# Bill Status

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<th>BILL NO.</th>
<th>SPONSOR</th>
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<th>PUBLIC HEARING DATE</th>
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<td>79-35 (COR)</td>
<td>Sabina Flores Perez, Joe S. San Agustin, Tina Rose Muña Barnes, Teo T. Taitague, Louise B. Muña, William M. Castro, James C. Miyran, Aase &quot;Pedo&quot; Taitague, Kelly March (Taitano), PhD</td>
<td>An Act to Add §1512.4 to Title 5, Guam Code Annotated, Relative to Authorizing the Governor of Guam, I Maga'lahan Guåhan, to Issue Government of Guam Bonds for the Purpose of Financing a New Landfill Cell for the Layon Landfill.</td>
<td>4/10/19 8:35 a.m.</td>
<td>4/19/19</td>
<td>Committee on General Government Operations, Appropriations, and Housing</td>
<td>5/3/19 1:00 p.m.</td>
<td>5/15/19 3:35 p.m.</td>
<td>As amended by the Committee on General Government Operations, Appropriations, and Housing</td>
<td>Fiscal Note Request: 4/22/19</td>
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<th>SESSION DATE</th>
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<th>PUBLIC LAW NO.</th>
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<td>5/16/19</td>
<td>An Act to Add a New § 1512.4 to Article 5 of Chapter 1, Title 5, Guam Code Annotated, Relative to Authorizing I Maga'lahan Guåhan (The Governor of Guam) to Issue Government of Guam Bonds for the Purpose of Financing a New Landfill Cell for the Layon Landfill.</td>
<td>5/17/19</td>
<td>5/17/19</td>
<td>5/29/19</td>
<td>35-21</td>
<td>5/20/19</td>
<td>Received: 5/21/19 Mess and Comm. Doc. No. 35GL-19-0539.</td>
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**Bill Text**

AN ACT TO ADD §1512.4 TO TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GOVERNOR OF GUAM, I MAGA'LAHEN GUÅHAN, TO ISSUE GOVERNMENT OF GUAM BONDS FOR THE PURPOSE OF FINANCING A NEW LANDFILL CELL FOR THE LAYON LANDFILL.

AN ACT TO ADD A NEW § 1512.4 TO ARTICLE 5 OF CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING I MAGA'ÑÅGAN GUÅHAN (THE GOVERNOR OF GUAM) TO ISSUE GOVERNMENT OF GUAM BONDS FOR THE PURPOSE OF FINANCING A NEW LANDFILL CELL FOR THE LAYON LANDFILL.
HAND DELIVERED

May 20, 2019

Honorable Tina Rose Muña-Barnes
Speaker
I.Mina’rentai Singko Na Liheslaturan Guåhan
Guam Congress Building
Hagåtña, Guam 96910

RE: An Act to Add a New §1512.4 to Article 5 of Chapter 1, Title 5, Guam Code Annotated, Relative to Authorizing I Maga’hågan Guåhan (the Governor of Guam) to Issue Government of Guam Bonds for the Purpose of Financing a New Landfill cell for the Layon Landfill.

Dear Madame Speaker:

It was with great pleasure that I announced that Chief Judge Frances Tydingco-Gatewood had determined that it was appropriate to return the responsibility for the daily operations of the Guam Solid Waste Authority to the government of Guam and partially end the receivership that has been in place since 2008. Bill 79-35, which allows the government of Guam to undertake the necessary financial steps to construct Cell 3, furthers our goal to ending the receivership completely.

I thank Senator Sabina Perez and the Legislature for acting swiftly to ensure that authorization for this bond issuance received consideration and approval. Representatives from the Guam Economic Development and Guam Solid Waste Authorities, the Bureau of Budget Management and Research and the Department of Administration, along with the Chief Fiscal Advisor for the Office of the Governor, worked in a collaborative team to satisfy the District Court’s requirement to develop a financing plan for construction of Cell 3. This team will continue to work diligently to secure bond financing which will allow the people of Guam to continue to have a safe, environmentally responsible manner to dispose of its solid waste.

Senseremente,

LOURDES A. LEON GUERRERO
Maga’hågan Guåhan
Governor of Guam

Enclosure: Bill 79-35 nka P.L. 35-21

cc: Sigundo Maga’låhi (via email)
    Compiler of Laws (via email)
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÁGAN GUÁHAN

This is to certify that Bill No. 79-35 (COR), "AN ACT TO ADD A NEW § 1512.4 TO ARTICLE 5 OF CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING I MAGA'HÁGAN GUÁHAN (THE GOVERNOR OF GUAM) TO ISSUE GOVERNMENT OF GUAM BONDS FOR THE PURPOSE OF FINANCING A NEW LANDFILL CELL FOR THE LAYON LANDFILL," was on the 17th day of May 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 17th day of May, 2019, at 6:34 o’clock P.M.

Assistant Staff Officer
Maga'håga’s Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 5/20/2019
Public Law No. 35-21
I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN

2019 (FIRST) Regular Session

Bill No. 79-35 (COR)
As amended by the Committee on General Government Operations,
 Appropriations, and Housing.

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

AN ACT TO ADD A NEW § 1512.4 TO ARTICLE 5 OF
CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED,
RELATIVE TO AUTHORIZING I MAGA'HÅGAN
GUÅHAN (THE GOVERNOR OF GUAM) TO ISSUE
GOVERNMENT OF GUAM BONDS FOR THE PURPOSE
OF FINANCING A NEW LANDFILL CELL FOR THE
LAYON LANDFILL.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new § 1512.4 is hereby added to Article 5 of Chapter 1, Title
5 of Guam Code Annotated, to read as follows:

(a) Definitions. The following terms wherever used or referred to in this Section or in any indenture or certificate entered into pursuant hereto (except to the extent modified therein in accordance with this Section) shall have the following meanings, respectively, unless a different meaning appears from the context:

(1) Authority means the Guam Solid Waste Authority, or its successors and assigns.

(2) Pledged Revenue means any revenue of the System pledged to the payment of bonds or the obligations of the Authority with respect thereto.

(3) Revenue of the System means all lawfully available gross income and other amounts received by or on behalf of the Authority as revenues of any kind from the ownership or operation of any part of the System, including all rates, fees and charges received by the Authority, and all proceeds of insurance or grants covering business interruption loss (and related losses and expenses) relating to the System, and all other income and revenue howsoever derived by the Authority from the ownership or operation of, or arising from, the System, together with all interest, profits or other income derived from the investment of amounts in the Solid Waste Operations Fund, to be deposited to the Solid Waste Operations Fund in accordance with 10 GCA § 51A833.

(4) Solid Waste Operations Fund means the fund by that name established pursuant to 10 GCA § 51A301.

(5) System means the solid waste management system, now or hereafter existing, owned and/or operated by the Authority or its
contractors, agents or subcontractors, including, but not limited to, landfills (whether closed or open), transfer stations, recycling facilities, collection trucks, appurtenant equipment such as scales, ground water monitoring equipment and pollution control equipment, and administrative facilities supporting the provision of solid waste management services, including facilities for payroll, billing and collections.

(b) Authorization of Issuance of Bonds. *I Maga'hågan Guåhan* is authorized to issue one (1) or more series of bonds of the government of Guam from time to time as provided in this Section, in an aggregate principal amount not to exceed Thirty Million Dollars ($30,000,000) to finance the construction of a new cell for the *Layon* Landfill for the benefit of the Guam Solid Waste Authority (Authority), including construction management services and related costs (the *Layon* Landfill Cell Project), and, in addition, to fund any necessary reserves and pay any expenses incurred in connection with the issuance of such bonds not already included in an existing appropriation for or the regular budget of any government agency or instrumentality or public corporation providing any service in connection with the issuance of such bonds; provided, however, that bonds may not be issued in an amount that would cause a violation of the debt limitation provisions of 48 USC § 1423a (§ 11 of the Organic Act of Guam).

(c) Terms and Conditions Determined by Certificate or Indenture. The terms and conditions of the bonds shall be as determined by *I Maga'hågan Guåhan* by the execution of a certificate or indenture authorizing the issuance of the bonds upon or prior to the issuance of the bonds; provided, however, that such terms and conditions shall be consistent with this Section, and that the bonds shall mature not later than the date twelve and one-half
(12.5) years after their date of issuance and such bonds shall bear interest at
such rates and be sold for such price or prices as shall result in a yield to the
bondholders not exceeding six percent (6.0%) per annum.

(d) Source of and Security for Payment. The bonds or the
Authority's obligations with respect thereto shall be secured by a first lien
pledge of any or all of the Pledged Revenues as may be further specified in
the certificate or the indenture described in Subsection (c) of this Section or
an agreement between the Authority and the government. Such pledge made
hereunder shall be valid and binding from the time the bonds are issued. The
Pledged Revenues pledged and thereafter received by the government of
Guam or by any trustee, depository or custodian shall be deposited in a
separate account and shall be immediately subject to the lien of such pledge
without any physical delivery thereof or further act, and the lien of such pledge
shall be valid and binding against all parties having claims of any kind in tort,
contract or otherwise against the Authority or such trustee, depository or
custodian, irrespective of whether the parties have notice thereof. The
indenture or certificate or agreement by which the bonds are issued or such
pledge is created need not be recorded. Any such pledge shall be a first lien,
and shall not be subordinate to any other use of Pledged Revenues.

All bonds issued pursuant to this Section or obligations of the Authority
with respect thereto, may be secured by a statutory lien on the Pledged
Revenues. This lien shall arise automatically without the need for any action
or authorization by I Maga’hågan Guåhan, the government of Guam, the
Authority, or any other person or entity. Such lien shall be valid and binding
from the time such bonds are issued. The Pledged Revenues shall immediately
be subject to such lien, and the lien shall automatically attach to the Pledged
Revenues and be effective, binding, and enforceable against the Authority, its
successors, assignees, and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act. Pledged Revenues that are not required to make payments on the bonds shall automatically, and without the need for any further action, be released from such lien and shall be available for appropriation for any other lawful purpose of the System. The statutory lien described in this Subsection shall not be subject to Division 9 of Title 13, Guam Code Annotated, or any successor statute. The Pledged Revenues received by the government of Guam or by any trustee, depository or custodian shall be deposited in accordance with the provisions of the applicable indenture.

In addition to the statutory lien provided for in this Subsection, all or any part of the Pledged Revenues may be pledged, if and to the extent determined by I Mga'ha'gan Guåhan, to secure the payment of any bonds or any obligation of the Authority with respect thereto. Any such pledge shall be valid and binding against all parties in accordance with its terms and have priority against all parties in accordance with its terms from the time the pledge is made, and property so pledged shall immediately be subject to the lien of the pledge without the need for physical delivery, recordation, filing, or other further act. The pledge shall not be subject to Division 9 of Title 13, Guam Code Annotated or any successor statute. The indenture or certificate or agreement by which such pledge is created need not be recorded. All Pledged Revenue so pledged is hereby appropriated for the purpose for which it has been pledged. Indebtedness issued by the government pursuant to this Section and that is payable from Pledged Revenue may not be issued in an amount that would cause a violation of the debt limitation provisions of Section 11 of the Organic Act.
The Authority may contract with the government of Guam for the purposes of effectuating this pledge of Pledged Revenues to secure the bonds or the Authority's obligations with respect thereto and to agree to other covenants and conditions that may be required to issue the bonds.

(e) Valid and Binding. Such bonds may alternatively or additionally be secured by a pledge by the government of Guam of its full faith and credit for the punctual payment of both principal of and interest on the bonds and covenants that there shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the bonds, in the event Pledged Revenues are insufficient to support the payment thereof, all as specified in a certificate or an indenture described in Subsection (c) hereof. The bonds authorized by this Section shall constitute the valid and binding general and/or limited obligations of the government of Guam, additionally secured by a pledge of the Pledged Revenues described in Subsection (d) of this Section, all as further specified below in such Subsection. The government of Guam pledges its full faith and credit for the punctual payment of both principal of and interest on the bonds and covenants that there shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the bonds. There are hereby appropriated from the General Fund such sums as may be necessary in each year in addition to the amounts appropriated under Subsection (f) of this Section to equal the amount of money necessary to pay the principal and interest on such bonds. All officers charged by law with any duty in the collection of the revenues of the government from which debt service on the bonds will be payable shall do every lawful thing necessary to collect such sum. The validity of any such
bonds shall not be affected by the validity or regularity of any proceedings for
the payment of the General Fund expenses paid or to be paid with the proceeds
of the bonds.

(f) Appropriation of Revenues. All revenues are hereby
appropriated for the purposes of paying the principal and interest on the bonds
issued pursuant to this Section. Revenues released from the lien of the
indenture or certificate pursuant to which the bonds are issued shall be
available for appropriation by I Liheslaturan Guåhan for any other lawful
purpose.

(g) Additional Bonds. Nothing in this Section shall be construed to
prevent the Authority from issuing, after appropriate enabling legislation,
other obligations secured by Pledged Revenues on a parity with or subordinate
to the bonds or the Authority’s obligations with respect thereto authorized by
this Section on such terms as may be provided by the indenture or certificate
pursuant to which the bonds are issued. Nothing in this Section shall be
construed to prevent the government of Guam from issuing, after appropriate
enabling legislation, other obligations of the government secured by the
general obligation of the government on a parity with or subordinate to the
bonds authorized by this Section on such terms as may be provided by the
indenture or certificate pursuant to which the bonds are issued.

(h) Waiver of Immunity; Submission to Jurisdiction.
Notwithstanding any substantive or procedural provision of Chapter 6 of Title
5, Guam Code Annotated, the government of Guam waives immunity from
any suit or action in contract on the bonds, but does not waive sovereign
immunity as to the personal liability of elected officials and employees of the
government of Guam. The government hereby submits to jurisdiction of the
Federal District Court for the District of Guam for purposes of any such suit
or action in contract on the bonds.

(i) No Personal Liability. No employee or elected official of the
government of Guam shall be individually or personally liable for the payment
of any amounts due on any bonds issued under this Section, or for any other
liability arising in connection with the bonds; provided, however, that nothing
in this Section shall relieve any employee or elected official from the
performance of any ministerial duty required by law.

(j) Form of Bonds; Covenants; Appointment of Fiduciaries. The
technical form and language of the bonds, including provisions for execution,
exchange, transfer, registration, paying agency, lost or mutilated bonds,
negotiability, cancellation and other terms or conditions not inconsistent with
this Section, including covenants relating to the collection of Pledged
Revenues, shall be as specified in the certificate or indenture executed by I
Maga'ha'gan Guåhan authorizing the issuance of the bonds. The certificate or
indenture shall appoint one (1) or more trustees, co-trustees or other
fiduciaries authorized to receive and hold in trust the proceeds of the bonds,
the Pledged Revenues and other moneys relating thereto, to protect the rights
of bondholders and to perform such other duties as may be specified in the
indenture. I Maga'ha'gan Guåhan is also authorized to execute, on behalf of
the government of Guam, any appropriate agreements, certificates or other
instruments relating to the bonds and the sale of bonds.

(k) Authorization for Credit Enhancement. I Maga'ha'gan Guåhan
is authorized to enter into such contracts or agreements with such banks,
insurance companies or other financial institutions as she determines are
necessary or desirable to improve the security and marketability of the bonds
issued under this Section, if and only if such contracts or agreements reduce
the cost of the debt by more than the cost of credit enhancement. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal of or interest on the bonds and to indemnify any such banks, insurance companies or other financial institutions for costs and expenses incurred in connection with any such advance. Any such reimbursement obligation and any other obligations of the government under such contracts or agreements shall be general obligations of the government of Guam and shall additionally be secured by a pledge of Pledged Revenues, and any such advance, if necessary, shall be treated for Organic Act purposes as creating an obligation issued to refund the bonds.

(l) Use of Proceeds from the Sale of the Bonds. The proceeds from the sale of the bonds shall be used and are hereby appropriated to (i) finance the Layon Landfill Cell Project; (ii) establish any necessary reserves in connection with the foregoing project; (iii) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds; and (iv) fund capitalized interest on the bonds for a period not longer than thirty (30) months from the date of issuance of such bonds.

(m) Permitted Investments. The proceeds of the bonds, and any Pledged Revenues relating to such bonds, may be invested in, but only in, the types of investments permitted by the certificate or indenture pursuant to which such bonds are issued.
(n) Approval by the Guam Economic Development Authority. 12 GCA § 50103(k) provides that agencies and instrumentalities of the government of Guam shall issue bonds and other obligations only by means of and through the agency of the Guam Economic Development Authority (GEDA). No issue of bonds authorized by this Section shall be sold until the Board of Directors of GEDA has adopted a resolution approving the sale of such issue.

(o) Approval of Voters Not Required. Notwithstanding 17 GCA §§ 17311 and 17312, the issuance of the bonds authorized by this Section shall not be required to be subject to the approval of, or placed before, the voters of Guam.

(p) Alternate Authority for Loan. I Maga’hågan Guåhan is authorized to borrow on behalf of the government of Guam as provided in this Subsection from one (1) or more banks, banking syndicates, commercial lending institutions, or investment funds an amount not to exceed the amount necessary to provide Thirty Million Dollars ($30,000,000) for the purpose of financing the Layon Landfill Cell Project and related costs, including reserves, as a short-term construction loan for a period of not to exceed twenty-four (24) months, or a long-term loan for a period not to exceed twelve and one-half (12.5) years.

(1) The terms and conditions of any such loan shall be as determined by I Maga’hågan Guåhan by the execution of a loan agreement; provided, however, that the loan (A) shall be subject to prepayment from the proceeds of the bonds authorized by Subsection (b) of this Section; (B) may be secured in a substantially similar manner to the bonds authorized by Subsection (b) of this Section; (C) shall, if not paid with the proceeds of revenue bonds, have annual principal
payments over the five (5) year period commencing one (1) year after its funding date; and (D) shall bear interest at such fixed or variable rate or rates as may be negotiated by I Maga’hågan Guåhan in the best interests of the government.

(2) No loan authorized by this Section shall be entered into until the Board of Directors of GEDA has approved the loan by resolution.

(3) The loan shall not be subject to the approval of the voters of Guam.

(4) I Liheslaturan Guåhan, pursuant to 12 GCA § 50103(k), hereby approves a borrowing by the government of Guam for the purposes and in the principal amount authorized by this Section; provided, that the loan is entered into subject to the terms and conditions mandated in this Section.

(q) Approval of Guam Public Utilities Commission Not Required. Notwithstanding 12 GCA § 12106, neither the issuance of the bonds nor the loan authorized by this Section shall be subject to the approval of the Guam Public Utilities Commission.”

Section 2. Local Sales of Bonds. I Maga’hågan Guåhan shall undertake her best efforts to cause a portion of any bonds issued pursuant to Section 1 of this Act (5 GCA § 1512.4) to be offered for sale to residents of Guam, as well as to residents of other jurisdictions, if and to the extent that such offer and any sales resulting from such offer do not increase the costs to the government of Guam of issuing and repaying such bonds.

Section 3. Approval of Bonds. I Liheslaturan Guåhan, pursuant to 12 GCA § 50103(k), hereby approves the issuance and sale by the government of Guam of bonds for the purposes and in the principal amounts not to exceed the purpose and
limits set forth in Section 1 of this Act; provided, that the conditions to the issuance of such bonds shall have been met, such bonds have a final maturity date not later than twelve and one-half (12.5) years after their date of issuance, bear interest at such rate and are sold for such price or prices as shall result in a yield to the bondholders not exceeding six percent (6.0%) per annum, and are issued and sold in the manner, for the purposes and subject to the requirements and limitations provided in 5 GCA § 1512.4.

Section 4. Bond Proceeds Not Subject to Transfer Authority. The proceeds of the bonds approved by Section 3 of this Act shall not be subject to any transfer authority of I Maga'hågan Guåhan.

Section 5. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.