Department of Education and authorizing the Guam Education Policy Board to permit in-house maintenance, custodial and janitorial services for facilities maintenance services in all Department of Education schools.

Bill No. 64-31(COR) – (Yamashita) An act to *add* §7112.1 to Chapter 7, Division 2, Title 17, Guam Code Annotated, relative to authorizing the Guam Department of Education to enter into a public-private partnership through a performance management contract for the management, operation and maintenance of its structural and grounds facilities.

Written testimonies should be submitted to the Office of the Vice Speaker Benjamin J.F Cruz, 155 Hesler Place, Hagatna Guam 96910, via facsimile to 477-2522, or via email to chris.carillo@senatorbjcruz.com. We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or accommodations please contact Garrett Duenas at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at garrett.duenas@senatorbjcruz.com.

cc: Clerk of the Legislature
Protocol
Audio/Visual
All Media

GOVERNMENT OF GUAM BEFORE THE COMMISSIONER OF BANKING & INSURANCE

John Hancock Life Insurance Company
and
John Hancock Life Insurance Company (U.S.A.)
Petitioners

In the Matter of the Application for
Merger of Petitioners,
And John Hancock Life Insurance Company's Withdrawal and
Permanent Discontinuance of the Transaction of Insurance
Business in Guam Pursuant to Title 22 GCA §1811.3
Due to Merger

NOTICE OF INTENTION TO EFFECT MERGER AND WITHDRAWAL

Notice is hereby given that John Hancock Life Insurance Company, a Massachusetts Life Insurance Company with its home office at 601 Congress Street, Boston, MA 02110, merged with and into John Hancock Life Insurance Company (U.S.A.), a Michigan Life Insurer, effective as of December 31, 2009. John Hancock Life Insurance Company (U.S.A.) is the surviving company.

John Hancock Life Insurance Company will Withdraw and Permanently Discontinue the Transaction of Insurance Business in Guam.

All outstanding policies issued by John Hancock Life Insurance Company have been assumed through the Merger by John Hancock Life Insurance Company (U.S.A.).

All outstanding claims arising from any policies issued by John Hancock Life Insurance Company have been assumed through the Merger by John Hancock Life Insurance Company (U.S.A.).

All persons interested in this matter should write to John Hancock Life Insurance Company (U.S.A.), Office of the Corporate Secretary, at 601 Congress Street, Boston, MA 02110, or call 1-800-723-5514, in the Office of the Commissioner of Banking and Insurance at Barrigada, Guam at 671-635-1841/4556.

NOTICE OF PUBLIC HEARING

COMMITTEE ON YOUTH, CULTURAL AFFAIRS, GENERAL GOVERNMENT OPERATIONS, PROCUREMENT AND PUBLIC BROADCASTING

February 17, 2011 9:00 A.M.

Legislatura - Public Hearing Room - Hagåtña Guam
Vice Speaker Benjamin J.F. Cruz, Chairperson
Senator Tina R. Muna-Barnes, Vice Chairperson

9:00 A.M.

Bill No. 4-31(US)-An act to authorize the Antonio R. Won Pat International Airport Authority, Guam to issue differential pay to IMI-B certified firefighters of Aircraft Rescue and Fire Fighting Unit.

Bill No. 12-31(COR)-An act to amend § 5601(G), Parr (A) of Article 11, Chapter 5 of Title 5, Guam Code Annotated, to further define and expand its definition relative to the Public Official Financial Disclosure Act.

Bill No. 18-31(COR)-An act to repeal and reenact §67101.8 of Chapter 67 of Title 21, Guam Code Annotated, to fulfill the mandate of PL 10-199 by providing for the establishment of the Guam Building Code Council.

Bill No. 38-31(COR)-An act to add a new §4128 to Chapter 4 of 4GCA relative to authorizing the granting of administrative leave for volunteer sign language and foreign language.

1:30 P.M.

Bill No. 19-31(COR)-An act to amend Section 5105 of the Title 5 Guam Code Annotated relative to the duties of the Attorney General in procurement oversight and advisement.

Bill No. 48-31(COR)-An act to add § 5273A, 5220 and §425A to Title 5 Guam Code Annotated relative to possibly temporary expedited procurement procedures to assist with the disbursement of stimulus funds under the "2009 American Recovery and Reinvestment Act".

Bill No. 8-31(US)-An act to add a new sub item (f) to § 3112(A)(16), of Chapter 4, of Title 17, Guam Code Annotated, relative to filing the hiring lists of maintenance and custodial/financial personnel at the Department of Education and authorizing the Guam Education Policy Board to permit in-house maintenance, custodial and janitorial services for facilities maintenance services in all Department of Education schools.

Bill No. 64-31(COR)-An act to add §7117.1 to Chapter 7, Division 2, Title 17, Guam Code Annotated, relative to authorizing the Guam Department of Education to enter into a public-private partnership through a performance management contract for the management, operation and maintenance of its structural and grounds facilities.

If written testimonies are to be presented at the hearing, we request they be submitted one day prior to the Office of the Vice Speaker Benjamin J.F. Cruz, 155 Hesley Place, Hagåtña Guam 96918. They may be sent via facsimile to 477-2522, or via email to chris.carr@senatorofguam.com.

We comply with Title II of the Americans with Disabilities Act (ADA) should you require assistance or accommodations, please contact Garrett Gomez at the Office of the Vice Speaker Benjamin J.F. Cruz at 477-2523 or via email at garrett@senatorofguam.com.

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Public Hearing for the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting

February 17 2011

Public Hearing Agenda

9:00 AM - *I Liheslaturan Guahan* Public Hearing Room

Bill No. 8-31(LS) – (Guthertz) An act to add a new sub item (E) to § 3112(A)(16), of Chapter 4, of Title 17, Guam Code Annotated, relative to lifting the hiring freeze of maintenance and custodial/janitorial personnel at the Department of Education and authorizing the Guam Education Policy Board to permit in-house maintenance, custodial and janitorial services for facilities maintenance services in all Department of Education schools.

Bill No. 12-31(COR) (Guthertz) – An act to amend § 5601(G), Part (A) of Article 11, Chapter 5 of Title 5, Guam Code Annotated; to further define and expand its definition relative to the Public Official Financial Disclosure Act.

Bill No. 18-31(COR) (Tom Ada) – An act to *repeal and reenact* §67101.8 of Chapter 67 of Title 21, Guam Code Annotated, to fulfill the mandate of P.L. 30-199 by providing for the establishment of the Guam Building Code Council.

Bill No. 58-31(COR) – (Tony Ada) An act to add a new §4128 to Chapter 4 of 4GCA relative to authorizing the granting of administrative leave for volunteer sign language and foreign language interpreters.

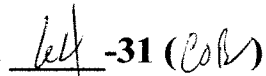
1:30 PM - ~~Bill No. 19-31(COR) (Won Pat) – An act to amend Section 5105 of Title 5 Guam Code Annotated relative to the duties of the Attorney General in procurement oversight and advisement.~~

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Bill No. 64-31(COR) – (Yamashita) An act to *add* §7112.1 to Chapter 7, Division 2, Title 17, Guam Code Annotated, relative to authorizing the Guam Department of Education to enter into a public-private partnership through a performance management contract for the management, operation and maintenance of its structural and grounds facilities.

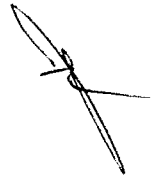
I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

BILL NO. 164 -31 (Cob) 

Introduced by:

A.A. YAMASHITA, PhD 
T.C. ADA 

2011 FEB -2 PM 12: 59



AN ACT TO *ADD* § 7112.1 TO CHAPTER 7, DIVISION 2, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM DEPARTMENT OF EDUCATION TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP THROUGH A PERFORMANCE MANAGEMENT CONTRACT FOR THE MANAGEMENT, OPERATION AND MAINTENANCE OF ITS STRUCTURAL AND GROUNDS FACILITIES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan*

finds that the Department of Education continues to be plagued with issues throughout its facilities. Instructional time has been disrupted as students have been dismissed because of structural and environmental problems that include issues involving plumbing and electrical infrastructure, structural integrity, sewage overflows, pest infestation and other sanitation concerns. For the past few years, after various inspections, schools were shut down until corrective measures were taken. Since, School Year 2008-2009, the students, faculty and staff of John F. Kennedy High School have been displaced due to the disrepair and history of maintenance and structural dilemmas of the Tamuning campus. Southern High School students have been unable to use all of the Santa Rita campus facilities – including its fine

1 arts auditorium, gymnasium, Olympic-size pool, sports fields – and have
2 continually dealt with air conditioning and plumbing issues. Many of the
3 forty-one (41) public schools in the Guam Department of Education
4 inventory face similar circumstances. While many are well aware of the
5 state of disrepair of our schools, many may not be aware that the state of
6 affairs of the classrooms and the school facilities have a significant impact
7 on the educational experience of our students. Additionally, the routine
8 deferral of maintenance until the facility is no longer functional often results
9 in greater maintenance costs, and on many occasions the loss of instructional
10 time.

11 *I Liheslatura* intends to provide a means to ensure that all facilities are
12 properly maintained at high standards and employees are afforded the
13 training, skills and resources to effectively perform their duties, so students
14 can learn and teachers can continue to educate in facilities that are safe,
15 secure and sanitary.

16 *I Liheslatura* intends to provide a proven model that will ensure the
17 procurement, training, and support of employees is implemented. *I*
18 *Liheslatura* finds that previously established Performance Management
19 Contracts (hereinafter referred to as “PMCs”) within the government of
20 Guam such as the Guam Power Authority and the Guam Waterworks
21 Authority. The PMCs have yielded outstanding cost savings generally
22 realized through preventative maintenance measures, enhanced reliability,
23 enhanced employee training opportunities and ultimately have resulted in
24 improved services.

25 **Section 2. A new 17 GCA § 7112.1 is hereby *added* to read:**
26 **“§ 7112.1. Public-Private Partnership Authorization through a**
27 **Performance Management Contract.** The Department of Education

1 (hereinafter “Department”) is authorized to issue a Multi-Step Bid (MSB) or
2 an Invitation for Bid (IFB) that solicits proposals from qualified parties for
3 the management, operation and maintenance of its structural and grounds
4 facilities through a performance management contract. The PMC
5 procurement process shall be subject to the procurement laws of the
6 Government of Guam. The scope of work required *shall* include the daily
7 operation and maintenance of its facilities and equipment, initiating repairs
8 to the facilities inclusive of all parts and labor, minimum performance
9 standards and conducting all preventive maintenance on DOE facilities,
10 including the acquisition for replacement of such equipment.

11 The procurement *shall* include minimum performance standards that
12 will provide operating criteria, guidelines and requirements to provide for
13 cost savings, quality improvement and efficiency of services, performance of
14 employees and equipment life span.

15 The Guam Department of Education shall issue a Multi-step Bid or
16 Bid within sixty (60) days after this bill has been enacted into law. Bidders
17 shall be provided a reasonable period of time to provide a response to
18 procurement given the complexities associated with preparing a bid. To
19 ensure that services provided by the General Services Agency Chief
20 Procurement Officer (hereinafter “CPO”) to other government of Guam
21 departments and agencies are not jeopardized, *I Liheslaturan Guahan* finds
22 and intends that the participation of the CPO in the PMC procurement
23 process is an administrative obligation of the CPO’s office and not a
24 condition that affects the method of source selection, solicitation, or award
25 of a contract. The CPO *shall* receive copies of all documents involved and
26 *shall* be invited to any meetings regarding the public-private partnership
27 process specified in this Section.

1 The Department *shall* review all proposals that have been properly
2 submitted and in compliance with the procurement laws of Guam and the
3 provisions of this Section within one hundred and eighty (180) days of
4 enactment and may award a performance management contract if it remains
5 in the best interest of the Department to do so. The procurement process
6 *shall* adhere to the mandates of Public Law 30-157 relative to the duties of
7 the Attorney General.

8 **(a).** Notwithstanding any other provision of law or regulation, the
9 Department may enter into a Performance Management Contract pursuant to
10 this section §7112.1 for a period up to and not to exceed fifteen (15) years.
11 The Initial Term of such a management contract shall be for a period of at
12 least five (5) years. The Department shall also have the option renew the
13 contract for two separate terms of (five) 5 years each.

14 Nothing herein shall repeal, limit, or otherwise prohibit any law or
15 regulation authorizing the Department to enter into any contract for a longer
16 period. In addition, the Department is authorized to set aside reasonable
17 amounts of its budget to cover the expenses associated with this obligation.

18 **(b). Powers and Duties.** The Department may contract with a
19 business entity to perform the duties, including rendering expert technical
20 and financial assistance in the operation and maintenance of Department
21 facilities.

22 **(c). Special Terms.**

23 (1) The contracted business entity pursuant to this Section must have a
24 minimum of ten (10) years of proven experience in management and
25 operation of educational facilities.

26 (2) The entity must be licensed on Guam to perform the requisite
27 services at the time the contract is entered into. Licensure shall not be a

1 required submission for the bids.

2 (3) All facilities and maintenance employees of the Facilities and
3 Maintenance Division of the Guam Department of Education shall be
4 managed by the PMC. These employees, however, shall continue to be
5 employees of the government of Guam, and the contracted business entity
6 *shall* report to the Department superintendent.

7 (4) Notwithstanding any other provision of law, the PMC is
8 authorized to reorganize the facilities and maintenance employees of the
9 Department in a manner that provides the best cost benefit to DOE while
10 ensure that services are improved. Any plan to reorganize such employees
11 shall receive the approval of the Guam Board of Education prior to being
12 implemented.

13 (5) The PMC shall be entitled to occupy a portion of the Department's
14 facilities approved by the Guam Board of Education for the purpose of
15 providing the services specified in the procurement rent free, as long as this
16 does not interfere with any school operation.

17 (6) The PMC shall provide specific plans and targets for training of
18 the Department's facilities and maintenance personnel in all relevant
19 aspects. The PMC shall develop a training plan for each year it is under
20 contract on how it intends to train Department personnel. The Department
21 may reassign any qualified persons, displaced as a result of the provisions of
22 this section to other areas within the Department where they will receive the
23 appropriate training to effectively carry out the mission of the Department.

24 (7) The PMC shall provide annual facilities O&M and Capital budgets
25 to the Department not later than a date specified by the Department for the
26 delivery of such in the procurement.

27 (8) The PMC shall be required to carry the following types and

1 amounts of insurance from an insurance company licensed on Guam to
2 provide insurance in the types specified below:

3 A. General business liability insurance of at least one million
4 dollars (\$1,000,000) from a surety licensed on Guam;

5 B. Fidelity insurance on all personnel who directly work for the
6 PMC in the amount of five-hundred thousand dollars (\$500,000).

7 C. Other insurance as the Department may require.

8 (9) The PMC shall be required to maintain a certain number of key
9 personnel on Guam at all times, aside from vacation, medical treatment and
10 training, who shall manage the contract as specified in the procurement. The
11 PMC shall provide the full-time on Guam personnel specified below to assist
12 the Department with the implementation of the PMC contract.

13 Administrative personnel do not count towards this figure. The PMC shall
14 at a minimum provide the following personnel who shall be located on
15 Guam at all times:

16 A. Financial Planner - who is proficient in capital and O&M
17 planning as required under the procurement and has at least ten (10)
18 years demonstrable experience in planning O&M and capital budgets
19 for facilities repair and maintenance of the scope required under the
20 procurement.

21 B. Maintenance Supervisor - who has at least ten (10) years
22 demonstrable experience in managing facilities maintenance and
23 repair on schools.

24 C. Engineer - who has at least ten (10) years demonstrable
25 experience in working on facilities planning and facilities
26 maintenance and capital planning for public schools or the
27 equivalent.

1 D.Planner/Scheduler - who has at least ten (10) years of
2 experience in planning and scheduling facilities maintenance
3 and repair.

4 E. Office Manager / Budget Officer - who has at least seven (7)
5 years experience in developing and managing O&M budgets of
6 the type required for this procurement.

7 F. General Manager – this position will require at least ten (10)
8 years experience in running an organization of similar scope
9 and size to what is required under the scope of work for the
10 PMC.

11 **(d). Contract Performance Reviews.** All contracts awarded subject
12 to the provisions of this Act must contain performance reviews at least
13 annually, and provisions for contract termination *or* penalty based
14 upon such review."

15 **Section 7. Severability.** *If* any provision of this law or its application
16 to 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 law which
18 can be given effect without the invalid provisions or applications, and to this
19 end the provisions of this law are severable.