

I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

| BILL NO. | SPONSOR | TITLE | DATE INTRODUCED | DATE REFERRED | CMTE REFERRED | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | FISCAL NOTES | NOTES |
|--|---------------------|---|----------------------|--------------------|---|-----------------------|-----------------------------|---|---|
| 5-35 (LS) As amended by the Committee on General Government Operations, Appropriations, and Housing; and further amended on the Floor | Telo T. Taitague | AN ACT TO ADD A NEW ARTICLE 9 TO CHAPTER 77 OF DIVISION 2, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO DEVELOPING A NEW PUBLIC HOSPITAL FACILITY THROUGH THE ESTABLISHMENT OF "THE ESPETÁT-TA. LINA'LÁ-TA – OUR HOSPITAL. OUR LIFE. PLANNING TASK FORCE." | 1/7/19 11:20 a.m. | 1/18/19 | Committee on General Government Operations, Appropriations, and Housing | 8/2/19 2:00 p.m. | 10/1/19 4:30 p.m. | Request: 1/22/19 1/31/19 | 10/30/19 As amended by the Committee on General Government Operations, Appropriations, and Housing; and further amended on the floor |
| | SESSION DATE | TITLE | DATE PASSED | TRANSMITTED | DUE DATE | PUBLIC LAW NO. | DATE SIGNED | NOTES | |
| | 11/18/19 | AN ACT TO ADD A NEW ARTICLE 9 TO CHAPTER 77 OF DIVISION 2, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO DEVELOPING A NEW PUBLIC HOSPITAL FACILITY THROUGH THE ESTABLISHMENT OF THE "ESPETÁT-TA. LINA'LÁ-TA. – OUR HOSPITAL. OUR LIFE. PLANNING TASK FORCE." | 11/18/19 | 11/18/19 | 11/29/19 | 35-58 | 11/27/19 | Received: 11/27/19 Mess and Comm. Doc. No. 35GL-19-1276. | |

LOURDES A. LEON GUERRERO
MAGA'HAGA • GOVERNOR



JOSHUA F. TENORIO
SIGUNDO MAGA'LÁHI • LIEUTENANT GOVERNOR

November 27, 2019

HONORABLE TINA ROSE MUÑA BARNES

Speaker

I Mina'trentai Singko Na Liheslaturan Guåhan

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96932

356L-19-1276
Speaker Tina Rose Muña Barnes

NOV 27 2019
Time 4:29 ()AM ()PM
Received By: alan

2019 NOV 27 PM 5:09 JPT

Re: Bill No. 5-35 (LS) – An Act to Add a New Article 9 to Chapter 77 of Division 2, Title 12, Guam Code Annotated, Relative to Developing a New Public Hospital Facility Through the Establishment of the ‘Espetat-ta. Lina’la-ta. – Our Hospital. Our Life. Planning Task Force

Dear Madame Speaker:

As a registered nurse, a former Guam Memorial Hospital Authority (GMHA) employee, and a member of its Board of Trustees, I understand the urgency with which facility issues at GMHA must be addressed.

For years, this community has wrestled with the future of the GMHA facility. Should it be razed and rebuilt or substantially renovated?

And as the island’s leaders debated, the hospital inched further and further into disrepair. This is why one of my first acts as Governor was to secure the assistance of the Army Corps of Engineers. In recent weeks, this group of independent technical experts assessed the structural integrity and long-term viability of the GMHA facility, the cost for immediate repairs, and the challenges to future growth.

Once provided, the details in this analysis will be essential in determining how we proceed.

I reiterate this information in light of the passage of Bill 5-35 (LS), which seeks to establish a taskforce to, among other things “coordinate efforts by the government of Guam to develop a new public hospital facility...”

1276

To: Speaker Tina Rose Muña Barnes
Fr: Governor of Guam
Date: November 27, 2019
Re: Bill No. 5-35 (LS)

Page 2 of 2

While this goal is laudable, the legislature has also prescribed that its members and appointees account for five (5) of the Task Force's nine (9) members—a clear majority.

Unfortunately, the Office of the Attorney General opined in February of 2011, that a similar action violated the Organic Act of Guam. In attempting to determine the Organicity of a law establishing “The Guam First Commission,” the AG wrote in relevant part: “Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. The latter are executive functions.” See AG 09-0170 (Feb. 25, 2011) citing *Springer v. Philippine Islands*, 277 U.S. 189, 199-200 (1928).

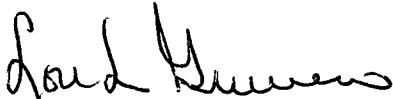
The Opinion further states: “[H]ere the members of the ‘board’ and ‘committee’ respectively, are not charged with the performance of any legislative functions or with the doing of anything which is in aid or performance of any such functions by the legislature.” *Id.* citing *Springer*, 277 U.S. at 201-203 (1928).

I am, therefore, obliged to strike a balance between clear legislative encroachment and my strong desire to work with the Legislature on issues that matter to the people of Guam.

As such, I am returning Bill 5-35 (LS) without my signature; it is now **Public Law No. 35-58**.

I am also asking that the Guam Economic Development Authority and GMHA—the entities impacted by this measure come together to accomplish the spirit of Bill 5-35 (LS) and its good intentions. I look forward to the Legislature's meaningful participation in this work.

Senseremente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

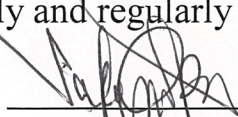
Enclosure(s): Bill No. 5-35 (LS) *nka* Public Law 35-58

cc via email: *Sigundo Maga'låhen Guåhan*
Compiler of Laws

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

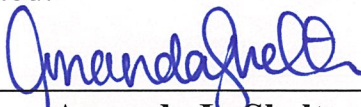
CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Bill No. 5-35 (LS)**, “AN ACT TO **ADD A NEW ARTICLE 9 TO CHAPTER 77 OF DIVISION 2, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO DEVELOPING A NEW PUBLIC HOSPITAL FACILITY THROUGH THE ESTABLISHMENT OF THE ‘ESPETÅT-TA. LINA'LA-TA. – OUR HOSPITAL. OUR LIFE. PLANNING TASK FORCE’**,” was on the 18th day of November 2019, duly and regularly passed.



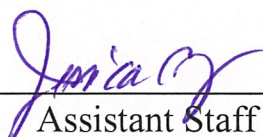
Tina Rose Muña Barnes
Speaker

Attested:



Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 18th day of Nov.,
2019, at 5:53 o'clock P.M.



Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: _____

Public Law No. 35-58

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 5-35 (LS)

As amended by the Committee on General
Government Operations, Appropriations,
and Housing; and further amended on the Floor.

Introduced by:

Telo T. Taitague
William M. Castro
Régine Biscoe Lee
Kelly Marsh (Taitano), PhD
James C. Moylan
Louise B. Muña
Tina Rose Muña Barnes
Telena Cruz Nelson
Sabina Flores Perez
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Jose "Pedo" Terlaje
Therese M. Terlaje
Mary Camacho Torres

**AN ACT TO *ADD* A NEW ARTICLE 9 TO CHAPTER 77
OF DIVISION 2, TITLE 12, GUAM CODE ANNOTATED,
RELATIVE TO DEVELOPING A NEW PUBLIC
HOSPITAL FACILITY THROUGH THE
ESTABLISHMENT OF THE "*ESPETÁT-TA. LINA'LÁ-TA.*
– *OUR HOSPITAL. OUR LIFE.* PLANNING TASK
FORCE."**

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

2 **Section 1.** A new Article 9 is hereby *added* to Chapter 77 of Division 2,
3 Title 12, Guam Code Annotated, to read:

1 "ARTICLE 9

2 **ESPETÁT-TA. LINA'LÁ-TA. – OUR HOSPITAL. OUR LIFE.**

3 **PLANNING TASK FORCE ACT OF 2019**

4 § 77901. Title.

5 § 77902. Legislative Statement.

6 § 77903. Creation and Membership.

7 § 77904. Administrative Support for the Task Force.

8 § 77905. Adoption of Rules.

9 § 77906. Meetings.

10 § 77907. General Powers and Responsibilities of the Task Force.

11 § 77908. Development of a New Public Hospital Facility;
12 Recommendations Required.

13 § 77909. Reporting.

14 **§ 77901. Title.**

15 This Act *shall* be known and may be cited as the "*Espetát-ta. Lina'lá-ta. –*
16 *Our Hospital. Our Life. Planning Task Force Act of 2019.*"

17 **§ 77902. Legislative Statement.**

18 *I Liheslaturan Guåhan* recognizes the urgency of improving safety conditions
19 and the quality of care provided to the people of Guam by the island's only public
20 hospital, the Guam Memorial Hospital Authority (GMHA). Although task force
21 groups were established and community conversations have occurred during the past
22 several years regarding the rehabilitation and modernization of GMHA facilities and
23 services, a clear path forward that will guide the development of a new public
24 hospital facility has yet to materialize.

25 It is, therefore, the position of *I Liheslaturan Guåhan* that a task force be
26 established to coordinate efforts by the government of Guam to develop a new public
27 hospital facility, including rehabilitation and/or replacement plans involving the

1 current Guam Memorial Hospital Authority facility. *I Liheslatura* acknowledges the
2 development of a new public hospital facility as a critical planning initiative of the
3 government of Guam through the support of the Guam Economic Development
4 Authority (GEDA). Included within the enabling statute of GEDA is 12 GCA §
5 50103(a), which recognizes that “...*there exists an acute shortage of adequate,*
6 *modern and efficient hospital facilities in Guam and that unless measures are*
7 *adopted to alleviate such conditions, the need for such facilities will become*
8 *increasingly more urgent and serious. It is hereby declared that the safety, health*
9 *and welfare of the people of Guam requires the provision of adequate, modern and*
10 *efficient hospital facilities in the various parts of the Territory, and that it is the*
11 *policy of the Territory and a purpose of this Division to provide the means necessary*
12 *for the acquisition, construction and provision of hospital facilities to serve the*
13 *general public and to make reasonably accessible to all the people of Guam modern*
14 *and efficient hospital facilities.*”

15 **§ 77903. Creation and Membership.**

16 The *Espetât-ta. Lina'lâ-ta.* – Our Hospital. Our Life. Planning Task Force
17 (Task Force) is hereby created and *shall* consist of nine (9) members.

18 (a) Task Force members *shall* serve for a term of eighteen (18)
19 months.

20 (b) The following nine (9) individuals *shall* serve as appointed
21 members of the Task Force:

22 (1) the Administrator of the Guam Economic Development
23 Authority or his/her designee;

24 (2) the Administrator of the Guam Memorial Hospital
25 Authority or his/her designee;

26 (3) the Speaker of *I Liheslaturan Guåhan* or his/her designee
27 who *shall* be a member of *I Liheslaturan Guåhan*;

1 (4) a member of *I Liheslaturan Guåhan* appointed by the
2 Speaker of *I Liheslaturan Guåhan*;

3 (5) a member of the general public with a background in
4 business and/or finance or experience in developing a public or private
5 hospital facility who *shall* be appointed by *I Maga'hågan Guåhan*;

6 (6) a member of the Department of Land Management's
7 Application Review Committee who *shall* be appointed by *I*
8 *Maga'hågan Guåhan*;

9 (7) a member of the general public who *shall* be appointed by
10 the Speaker of *I Liheslaturan Guåhan*.

11 (8) the Legislative committee chairperson with jurisdiction on
12 health matters or his/her designee; and

13 (9) the Minority Leader of *I Liheslaturan Guåhan* or his/her
14 designee.

15 (c) Five (5) members of the Task Force *shall* constitute a quorum for
16 the exercise of the authority conferred upon the Task Force, and a concurrence
17 of at least five (5) members is necessary to render a choice or a decision by
18 the Task Force.

19 (d) A Chairperson *shall* be elected from among the appointed
20 members and *shall* serve in such capacity for a term of eighteen (18) months.

21 (e) The members of the Task Force *shall* serve without
22 compensation.

23 **§ 77904. Administrative Support for the Task Force.**

24 (a) The Task Force *shall* be established within GEDA for administrative
25 purposes. The Administrator of GEDA *shall* ensure that the administrative
26 provisions contained in this Article are properly adhered to; and *shall* further ensure

1 that GEDA provides all the necessary administrative and clerical support, and
2 anything else deemed necessary for the efficient operation of the Task Force.

3 (b) The Chairperson of the Task Force, in cooperation with the GEDA
4 Administrator, may request for budgetary support from *I Liheslaturan Guåhan*.

5 (c) Nothing in this Article shall require that GEDA funds be utilized to
6 cover any costs that are the direct result of the Task Force carrying out its defined
7 duties and responsibilities pursuant to this Article.

8 **§ 77905. Adoption of Rules.**

9 The Task Force may adopt rules as necessary for its own procedures.

10 **§ 77906. Meetings.**

11 The Task Force *shall* meet as often as it deems appropriate and necessary to
12 accomplish its powers, responsibilities and duties.

13 (a) The first meeting of the Task Force *shall* be held *no later than*
14 twenty (20) days after the enactment of this Article.

15 (b) All meetings of the Task Force *shall* be subject to the Open
16 Government Law found in Chapter 8 of Title 5, Guam Code Annotated.

17 **§ 77907. General Powers and Responsibilities of the Task Force.**

18 The Task Force *shall*:

19 (a) coordinate and oversee any and all efforts by the government of
20 Guam concerning the development of a new public hospital facility or other
21 health care facility models, including rehabilitation and/or replacement plans
22 involving the current Guam Memorial Hospital Authority facility;

23 (b) identify the preferable location(s) for a new public hospital
24 facility;

25 (c) identify possible funding sources for a new public hospital
26 facility;

1 (d) work with all pertinent stakeholders necessary to establish an
2 organized approach by the government of Guam in developing a new public
3 hospital facility;

4 (e) obtain a feasibility study with regards to the building,
5 maintenance, and economic impact of a new public hospital facility;

6 (f) review previous Guam Memorial Hospital Task Force Reports,
7 Advisory Council Reports, Expansion or Modernization Plans, and GMH
8 Facilities Masterplans; and report to *I Liheslaturan Guåhan* about all the areas
9 or recommendations still feasible, requiring additional information, or ruled
10 out at this point.

11 **§ 77908. Development of a New Public Hospital Facility;**
12 **Recommendations-Required.**

13 The Task Force *shall* develop recommendations summarizing the best path
14 forward in developing a new public hospital facility through a purchase agreement,
15 municipal lease program, public-private partnership, or other financing option
16 determined to be most beneficial to the taxpayers of Guam. The recommendations
17 *shall* include, but *not* be limited to, recommended funding sources and maintenance
18 plans. The Task Force *shall* provide an oral presentation to *I Liheslaturan Guåhan*
19 through the Committee on Health within the timeframe required under § 77909(c)
20 of this Article.

21 **§ 77909. Reporting.**

22 (a) The Task Force *shall* file quarterly reports with *I Liheslaturan Guåhan*
23 detailing the progress of the development of the recommendations.

24 (b) The Task Force *shall* file a complete and detailed written report
25 quarterly with *I Maga'hågan Guåhan* and the Speaker of *I Liheslaturan Guåhan*, in
26 the form and within the time provided by the General Appropriations Act,

1 accounting for all funds received and disbursed by the Task Force during the
2 preceding fiscal year.

3 (c) No later than eighteen (18) months after its first duly convened meeting,
4 the Task Force *shall* submit to *I Maga'hågan Guåhan* and *I Liheslaturan Guåhan*
5 the recommendations as required in § 77908 of this Article.”

6 **Section 2. Effective Date.** This Act *shall* be effective upon enactment.

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