

**I MINA'TRENTAI DOS LIHESLATURAN GUÅHAN**  
**2013 (First) Regular Session**

Bill No. 181-32 (COR)

Introduced by:

T.C. Ada   
R.J. Respicio

**AN ACT TO AMEND SECTION 2 OF PUBLIC LAW 30-145  
RELATIVE TO APPROVING THE TERMS AND CONDITIONS  
OF THE ISSUANCE OF GUAM WATERWORKS AUTHORITY  
REVENUE BONDS, TO INCREASE THE AMOUNT OF THE  
BONDS THAT THE GUAM WATERWORKS AUTHORITY IS  
AUTHORIZED TO ISSUE, AND TO APPROVE THE TERMS  
AND CONDITIONS OF GUAM WATERWORKS AUTHORITY  
REVENUE BONDS TO REFINANCE CERTAIN GUAM  
WATERWORKS AUTHORITY REVENUE BONDS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that  
3 the United States District Court of Guam Civil Case No. 02-00035, November 10, 2011  
4 Order outlines the corrective actions and other necessary capital projects that the Guam  
5 Waterworks Authority (the "Authority") shall continue to undertake. Since the original  
6 2003 Court Order, the Authority has borrowed \$220,000,000 to begin to bring the GWA  
7 system into compliance with federal Clean Water and Safe Drinking Water laws.

8 *I Liheslatura* further finds that in order for the Authority to be able to finance the  
9 projects required in the timelines prescribed in the United States District Court of Guam  
10 Civil Case No. 02-00035, November 10, 2011 Order, the Authority must be authorized to  
11 issue an additional Four Hundred Ninety-Five Million Dollars (\$495,000,000) in bonds.  
12 The loans would be used to fund the following:

- 13 • Bring all three southern wastewater treatment plants in Agat, Umatac and Baza  
14 Gardens into compliance with their secondary treatment permits at an estimated  
15 cost of \$111 million by 2018;
- 16 • Repair or rebuild all GWA water storage tanks island-wide at an estimated cost of  
17 \$153.4 million by 2021;

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- 1 • Invest \$48.5 million for water distribution projects island-wide to begin replacing
- 2 badly leaking water lines, improve pressure with booster pump upgrades and
- 3 refurbishing or drilling new wells;
- 4 • Fund \$39.4 million for systems analysis and monitoring and technology upgrades
- 5 for better system management and energy savings; and,
- 6 • To minimize ratepayer impact and allow for gradual rate increases spread out over
- 7 five to seven years, an additional amount of \$142 million is required to fund two
- 8 years of capitalized interest plus a debt service reserve for each bond borrowing.

9 These bond issuances, in one or more series, shall be issued subject to the approval of the  
10 Guam Consolidated Commission on Utilities (the “CCU”), the Guam Public Utilities  
11 Commission (the “PUC”), and the Board of Directors of the Guam Economic  
12 Development Authority (“GEDA”).

13 *I Liheslatura* further finds the Authority anticipates that opportunities may arise to  
14 refinance all or a portion of its outstanding Series 2005 and Series 2010 revenue bonds  
15 for debt service savings, which is expected to result in savings to ratepayers. In order to  
16 benefit ratepayers and comply with the Federal Court Order, I Liheslaturan Guahan has  
17 determined that the issuance of revenue bonds by the Authority for such purpose, subject  
18 to approval by the CCU, the PUC, and the Board of Directors of GEDA, would be  
19 prudent.

20 *I Liheslatura* finally finds that a 2010 rider, inserted during legislative session,  
21 required GWA ratepayers to pay back \$20 million to the General Fund for a loan that was  
22 fully paid off in December 2010, causing an unnecessary burden on ratepayers.  
23 Consequently, the rider was interpreted by the PUC in 2012 to require an 18% rate  
24 increase that ratepayers would re-pay over an 18-month period. GWA filed, in Superior  
25 Court, its objection to the PUC order and successfully obtained a stay from transferring  
26 \$18 million to the General Fund. Notwithstanding, the provision still remains in Guam  
27 law and needs to be repealed to make clear that this is no longer a requirement to be  
28 placed upon GWA’s ratepayers. *I Liheslatura* finds that adding another \$20 million rate  
29 increase onto GWA ratepayers is not in the public interest.

30

1           **Section 2. Amendment to Section 2 of Public Law 30-145.** Section 2 of Public  
2 Law 30-145 is hereby *amended* to read as follows:

3           **“Section 2. Approval of Guam Waterworks Authority Revenue Bonds.**

4           (a) The Guam Legislature, *I Liheslaturan Guåhan*, pursuant to Section  
5 50103 of Title 12 of the Guam Code Annotated, hereby approves the issuance and  
6 sale by the Authority of revenue bonds pursuant to Article 2, Chapter 14, Title 12,  
7 Guam Code Annotated (the “Act”) in one or more series or issues; provided that  
8 the issuance, terms and conditions of the bonds *shall* have been approved by the  
9 Guam Public Utilities Commission, and further provided that such bonds shall  
10 have a principal amount ~~not to exceed Two Hundred Twenty Million Dollars~~  
11 ~~(\$240,000,000)~~ Seven Hundred Fifteen Million Dollars (\$715,000,000), *shall*  
12 have a final maturity not later than 2055, *shall* bear interest at such rate or rates  
13 and *shall* be sold for such price or prices as shall result in a net yield to the  
14 bondholders *not exceeding* seven and one-half percent (7.5%) per annum, *shall* be  
15 issued and sold in the manner, for the purposes and subject to the requirements  
16 and limitations provided in Article 2, Chapter 14, Title 12, Guam Code  
17 Annotated, and *shall* be issued pursuant to an Indenture in substantially the form  
18 as attached to this Act as Exhibit A. ~~Twenty Million Dollars (\$20,000,000)~~  
19 ~~principal amount shall be used to pay the balance of the government of Guam~~  
20 ~~Limited Obligation (Section 30) Series 2001A bond and any other portions of~~  
21 ~~Bonds or Loans paid for by General Fund revenues for which the Guam~~  
22 ~~Waterworks Authority has received proceeds.~~ In order to be able to take  
23 advantage of ~~Build America Bonds, or other~~ a federally subsidized bond program,  
24 net yield to the bondholders *shall* be calculated by subtracting any interest subsidy  
25 amounts to be received from the United States in connection with such bonds  
26 from the amount of interest to be paid to bondholders.

27  
28           **Section 3. Approval of Guam Waterworks Authority Refinancing Bonds.**

29 *I Liheslaturan Guåhan*, pursuant to Section 50103 of Title 12 of the Guam Code  
30 Annotated, hereby approves the issuance and sale by Guam Waterworks Authority of  
31 fixed rate revenue bonds in one or more series or issues to refinance the outstanding

1 revenue bonds of the Authority pursuant to Section 14226 of Article 2, Chapter 14, Title  
2 12, Guam Code Annotated; provided that the issuance, terms and conditions of the  
3 refinancing bonds shall have been approved by the Guam Public Utilities Commission  
4 and the Guam Consolidated Commission on Utilities, and that the sale of the bonds shall  
5 be approved by the Board of Directors of GEDA; and further provided that such  
6 refinancing bonds shall have a principal amount sufficient to provide funds for the  
7 payment of all bonds to be refinanced thereby (the "prior bonds") and in addition for the  
8 payment of all expenses incident to the calling, retiring or paying of such prior bonds and  
9 the issuance of such refinancing bonds, including:

- 10 i. The difference in amount between the par value of the refinancing bonds and any  
11 amount less than par for which the refinancing bonds are sold;
- 12 ii. Any amount necessary to be made available for the payment of interest upon such  
13 refinancing bonds from the date of sale thereof to the date of payment of the prior  
14 bonds or to the date upon which the prior bonds will be paid pursuant to the call  
15 thereof or agreement with the holders thereof;
- 16 iii. The premium, if any, necessary to be paid in order to call or retire the prior bonds  
17 and the interest accruing thereon to the date of the call or retirement; and,
- 18 iv. Any additional amount needed to provide for a deposit to the debt service reserve  
19 in connection with the issuance of the refinancing bonds;

20 And further provided that such refinancing bonds shall have a final maturity not later than  
21 the final maturity of the prior bonds, that such refinancing bonds shall be issued and sold  
22 pursuant to the Authority's existing bond indenture and in compliance with the provisions  
23 of Chapter 14 of Title 12 of the Guam Code Annotated, and that the present value of debt  
24 service on the refinancing bonds shall be at least two percent (2%) less than the present  
25 value of debt service on the bonds being refinanced, using the yield on the refinancing  
26 bonds as the discount rate; and further provided that all obligation of the Authority to pay  
27 debt service on, and the redemption price of, the prior bonds shall be discharged  
28 concurrently with the issuance of the refinancing bonds, and thereafter, the prior bonds  
29 shall be payable solely from and secured solely by an escrow established for such  
30 purpose in accordance with the Authority's existing bond indenture

1           **Section 4. Severability.** If any of the provisions of this law or its application to  
2 any person or circumstance is found to be invalid or contrary to law, such invalidity shall  
3 not affect other provisions or applications of this law which can be given effect without  
4 the invalid provisions or application, and to this end the provisions of this law are  
5 severable.