


I MINA'TRENTA NA LIHESLATURAN GUÅHAN  
2009 (FIRST) Regular Session

Bill No. 37 (cor)

Introduced by:

Adolpho B. Palacios, Sr. 

AN ACT TO RE-ENACT CHAPTER 6 OF TITLE 12 GCA,  
AND TO AMEND §4105 OF CHAPTER 4, TITLE 4 GCA  
RELATIVE TO RE-ESTABLISHING THE GUAM MASS  
TRANSIT AUTHORITY.

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*Amber*

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings. *I Liheslaturan Guåhan* finds that the  
3 freedom to move about as one so chooses is a basic freedom that all in the  
4 community should be able to enjoy and appreciate. *I Liheslaturan Guåhan* further  
5 finds that Public Law 26-76, which abolished the Guam Mass Transit Authority,  
6 may have done more to hamper the community's transportation needs than help.

7 *I Liheslaturan Guåhan* finds that the role of the public mass transit service is  
8 to provide affordable mobility to enable households in our community who may  
9 not be able to afford a privately owned vehicle or cannot drive due to age or  
10 some physical disability. It is reasonable to assert that there are many households  
11 in our community who depend to public transit to be able to get to/from work,  
12 medical appointments, and to various social activities where the growth of

1 healthy community is enhanced. On an island where land is very limited, the  
2 traffic congestion caused by a growing population cannot reasonably be  
3 addressed by continually expanding roadways which require the dedication of  
4 limited land areas. Hence, public mass transit services provide an alternative for  
5 mobility within our community while at the same time relieving traffic  
6 congestion. The availability of adequate public transit services can also  
7 contribute to the redirection of consumer spending from the purchase of  
8 automobiles and the cost of operating them to alternative expenditures which  
9 may help households to improve their quality of life. Without the benefit of a  
10 public mass transit service, many in our community would not have the mobility  
11 necessary to adequately achieve the aforementioned pursuits and objectives.

12 *I Liheslaturan Guåhan* finds that the enactment of P.L. 26-76 may not have  
13 resulted in any net savings. Instead, the dismantling of the public transit services  
14 may have resulted in a greater cost to the community by negatively impacting  
15 the mobility in our community, especially among those who can least afford this  
16 lessened mobility.

17 *I Liheslaturan Guåhan* finds that the Department of Public works is in the  
18 process of completing its Transportation Master Plan. An important component  
19 of this Master Plan is the development of a Public Transit Service. *I Liheslatura*  
20 finds that the management and governance of a public transit operation requires

1 the establishment of a dedicated organization, i.e. a Mass Transit Authority.  
2 Such an organization is normally found in communities where effective mass  
3 transit services are available to the general public.

4 Since Public Law 26-76 was enacted into law, the administration of Public  
5 Transportation has been conducted by a small staff within the Department of  
6 Administration. This staff, working with the most basic understanding of  
7 transportation needs and extremely limited resources, has done all that they  
8 could to administer the public transit system on Guam. *I Liheslatura* finds that  
9 despite the hard work and dedication of the people at the Department of  
10 Administration, limitations on resources and capabilities within the law have  
11 hampered their ability to meet the growing transportation needs of our island.

12 *I Liheslatura* finds that the outsourcing of certain services such as  
13 maintenance and operation of vehicles has its place in mass transit systems;  
14 however there are certain operational requirements that should be under the  
15 government's control. *I Liheslatura* finds that the government must operate  
16 dispatch of vehicles, customer service, and data collection.

17 Therefore, it is the intent of *I Liheslaturan Guåhan* to re-establish the Guam  
18 Mass Transit Authority to devote full attention to the transportation needs to the  
19 people of Guam.

20 **Section 2.** Chapter 6 of Title 12, Guam Code Annotated, is hereby re-

1    *enacted* to read as follows:

2                                    **“Chapter 6. Guam Mass Transit Authority**

3    **Article 1.     General Provisions.**

4    **Article 2.     Government.**

5                                    **Article 1.     General Provisions.**

6    **§6101.     Title.**

7    **§6102.     Creation.**

8    **§6103.     Definitions.**

9    **§6104.     Purposes.**

10   **§6105.     Powers.**

11            **§6101. Title.** This Chapter shall be hereby cited as the Guam Mass Transit  
12   Authority Act of 2008.

13            **§6102. Creation.** There is hereby created the Guam Mass Transit  
14   Authority, a public corporation. The Guam Mass Transit Authority (GMTA)  
15   shall have the exclusive franchise for the furnishing of public transportation  
16   within Guam and on its roads and highways. Except for private parking  
17   facilities, and for parking facilities maintained and operated by the A. B. Won Pat  
18   Guam International Airport Authority, GMTA shall have the exclusive franchise  
19   within the government of Guam for the collection of fees for the furnishing of  
20   public parking within Guam.

1       **§6103. Definitions.** As used in this Chapter, unless otherwise indicated:

2       (a) *Authority* means the Guam Mass Transit Authority.

3       (b) *Board* means the Board of Directors of the Authority.

4       (c) *Director* means a member of the Board.

5       (d) *Executive Manager* means the person employed by the Board to  
6 supervise the administration of the Authority.

7       **§6104. Purposes.** The purposes for which the Authority is created are to  
8 establish, develop, promote and/or operate public transportation systems within  
9 the territory of Guam together with incidental and related facilities and services  
10 in order to provide adequate public transportation for persons residing in or  
11 visiting the territory of Guam.

12       **§6105. Powers.** The Authority may:

13       (a) Acquire, construct, reconstruct, purchase, better, extend, improve  
14 operate and maintain facilities for the purpose of carrying out its  
15 mandate.

16       (b) Acquire by grant, purchase, gift, devise, lease, or permit in  
17 accordance with the provisions and subject to the limitations of laws  
18 of Guam including Chapter 5, Title 5, GCA, and hold and use any  
19 real and personal property necessary, convenient or useful for the  
20 carrying out of any of its powers pursuant to the provisions of this

Chapter, and to dispose of the same.

(c) To enter into contracts, leases, concession agreements and permits and to execute all instruments necessary or convenient in the exercise of its powers, including without limitation, the purchase of liability and casualty insurance for Authority purposes, adopt a seal and sue or be sued in its own corporate name.

(d) Employ agents and retain or contract for the services of qualified consultants, specialists or experts, as individuals or as organizations, to advise and assist the Authority and its employees, all of which may be accomplished without regard to the portion of the Personnel Laws relative to compensation.

(e) Impose, prescribe, revise and collect fees for the purposes of carrying commercial advertisement on or around Authority property.

(f) Establish schedules and fares to control the operation of the Authority and such fares may be altered or modified only after public hearing on any proposed changes, said hearing to comply with the provisions of the Administrative Adjudication Law and other legal requirements of Guam.

(g) Adopt such rules and regulations, pursuant to the Administrative Adjudication Law, as may be necessary for the exercise of powers

1 and performance of the duties conferred or imposed upon the  
2 Authority or the Board.

3 (h) Do any and all things necessary to exercise the above powers.

4 (i) Employ an attorney, enter into contract for legal services, or enter  
5 into contract with the Attorney General to address legal issues.

6 (j) Consider adopting environmentally sound practices such as the  
7 procurement and use of zero-emission buses.

8 (k) Consider various route designs when planning and implementing  
9 schedules.

10 The Authority shall:

11 (l) Operate the dispatching of vehicles.

12 (m) Monitor customer comments and respond to customer comments in  
13 a reasonable and timely manner.

14 (n) Collect and record data pertaining to the consumers of the mass  
15 transit services. Such data shall be made available to *I Liheslaturan*  
16 *Guåhan* on a quarterly basis. Such data shall include, but not be  
17 limited to:

18 (1) the number of consumers utilizing the transit system,

19 (2) the types of services used by consumers.

20 Nothing contained in this Section, or by implication in this Chapter shall

1 be construed to be in any way in derogation or limitation of powers conferred  
2 upon or existing in the Authority or in the Board by virtue of the Organic Act  
3 and the laws of Guam.

4 **Article 2. Government.**

5 **§6201. Board of Directors.**

6 **§6202. Executive Manager.**

7 **§6203. Personnel.**

8 **§6204. Mass Transit Fund.**

9 **§6205. Limited Liability.**

10 **§6201. Board of Directors.**

11 (a) The Board shall consist of six (6) directors appointed by the Governor  
12 of Guam, with the advice and consent of the Legislature and one (1) director  
13 appointed by the Mayors' Council of Guam. One (1) of the directors shall be a  
14 user of the mass transit service. One (1) of the directors shall be a user of the  
15 para-transit service. Initially, three (3) directors shall serve a term of two (2)  
16 years from the date of confirmation and four (4) directors shall serve a term of  
17 three (3) years from the date of confirmation, thereafter each director shall serve  
18 a term of three (3) years from the date of confirmation, unless sooner removed by  
19 the Governor. All vacancies occurring in the office of director shall be filled by  
20 the Governor in the same manner as for full-term appointments, except for the



1 director appointed by the Mayors' Council.

2 (b) Four (4) directors shall constitute a quorum of the Board for the  
3 transaction of business. The Board may adopt rules and regulations governing  
4 the conduct of its affairs. It shall elect a chairman and vice-chairman from  
5 among its members. It shall employ a secretary who shall maintain all records  
6 and minutes of the Board.

7 (c) Each director shall receive the sum of One Hundred Dollars (\$100.00)  
8 for his attendance at any meeting of the Board, but such compensation shall not  
9 apply to more than two meetings in any one calendar month. No director shall  
10 receive any other compensation, but shall be reimbursed for actual travel,  
11 subsistence and out-of-pocket expenses incurred in the discharge of his  
12 responsibilities, including authorized attendance at meetings held away from  
13 Guam.

14 **§6202. Executive Manager.**

15 (a) The Board shall appoint an Executive Manager, who shall be its chief  
16 executive officer. The Executive Manager shall serve at the pleasure of the  
17 Board, which shall fix his compensation.

18 (b) The powers of the Executive Manager include:

19 (1) To enforce all rules and regulations of the Authority.

20 (2) To attend, unless excused by the Board, all meetings of the

1 Board and to submit reports on the affairs of the Authority as  
2 required by the Board.

3 (3) To keep the Board advised on the needs of the Authority and  
4 to approve demands for payment of obligations within the  
5 purposes and amounts authorized by the Board.

6 (4) To devote his entire time to the business of the Authority, to  
7 select and appoint the employees of the Authority, except as  
8 otherwise provided in this Chapter, and to plan, organize,  
9 coordinate and control the services of such employees in the  
10 exercise of the powers of the Authority under the general  
11 direction of the Board.

12 (5) To perform such other and additional duties as the Board may  
13 require.

14 **§6203. Personnel.**

15 (a) The Board, pursuant to Chapter 4, Title 4, GCA, shall establish rules  
16 and regulations governing the selection, promotion, performance evaluation,  
17 demotion, suspension, dismissal and other disciplinary action for employees of  
18 the Authority.

19 (b) The Executive Manager shall be an unclassified employee. No  
20 person employed by the Authority on a limited term contract shall be a classified

1 employee. All other employees of the Authority are classified employees.

2 (c) Each employee of the Authority shall be eligible to become a member  
3 of the Government of Guam Retirement Fund pursuant to §8105(d), Title 4, GCA.

4 (d) Each employee of the Authority shall be eligible to participate in any  
5 government of Guam health and life insurance plan.

6 (e) The employer's contribution to the Government of Guam Retirement  
7 Fund that is assessed by the Fund's Board of Trustees for the benefit of Authority  
8 employees who are members of the Fund shall be paid by the Authority.

9 (f) The employer's contribution to the Worker's Compensation Fund  
10 that is assessed by the Worker's Compensation Commission for the benefit of  
11 Authority employees shall be paid by the Authority.

12 **§6204. Guam Mass Transit Authority Fund.**

13 (a) The Board shall adopt and maintain a system of accounting which is  
14 in accordance with generally accepted accounting principles.

15 (b) There is established a fund to be known as the "Guam Mass Transit  
16 Authority Fund" which the Authority shall maintain separate and apart from the  
17 other funds of the government of Guam, and independent records and accounts  
18 shall be maintained in connection therewith. The Guam Mass Transit Authority  
19 Fund shall be audited annually by an independent certified public accountant or  
20 by the Office of the Public Auditor.

1 (c) All monies received by the Authority from whatever source derived  
2 shall be deposited in the Guam Mass Transit Authority Fund.

3 (d) All expenditures, except as otherwise provided by law, shall be made  
4 from said Guam Mass Transit Authority Fund.

5 (e) The Authority shall report to the Governor and to the Legislature  
6 concerning the administration of the affairs of the Authority. It shall present an  
7 annual report within one hundred twenty (120) days after the end of each fiscal  
8 year and, if requested by the Governor of the Legislature, shall present special  
9 reports within thirty (30) days after the end of each intervening quarter. The  
10 financial information presented in such reports shall be in accordance with the  
11 system of accounts adopted by the Board.

12 **§6205. Limited Liability.**

13 (a) To the extent that any liability of the government of Guam or of the  
14 Authority is covered by a policy or policies of insurance, the Government waives  
15 the limitation of liability found in §6301, Title 5, GCA; provided, that the  
16 Government shall not be liable in damages for tort in any amount which exceeds  
17 the coverage of insurance and the limitation of liability contained in §6500.13 of  
18 the Government Code.

19 (b) All claims made against any policy of insurance purchased by the  
20 Authority shall be made in accordance with the procedures and time limitations

1 set forth in the Government Claims Act, except that all claims not in excess of the  
2 face amount of the policy shall be presented to the Executive Manager of the  
3 Authority, who shall present the same to the insurance carrier, carriers or to their  
4 designated agents for processing.

5 (c) If a claim is in excess of the applicable insurance coverage, then the  
6 Executive Manager of the Authority shall also present a copy of the claim to the  
7 Attorney General, who shall then coordinate the claim as between the  
8 Government and the insurance carriers, and who shall represent the Government  
9 in the event of a dispute between the Government and the insurance carriers. In  
10 the event of said dispute, the Attorney for the Authority shall represent the  
11 interests of the Authority.

12 (d) Each policy of insurance written covering the Authority or its interest  
13 shall contain a clause waiving any defense of sovereign immunity which may be  
14 raised against the payment of the claim by carrier.

15 (e) The Executive Manager shall publish, in a newspaper of general  
16 circulation in Guam, within ten (10) days after the effective date of any policy of  
17 insurance purchased, a statement indicating the existence of any such policy and  
18 a notice informing the public where claims may be filed."

19 **Section 3.** Subsections (a) and (b) of §4105, Chapter 4, Title 4, Guam Code  
20 Annotated, is hereby *amended* to read:

1           “(a) Rules subject to criteria established by this Chapter governing the  
2     selection, promotion, performance, evaluation, demotion, suspension and other  
3     disciplinary action of classified employees shall be adopted by the Board of  
4     Directors of the Antonio B. Won Pat International Airport Authority, Guam; the  
5     Board of Directors of the Guam Economic Development and Commerce  
6     Authority; the Board of Directors of the Guam Housing Corporation; the Board  
7     of Commissioners of the Guam Housing and Urban Renewal Authority; the  
8     Guam Judicial Council; the Board of Directors of the Jose D. Leon Guerrero  
9     Commercial Port; the Guam Education Policy Board; the Board of Regents of the  
10    University of Guam; the Guam Community College Board of Trustees; the Board  
11   of Directors of the Guam Mass Transit Authority; the Board of Trustees of the  
12    Guam Memorial Hospital Authority; the Board of Directors of the Guam Visitors  
13    Bureau; and the Consolidated Commission on Utilities on behalf of the Guam  
14    Waterworks Authority and the Guam Power Authority, with respect to  
15    personnel matters within their respective Branches, agencies, public corporations  
16    or departments, and by the Director of Administration as to all other Executive  
17    Branch employment.

18           (b) Such rules shall, to the extent practicable, provide standard  
19    conditions for entry into and the other matters concerning the government  
20    service. The personnel rules adopted for the Guam Economic Development and

1 Commerce Authority, the Guam Housing Corporation, the Guam Housing and  
2 Urban Renewal Authority, the University of Guam, the Guam Community  
3 College, the Antonio B. Won Pat International Airport Authority, Guam, the Jose  
4 D. Leon Guerrero Commercial Port, the Guam Public School System, the Guam  
5 Mass Transit Authority, the Guam Memorial Hospital Authority, the Director of  
6 Administration and by the Consolidated Commission on Utilities shall require  
7 that all their classified employee appeals, except academic personnel of the  
8 Guam Community College and the University of Guam in conformance with  
9 Title 4 GCA §4403(h), be heard by the Civil Service Commission ('Commission').

10 **Section 4. Transfer of Funds.** The total amount in the Public Transit  
11 Fund at the time of this Act's effective date shall be transferred to the Guam  
12 Mass Transit Authority Fund.

13 **Section 5. Transfer of Records, Equipment, Designation as State**  
14 **Agency.**

15 (a) Upon the effective date of this Act, the Department of  
16 Administration shall transfer possession of all books, records, papers, maps,  
17 plans, documents, offices, equipment, supplies, money, funds, appropriations,  
18 licenses, permits, agreements, contracts, claims, judgments, land, and other  
19 property, real or personal, connected with the administration of, or held for the  
20 benefit or use of, the former GMTA to the newly reinstated Guam Mass Transit

1 Authority.

2       **Section 6. Funding Source.** The funding source for the re-establishment  
3 of the Guam Mass Transit Authority shall be the “Guam Highway Fund”, and  
4 shall be for the purpose of providing initial funding for the Guam Mass Transit  
5 Authority facilities, personnel and operations.

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