

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
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Bill No. 83-32 (cor)

Introduced by:

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AN ACT TO AMEND §77403, §77404, §77405 AND
§77407 OF CHAPTER 77, ARTICLE 4, DIVISION 2,
TITLE 12, GUAM CODE ANNOTATED, RELATIVE
TO THE CONSTRUCTION, DEVELOPMENT,
UPGRADING, REPAIR OR MAINTENANCE OF
PUBLIC SCHOOL SPORTS FACILITIES.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*
3 finds that the enactment of P.L. 27-114 in December 2004 provided an
4 alternative source of funding for the construction, development,
5 upgrading, repair or maintenance of public school sports facilities, through
6 the use of tax credits. The law authorized up to One Million Dollars
7 (\$1,000,000.00) worth of tax credits to individuals, corporations or limited
8 liability companies that assist the Department of Education (DOE) improve
9 its sports facilities for the benefit of our youth and others who utilize such
10 facilities.

1 *I Liheslatura* finds, however, that based on information recently
2 provided to the Committee on Education, Public Library and Women’s
3 Affairs (Committee) by the Guam Economic Development Authority
4 (GEDA) during a roundtable discussion held in March 2013 that P.L. 27-114
5 has yet to be implemented. GEDA informed the Committee that while the
6 agency has prepared a set of proposed rules and regulations for the
7 administration of the public school sports facilities tax credit program, the
8 agency has not completed an Economic Impact Study as required by the
9 Administrative Adjudication Act. The more than 7-year delay in the
10 implementation of the public school sports facilities tax credit program
11 prevents DOE from realizing the benefits such an alternative funding
12 solution provides. DOE informed the Committee during the roundtable
13 discussion that several millions of dollars are needed in order to improve
14 sports facilities at various public middle and high schools.

15 It is, therefore, the intent of *I Liheslaturan Guåhan* to assist DOE
16 improve its sports facilities through the application of the public school
17 sports facilities tax credit program, by amending §77403, §77404, §77405
18 and §77407 of Chapter 77, Article 4, Division 2, Title 12, Guam Code
19 Annotated.

20 **Section 2. Tax Credits for Contributors to Public School Sports**
21 **Facilities.** §77403, §77404, §77405 and §77407 of Chapter 77, Article 4,
22 Division 2, Title 12, Guam Code Annotated, are hereby amended, to read:

23 **“§77403. Credit Against Business Privilege Taxes.**

1 (a) In lieu of any cash payment from the government of Guam for the
2 construction, development, upgrading, repair or maintenance of public
3 school sports facilities, the government of Guam is hereby authorized to
4 issue tax credits to individuals, sole proprietorships, partnerships,
5 corporations, or limited liability companies. Such individuals and entities
6 making contributions, as approved by the Superintendent of the
7 Department of Education (hereinafter "DOE") and the Guam Board of
8 Education, towards the construction, development, upgrading, repair or
9 maintenance of any gymnasium shall be authorized tax credits against
10 Business Privilege Taxes. The bases for contribution to the project shall be
11 the actual cost of the contribution to the project plus the cost of
12 transportation, if any, from the point of origin to its destination.

13 (b) Any unused credits not used in the current tax period may be
14 carried over into subsequent tax periods until such credits are exhausted.

15 (c) The total credits allowed under this Article shall not exceed the
16 actual dollar amount of the expenditures on cost of the project by the
17 taxpayer.

18 (d) Any credit against the Business Privilege Tax, as authorized
19 herein, shall only apply to the unpledged portion of the Business Privilege
20 Tax (currently one percentage point of the current four percent Business
21 Privilege Tax rate). The credit shall not apply to the first three percentage
22 points of the Business Privilege Tax, so as not to violate the government's
23 covenants to bondholders of the Series A, Series B and Series C Limited

1 Obligation bonds authorized through P.L. 31-76, P.L. 31-196 and P.L. 31-
2 276.

3 (e) The tax credits authorized herein shall be freely assignable and
4 transferable to any party, company, partnership or corporation; provided,
5 however, that such assignee may only utilize the tax credit against the
6 unpledged portion of the Business Privilege Tax as set forth in §77403(d)."

7 **"§77404. Cap on Business Privilege Tax Credits for Construction,**
8 **Development, Upgrading, Repair or Maintenance of Gymnasiums.**

9 The total amount of credits against Business Privilege Taxes for the
10 construction, development, upgrading, repair or maintenance of
11 gymnasiums as authorized herein shall not exceed ~~One Million~~ Five
12 Hundred Thousand Dollars (\$1,0500,000.00) per fiscal year for all projects
13 approved by the Superintendent of Education and the Guam Education
14 Board."

15 **"§77405. Rules and Regulations.**

16 The Guam Economic Development ~~and Commerce~~ Authority
17 (GEDCA) shall promulgate rules and regulations necessary to implement
18 this Section, ~~in accordance with the Administrative Adjudication Law,~~
19 which shall be submitted to I Liheslaturan Guåhan for approval. The rules
20 and regulations shall be submitted to I Liheslaturan Guåhan within no later
21 than sixty (60) days upon the enactment of this Article following the
22 passage of this Act."

23 **"§77407. GEDCA Report.**

1 GEDCA shall submit a report to *I Liheslaturan Guåhan* detailing the
2 impact of the program on the Business Privilege Taxes, its monitoring
3 efforts, and any other information related to the program. The report shall
4 be transmitted to *I Liheslatura* on an annual basis ~~until the One Million~~
5 ~~Dollars (\$1,000,000.00) BPT cap pursuant to §77407 of this Article is~~
6 ~~exhausted."~~

7 **Section 3. Effective Date.** This Act shall be effective upon
8 enactment.