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<tr>
<td>S-35 (LS)</td>
<td>Telo T. Taitague</td>
<td>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 &quot;ESPETÅ-TA. LINA'LÅ-TA. – OUR HOSPITAL. OUR LIFE. PLANNING TASK FORCE.&quot;</td>
<td>1/7/19 11:20 a.m.</td>
<td>1/18/19</td>
<td>Committee on General Government Operations, Appropriations, and Housing</td>
<td>8/2/19 2:00 p.m.</td>
<td>10/1/19 4:30 p.m.</td>
<td>As amended by the Committee on General Government Operations, Appropriations, and Housing; and further amended on the floor</td>
<td>1/31/19</td>
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**SESSION DATE**

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<th>DATE PASSED</th>
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<th>PUBLIC LAW NO.</th>
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November 27, 2019

HONORABLE TINA ROSE MUÑA BARNES
Speaker
I Mina’Irentai Singko Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96932

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 ‘Epetat-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…”
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
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. LINÀ'LÀ-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. 5-58
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.”

BE IT ENACTED BY THE PEOPLE OF GUAM:

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

ESPETÅT-TA. LINA’LÁ-TA. – OUR HOSPITAL. OUR LIFE.

PLANNING TASK FORCE ACT OF 2019

§ 77901. Title.

§ 77902. Legislative Statement.

§ 77903. Creation and Membership.

§ 77904. Administrative Support for the Task Force.

§ 77905. Adoption of Rules.

§ 77906. Meetings.

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

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

§ 77909. Reporting.

§ 77901. Title.

This Act shall be known and may be cited as the “Espetåt-ta. Lina’lå-ta. – Our Hospital. Our Life. Planning Task Force Act of 2019.”

§ 77902. Legislative Statement.

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

It is, therefore, the position of I Liheslaturan Guåhan that a task force be established to coordinate efforts by the government of Guam to develop a new public hospital facility, including rehabilitation and/or replacement plans involving the
current Guam Memorial Hospital Authority facility. *I Liheslatura* acknowledges the
development of a new public hospital facility as a critical planning initiative of the
government of Guam through the support of the Guam Economic Development
Authority (GEDA). Included within the enabling statute of GEDA is 12 GCA §
50103(a), which recognizes that “...there exists an acute shortage of adequate,
modern and efficient hospital facilities in Guam and that unless measures are
adopted to alleviate such conditions, the need for such facilities will become
increasingly more urgent and serious. It is hereby declared that the safety, health
and welfare of the people of Guam requires the provision of adequate, modern and
efficient hospital facilities in the various parts of the Territory, and that it is the
policy of the Territory and a purpose of this Division to provide the means necessary
for the acquisition, construction and provision of hospital facilities to serve the
general public and to make reasonably accessible to all the people of Guam modern
and efficient hospital facilities.”

§ 77903. **Creation and Membership.**
(Task Force) is hereby created and shall consist of nine (9) members.

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

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

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

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

(3) the Speaker of *I Lihesluran Guåhan* or his/her designee
who shall be a member of *I Lihesluran Guåhan*;
(4) a member of I Lihesluran Guåhan appointed by the
Speaker of I Lihesluran Guåhan;

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

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

(7) a member of the general public who shall be appointed by
the Speaker of I Lihesluran Guåhan.

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

(9) the Minority Leader of I Lihesluran Guåhan or his/her
designee.

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

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

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

§ 77904. Administrative Support for the Task Force.

(a) The Task Force shall be established within GEDA for administrative
purposes. The Administrator of GEDA shall ensure that the administrative
provisions contained in this Article are properly adhered to; and shall further ensure
that GEDA provides all the necessary administrative and clerical support, and anything else deemed necessary for the efficient operation of the Task Force.

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

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

§ 77905. Adoption of Rules.

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

§ 77906. Meetings.

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

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

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

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

The Task Force shall:

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

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

(c) identify possible funding sources for a new public hospital facility;
(d) work with all pertinent stakeholders necessary to establish an organized approach by the government of Guam in developing a new public hospital facility;
(e) obtain a feasibility study with regards to the building, maintenance, and economic impact of a new public hospital facility;
(f) review previous Guam Memorial Hospital Task Force Reports, Advisory Council Reports, Expansion or Modernization Plans, and GMH Facilities Masterplans; and report to I Lihesluran Guåhan about all the areas or recommendations still feasible, requiring additional information, or ruled out at this point.

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

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

§ 77909. Reporting.

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

(b) The Task Force shall file a complete and detailed written report quarterly with I Maga'hågan Guåhan and the Speaker of I Lihesluran Guåhan, in the form and within the time provided by the General Appropriations Act,
accounting for all funds received and disbursed by the Task Force during the preceding fiscal year.

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

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

Section 3. 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.