

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

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Bill No. / (2-5)

Introduced by:

Committee on Rules, Natural
Resources, Federal, Foreign,
and Micronesian Affairs
By request of *I Maga'låhen*
Guåhan in accordance with the
Organic Act of Guam.

AN ACT TO *AMEND* ARTICLE 8 OF CHAPTER 51 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GOVERNMENT OF GUAM TO ISSUE BONDS FOR THE PURPOSE OF FINANCING FACILITIES OF THE SOLID WASTE MANAGEMENT SYSTEM, AND APPROVING THE TERMS AND CONDITIONS OF THE ISSUANCE OF ONE (1) OR MORE SERIES OF BONDS PURSUANT TO SUCH ARTICLE TO PAY THE COSTS OF A NEW LANDFILL AND THE CLOSURE OF THE ORDOT DUMP AND RELATED SYSTEM COSTS; TO *AMEND* SECTION 24102(f) AND SECTION 24103 OF ARTICLE 1 OF CHAPTER 24 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE VALUATION OF PROPERTY SUBJECT TO REAL PROPERTY TAXATION; TO *AMEND* SECTION 1512.1 OF CHAPTER 1 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF BONDS TO FINANCE CERTAIN GENERAL FUND EXPENSES; AND TO *AMEND* SECTION 58A109 OF CHAPTER 58A OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE PLEDGE OF SECTION 30 REVENUES TO SECURE THE OBLIGATION TO MAKE LEASE PAYMENTS RELATING TO THE FINANCING OF A HIGH SCHOOL TO REPLACE JOHN F. KENNEDY HIGH SCHOOL.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Section 51802 of Article 8 of Chapter 51 of Title 10, Guam Code Annotated, is hereby *amended* to read as follows:

"§51802. Definitions. The following terms wherever used *or* referred to in this Article *or* in any indenture entered into pursuant hereto

1 (except to the extent modified therein in accordance with this Article) *shall*
2 have the following meanings, respectively, unless a different meaning
3 appears from the context:

4 (a) *Bonds* means an instrument of indebtedness, whether in
5 the form of bonds, notes *or* another such instrument, issued by the
6 government and providing for repayment of the principal amount of
7 the indebtedness, plus interest, over a specified timeframe.

8 (b) *Bondholder or holder of bonds, or* any similar term,
9 means any person who *shall* be:

10 (1) the bearer of any outstanding bond *or* bonds
11 registered to bearer *or not* registered; or

12 (2) the registered owner of any such outstanding bond
13 *or* bonds which *shall* at the time be registered other than to
14 bearer.

15 (c) *Department* means the Department of Public Works,
16 acting on behalf of the government of Guam.

17 (d) *Director* means the Director of the Department of Public
18 Works.

19 (e) *Guam Solid Waste Management and Litter Control Act*
20 means Chapter 51 of Title 10 of the Guam Code Annotated.

21 (f) *Indenture* means an agreement pursuant to which bonds
22 are issued, regardless of whether such agreement is expressed in the
23 form of a certificate of the Governor of Guam (*I Maga'lahaen Guåhan*)
24 *or* by other instrument.

25 (g) *Organic Act* means the Organic Act of Guam, as
26 amended, and in effect on the effective date of this Article (Title 48,
27 §1421 et seq. of the United States Code).

1 (h) *Person* includes any individual, firm, corporation,
2 association, partnership, trust, business trust *or* receiver *or* trustee *or*
3 conservator for any thereof, and also includes the United States, Guam
4 *or* any public corporation, political subdivision, city, county *or* district
5 *or* any agency *or* instrumentality of the United States *or* of Guam.

6 (i) *Pledged revenue* means any revenue of the system and
7 any General Fund revenue, including any Section 30 revenue, pledged
8 to the payment of bonds.

9 (j) *Rates, fees and charges* means all rates, fees and charges
10 (including tipping fees, residential pick-up fees, collection fees, self-
11 drop fees and all other solid waste management service charges),
12 received *or* receivable by *or* on behalf of the *Department* for
13 providing solid waste management services.

14 (k) *Revenue of the system* means all gross income and other
15 amounts received by *or* on behalf of the Department as revenues of
16 any kind from the ownership *or* operation of any part of the system,
17 including all rates, fees and charges received by the Department, and
18 all proceeds of insurance *or* grants covering business interruption loss
19 (and related losses and expenses) relating to the system, and all other
20 income and revenue howsoever derived by the *Department* from the
21 ownership *or* operation of, *or* arising from, the system, together with
22 all interest, profits *or* other income derived from the investment of
23 amounts in the Solid Waste Operations Fund, to be deposited to the
24 Solid Waste Operations Fund in accordance with §51833, Title 10,
25 Guam Code Annotated.

1 (l) Section 30 revenue means revenues derived by the
2 government of Guam under Section 30 of the Organic Act (Title 48,
3 §1421h of the United States Code).

4 (m) *Solid Waste Operations Fund* means the fund by that
5 name established pursuant to §51118(f), Title 10, Guam Code
6 Annotated.

7 (n) *System* means the solid waste management system, now
8 or hereafter existing, owned and/or operated by the *Department* or its
9 contractors, agents or subcontractors, including, but *not limited to*,
10 landfills (whether closed or open and including Ordot Dump), transfer
11 stations, recycling facilities, collection trucks, appurtenant equipment
12 such as scales, ground water monitoring equipment and pollution
13 control equipment, and administrative facilities supporting the
14 provision of solid waste management services, including facilities for
15 payroll, billing and collections. ~~Notwithstanding this or any other~~
16 ~~provision of law, the authorization to enter into a privatization,~~
17 ~~partnership, or contract by the Department for the operation of the~~
18 ~~system shall require a cost benefit analysis and economic impact~~
19 ~~study, and legislative approval.~~

20 (o) *System operation and maintenance costs* means such
21 reasonable and necessary current expenses of the *Department*, paid or
22 accrued, for operation, maintenance and repair of the system,
23 including, without limiting the generality of the foregoing:

24 (1) legal and overhead expenses of the *Department*
25 directly related and reasonably allocable to the administration
26 of the system;

1 (2) fidelity bond and insurance premiums appertaining
2 to the system *or* a reasonably allocable share of a premium of
3 any blanket bond *or* policy pertaining to the system;

4 (3) contractual services, professional services, salaries,
5 administrative expenses, and costs of labor appertaining to the
6 system; and

7 (4) the costs incurred in the collection of all *or* any
8 part of the revenues.

9 (p) *United States* means the United States of America."

10 **Section 2.** Section 51803 of Article 8 of Chapter 51 of Title 10, Guam
11 Code Annotated, is hereby *amended* to read as follows:

12 **"§51803. Power to Incur Indebtedness.** *I Maga'lāhen Guåhan,*
13 *through the agency of the Guam Economic Development Authority pursuant*
14 *to §50103(k), Title 12, Guam Code Annotated, and with the approval of I*
15 *Liheslaturan Guåhan* by statute, has the power and is hereby authorized, in
16 addition to all other powers conferred by the Guam Solid Waste
17 Management and Litter Control Act *or* any other provision of this Chapter
18 *or* by any law of Guam *or* of the United States, to incur indebtedness on
19 behalf of the government of Guam, by the issuance of bonds pursuant to this
20 Article to raise funds for the purpose of acquiring, constructing, improving,
21 equipping, maintaining, repairing, renewing, replacing, reconstructing *or*
22 insuring the system, *or* any part thereof, *or* to reimburse the government for
23 its payment, ~~after the date of this legislation,~~ of such system bond costs, *or*
24 for the purpose of refunding any such system bonds *or* any other *prior*
25 obligations of the government issued for any of such system purposes, *or* for
26 any combination of such system purposes for which bonds may be issued
27 and secured as provided in this Article; ~~provided, however, that bonds may~~

1 ~~not be issued in an amount that will cost a violation of the debt limitation~~
2 ~~provisions of Section 11 of the Organic Act (§1423a, Title 48, U.S. Code).~~

3 It is hereby declared that the system and each facility of the system is
4 and *shall* be a public improvement *or* undertaking as that term is used in
5 Section 11 of the Organic Act (§1423a, Title 48, U.S. Code). Indebtedness
6 issued by the government pursuant to this Article that is payable only from
7 funds in the Solid Waste Operations Fund available therefor and from
8 revenue of the system will *not* be and *shall not* be deemed to be public
9 indebtedness of Guam as that term is used in said Section 11. Indebtedness
10 that is issued by the government pursuant to this Article and that is payable
11 from ~~both~~ either Section 30 revenue *or* the General Fund ~~and revenue of the~~
12 ~~system constitutes a general obligation of the government pursuant to Title~~
13 ~~10, Guam Code Annotated, §51823, and~~ may *not* be issued in an amount that
14 would cause a violation of the debt limitation provisions of said Section 11.

15 *No obligation that is undertaken by the government pursuant to this*
16 ~~Article and that is secured solely by a pledge of revenue of the system~~ *shall*
17 *be *or* become a lien, charge *or* liability against the government of Guam *or**
18 *against the Department *or* against any property *or* funds of the government*
19 *of Guam *or* the Department, except to the extent of the pledge of pledged*
20 *revenue of the system provided by the indenture and any pledge of the full*
21 *faith and credit of the government of Guam pursuant to Section 51822.5 of*
22 *this Article.*"

23 **Section 3.** Section 51804 of Article 8 of Chapter 51 of Title 10, Guam
24 Code Annotated, is hereby *amended* to read as follows:

25 **"§51804. Powers of *Department*.** Notwithstanding any provision
26 of law *or* regulation, the *Department* has power and is hereby authorized, in
27 addition to all other powers conferred upon the *Department* by the Guam

1 Solid Waste Management and Litter Control Act *or* any other provision of
2 this Chapter *or* by any law of Guam, to exercise any *or* all of the powers
3 granted to the *Department* by this Article. The *Department* has jurisdiction
4 over and may collect and transport to permitted solid waste facilities, *or*
5 contract for the collection and transportation to permitted solid waste
6 facilities, of solid waste from all individual dwelling units, single-family
7 residences, duplexes, and government-managed housing units *or* residences.
8 ~~The *Department* does not have jurisdiction over the collection and~~
9 ~~transportation of solid waste from any hotels, commercial *or* industrial~~
10 ~~establishments, and government agencies, *or* from any multiple dwelling~~
11 ~~units other than duplexes.~~ The *Department* may operate the Ordot Dump, *or*
12 it may contract for the operation of the Ordot Dump, in accordance with
13 Guam law and its permit under this Chapter. The *Department* may contract
14 for the operation of the landfill.

15 The *Department* may also operate, *or* contract for the operation of, all
16 other permitted solid waste management facilities and operations *not*
17 addressed above and within the policy guidelines of the Integrated Solid
18 Waste Management Plan. Any such contract for the operation of the Ordot
19 Dump *or* the landfill may be entered into pursuant hereto *or* pursuant to
20 Article 9 of this Chapter and may be with any person *or* corporation duly
21 qualified to provide such services, whether public *or* private, domestic *or*
22 foreign. Notwithstanding this *or* any other provision of law, the
23 authorization to enter into a privatization, partnership, *or* contract by the
24 *Department* for the operation of the system *shall* require a cost benefit
25 analysis, economic impact study, and legislative approval."

26 **Section 4.** Section 51805 of Article 8 of Chapter 51 of Title 10, Guam
27 Code Annotated, is hereby *amended* to read as follows:

1 **"§51805. Rates, Fees and Charges; Refunds.** Notwithstanding
2 any provision of law *or* regulation to the contrary, the *Department* is
3 authorized to establish and modify from time to time, with prior approval by
4 the Public Utilities Commission, reasonable rates, fees and charges for solid
5 waste services at least adequate to cover the full cost of such services,
6 including the costs of debt service for capital improvements of permitted
7 solid waste facilities, and to collect money from all users *or* customers, and
8 to refund charges collected in error. Rates, fees and charges may be
9 collected before *or* after the provision of the service for which they are
10 charged.

11 *Except* to the extent otherwise permitted *or* required by an indenture
12 pursuant to which bonds are issued, rates, fees and charges, together with
13 other moneys made available to the Department for such purposes, *shall* at
14 all times be fixed to yield annual revenue of the system at least equal to the
15 sum of annual principal payments and interest charges on all bonds then
16 outstanding, all coverage and reserve fund requirements relating to such
17 bonds, any obligations undertaken pursuant to Article 9 of this Chapter, and
18 the annual system operation and maintenance costs ~~and expenses incurred in~~
19 ~~connection with any such advance.~~

20 An indenture, lease *or* contract of indebtedness may provide for
21 payment from revenue of the system of refunds of rates and charges that are
22 collected in error and that are refundable by the Department."

23 **Section 5.** Section 51811 of Article 8 of Chapter 51 of Title 10, Guam
24 Code Annotated, is hereby *amended* to read as follows:

25 **"§51811. Covenants and Agreements That May be Contained**
26 **in Indenture.** An indenture pursuant to which bonds are issued may include
27 any and all covenants and agreements on the part of the government as *I*

1 *Maga'laha* *Guahan* deems necessary *or* advisable, including, without
2 limiting the generality of the foregoing, any one (1) *or* more of the
3 following:

4 (a) A provision that payments of principal and interest of
5 bonds shall be secured by a pledge of all *or* by part of the revenue of
6 the system *or* the Section 30 revenue *or* both; ~~A provision specifying~~
7 ~~the security for payments of principal and interest of bonds.~~

8 (b) Provisions creating one (1) *or* more funds *or* accounts
9 into which all *or* any part of pledged revenue *shall* be deposited:

10 (1) for payment of the principal of and interest on
11 bonds at *or* prior to maturity; *or*

12 (2) for reserve *or* sinking funds for the further security
13 of bonds.

14 (c) A provision requiring the government to operate the
15 system continuously, to the extent reasonably practicable under
16 conditions as they may from time to time exist, in an efficient and
17 economical manner.

18 (d) A provision requiring the government to maintain the
19 system and to make all necessary repairs, renewals and replacements
20 to the system and to keep the system at all times in good working
21 order and condition.

22 (e) A provision requiring the government to preserve and
23 protect the security of the bonds and the rights of the holders thereof
24 and to warrant and defend such rights.

25 (f) A provision requiring the government to pay and
26 discharge *or* cause to be paid and discharged all lawful claims for
27 labor, materials and supplies *or* other charges which, *if* unpaid, might

1 become a lien *or* charge upon pledged revenue *or* any part thereof, *or*
2 which might impair the security of the bonds.

3 (g) A provision which limits, restricts *or* prohibits any right,
4 power *or* privilege of the government to mortgage *or* otherwise
5 encumber, sell, lease *or* dispose of the system *or* any part thereof, in
6 any manner that impairs *or* impedes the operation of the system *or*
7 any part thereof necessary to secure adequate pledged revenue *or* that
8 otherwise impairs *or* impedes the right of the holders of bonds *or*
9 other obligations with respect to such pledged revenue.

10 (h) A provision requiring the government, with the prior
11 approval of the Guam Public Utilities Commission, to fix, prescribe
12 and collect annually rates *or* other charges in connection with the
13 solid waste management services furnished from the system which,
14 together with other available revenues, including, to the extent
15 provided by an indenture, Section 30 revenue, will be:

16 (1) sufficient to pay the principal of and interest on the
17 bonds as they become due and payable, together with such
18 additional sums as may be required for any bond reserve fund
19 *or* account *or* other fund *or* account created by the indenture for
20 the security of such bonds;

21 (2) sufficient to pay any payments due under any lease
22 *or* lease-back entered into pursuant to Article 9 of this Chapter;

23 (3) sufficient to pay the annual system operation and
24 maintenance costs; and

25 (4) in such additional amount as *shall* be provided in
26 the indenture for the further security *or* protection of such
27 bonds.

1 (i) A provision for a rate stabilization fund.

2 ~~(i)~~(j) A provision that *no* solid waste management service *shall*
3 be furnished free of charge to any person, *except* to the extent permitted
4 by the indenture.

5 ~~(j)~~(k) A provision requiring the government to hold *or* cause to
6 be held in trust the pledged revenue *or* any part thereof, *or* to any fund
7 *or* account created by any indenture for the further security *or*
8 protection of such bonds and to apply such pledged revenue *or* cause
9 it to be applied only as provided in the indenture and to invest all *or*
10 any part of such pledged revenue pending such application in such
11 securities and subject to such limitations as are specified in the
12 indenture.

13 ~~(k)~~(l) A provision defining the power of the government in
14 applying the proceeds of the sale of any issue of bonds for the
15 acquiring, constructing *or* completing of the system *or* any part
16 thereof.

17 ~~(l)~~(m) A provision permitting the government to issue
18 additional bonds *or* to enter into one (1) *or* more lease-back
19 obligations pursuant to Article 9 of this Chapter, in each case equally
20 secured with bonds theretofor issued under the indenture and lease-
21 back obligations previously entered into, for the purpose of acquiring,
22 constructing *or* completing, improving *or* extending the system *or* any
23 part thereof, *or* for the purpose of refunding any *prior* bonds *or* any
24 other *prior* obligations of the government relating to the system; and a
25 provision limiting the power of the government to issue any additional
26 bonds so secured *or* any other additional bonds for such purpose.

1 ~~(m)~~(n) A provision requiring, specifying *or* limiting the kind,
2 amount and character of insurance (or any reserve fund *or* funds in
3 lieu of insurance) to be maintained by the government on the system
4 *or* any part thereof and the use and disposition of the proceeds of any
5 such insurance thereafter collected *or* of the moneys in any such
6 reserve fund.

7 ~~(n)~~(o) A provision specifying the events of default and the
8 terms and conditions upon which any *or* all of the bonds then *or*
9 thereafter issued may become *or* be declared due and payable *prior* to
10 maturity, and the terms and conditions upon which such declaration
11 and its consequences may be waived.

12 ~~(o)~~(p) A provision designating the rights, limitations, powers
13 and duties arising upon breach by the government of any of the
14 covenants, conditions *or* obligations contained in the indenture.

15 ~~(p)~~(q) A provision prescribing a procedure by which the terms
16 and conditions of the indenture may be subsequently amended *or*
17 modified with the consent of the government and the vote *or* written
18 consent of the holders of a specified principal amount *or* specified
19 proportion of the bonds issued and outstanding, including provisions
20 for meetings of bondholders and for the manner in which the consent
21 of the bondholders may be given and specifically stating the effect of
22 such amendment *or* modification upon the rights of the holders of all
23 of the bonds.

24 ~~(q)~~(r) With respect to any provision relating to the modification
25 *or* amendment of an indenture, the government may agree that bonds
26 held by the government, the United States *or* any instrumentality of
27 either thereof (including every public corporation, political

1 subdivision, agency *or* instrumentality of any kind *or* class) *shall not*
2 be counted as outstanding bonds, *or* be entitled to vote *or* assent, but
3 *shall*, nevertheless, be subject to any such modification *or*
4 amendment.

5 ~~(r)~~(s) A provision limiting the right of action by individual
6 bondholders in the event of a default by the government *or*
7 proscribing the procedure for the conduct of any such action by an
8 individual bondholder.

9 ~~(s)~~(t) A provision permitting the government to purchase
10 outstanding bonds from any moneys *or* funds *or* accounts referred to
11 in the indenture *or* otherwise legally available for such purpose.

12 ~~(t)~~(u) A provision for any working capital fund *or* account *or*
13 contingency fund *or* account relating to the system.

14 ~~(u)~~(v) A provision for the replacement of lost, destroyed *or*
15 mutilated bonds.

16 ~~(v)~~(w) A provision *or* provisions relating to such other acts and
17 matters as may be necessary *or* convenient *or* desirable in order to
18 better secure the bonds *or* to make the bonds more marketable."

19 **Section 6.** Section 51821 of Article 8 of Chapter 51 of Title 10, Guam
20 Code Annotated, is hereby *amended* to read as follows:

21 **"§51821. Payments Which May be Made Out of Proceeds of**
22 **Sale of Bonds.** The proceeds of sale of any bonds may be expended for any
23 one (1) *or* more of the following purposes, all as provided in the indenture
24 relating to such bonds:

25 (a) for payment of any costs *or* expenses of the acquisition,
26 construction *or* improvement of the system *or* any part thereof (including
27 any closed landfill *or* dump) *or* any costs *or* expenses incidental thereto,

1 including payment to the United States *or* any other public body for the
2 portion to be borne by the government of the cost of any work done by the
3 United States *or* such public body for *or* jointly *or* in conjunction with the
4 *Department*;

5 (b) for payment *or* reimbursement of any engineering, inspection,
6 legal, consultants' *or* paying agents' fees relating *or* incidental to:

7 (1) the acquisition, construction *or* improvement of the
8 system *or* any part thereof;

9 (2) the authorization, issue *or* sale of bonds; ~~or~~

10 ~~(3) professional technical services to prepare the technical~~
11 ~~specifications for a bid invitation for a Finance, Build, Operate, and~~
12 ~~Lease Back (FBOL) to meet the requirements for USEPA compliant~~
13 ~~municipal solid waste services on Guam, and for the evaluation of~~
14 ~~bids which have been submitted, and to provide its findings and~~
15 ~~recommendation to the Governor and the Legislature within one~~
16 ~~hundred eighty (180) days from enactment of the Act.~~

17 (c) for payment of any costs *or* expenses relating to the
18 authorization, issuance *or* sale of bonds;

19 (d) for deposit in any one (1) *or* more reserve funds *or* accounts in
20 lieu of insurance *or* in any working capital fund *or* account *or* contingency
21 fund *or* account relating to the system;

22 (e) for payment of interest on bonds during the projected period of
23 acquisition, construction *or* improvement of the system *or* any part thereof
24 for the acquisition, construction *or* improvement of which such bonds have
25 been issued and for a period *not to exceed* three (3) years thereafter;

26 (f) for deposit in any reserve *or* sinking fund; or

1 (g) for the payment of any prior bonds *or* other obligations of the
2 government issued for solid waste management purposes."

3 **Section 7.** Section 51822 of Article 8 of Chapter 51 of Title 10, Guam
4 Code Annotated, is hereby *amended* to read as follows:

5 **"§51822. Bonds May be Secured by Revenue of the System.** An
6 indenture may provide that payment of the bonds and the interest thereon
7 *shall* be secured by a pledge of and lien upon all *or* any portion of the
8 revenue of the system, subject to any parity lien created *or* to be created
9 pursuant to Article 9 of this Chapter. Any such pledge and lien *shall* be
10 valid and binding against all parties in accordance with its terms and have
11 priority against all parties in accordance with its terms from the time the
12 pledge is made, and property so pledged *shall* immediately be subject to the
13 lien of the pledge without the need for physical delivery, recordation filing
14 *or* other further act. The pledge *shall not* be subject to Division 9 of Title 13
15 of the Guam Code Annotated *or* any successor statute. The revenue of the
16 system pledged and thereafter received by the government *or* by any trustee,
17 depository *or* custodian *shall* be deposited in a separate subaccount of the
18 revenue account in the Solid Waste Operations Fund. The indenture by
19 which such pledge is created need *not* be recorded. All such pledged
20 revenue of the system is hereby appropriated for the purposes of paying the
21 principal and interest on the bonds issued pursuant to this Article.

22 Pledged revenue released from the lien of the indenture *or* certificate
23 pursuant to which the bonds are issued *shall* be available for any other
24 lawful purpose. *If* the bonds are secured *solely* by such a pledge of and lien
25 upon all *or* a portion of the revenue of the system, then *no* such bond and *no*
26 other obligation undertaken by the government under any indenture, lease *or*
27 other instrument relating to such bond *shall* be *or* become a lien, charge *or*

1 liability against the government of Guam *or* against the *Department or*
2 against any property *or* funds of the government of Guam *or* the
3 *Department, except* to the extent of the pledge of revenue of the system
4 provided by such indenture, lease *or* other instrument.—~~Every such bond~~
5 ~~shall contain a recital on its face stating that it is a limited obligation of the~~
6 ~~government of Guam and shall not be deemed to be secured by the faith and~~
7 ~~credit of the government of Guam.~~"

8 **Section 8.** Section 51822.5 of Article 8 of Chapter 51 of Title 10, Guam
9 Code Annotated, is hereby *added* to read as follows:

10 **"§51822.5. Bonds May be Secured by Section 30 Revenue. *If* and**
11 to the extent determined by *I Maga'lāhen Guåhan*, all *or* any part of the
12 revenues derived by the government of Guam under Section 30 of the
13 Organic Act (Section 30 revenue) may be pledged to secure the payment of
14 any bonds issued pursuant to this Article, subject to any previously created
15 lien on *or* pledge of such Section 30 revenue and to any parity lien created
16 pursuant to Article 9 of this Chapter. Any such pledge *shall* be valid and
17 binding against all parties in accordance with its terms and have priority
18 against all parties in accordance with its terms from the time the pledge is
19 made, and property so pledged *shall* immediately be subject to the lien of the
20 pledge without the need for physical delivery, recordation, filing, *or* other
21 further act. The pledge *shall not* be subject to Division 9 of Title 13 of the
22 Guam Code Annotated *or* any successor statute. The Section 30 revenue
23 pledged and thereafter received by the government of Guam *or* by any
24 trustee, depository *or* custodian *shall* be deposited in accordance with the
25 provisions of the applicable indenture *or, if not* otherwise provided for in
26 such indenture, in a separate subaccount of the revenue account in the Solid
27 Waste Operations Fund. The indenture by which such pledge is created need

1 not be recorded. All Section 30 revenue so pledged is hereby appropriated
2 for the purpose for which it has been pledged. Pledged Section 30 revenue
3 released from the lien of the indenture or certificate pursuant to which the
4 bonds are issued shall be available for appropriation for any other lawful
5 purpose of the government. Indebtedness issued by the government
6 pursuant to this Article and that is payable from Section 30 revenue may not
7 be issued in an amount that would cause a violation of the debt limitation
8 provisions of Section 11 of the Organic Act."

9 **Section 9.** Section 51832 of Article 8 of Chapter 51 of Title 10, Guam
10 Code Annotated, is hereby *amended* to read as follows:

11 **"§51832. Construction Account.** The proceeds from the sale of
12 all bonds authorized by this Article (except for any refunding bonds) shall
13 be deposited to the credit of a Construction Account, which account is
14 hereby created within the Solid Waste Operations Fund. The money in the
15 account *shall* be expended in the manner provided by law for any of the
16 purposes authorized by this Article, including any *or* all of the purposes
17 specified by Title 10, Guam Code Annotated, §51821, and for such other
18 purposes, subject to the restrictions provided by law *or* by such indenture, as
19 may be authorized by such indenture."

20 **Section 10.** Section 51833 of Article 8 of Chapter 51 of Title 10, Guam
21 Code Annotated, is hereby *amended* to read as follows:

22 **"§51833. Revenue Account.** All revenue of the system and, to the
23 extent provided by an indenture or by Article 9 of this Chapter, the Section
24 30 revenue, shall be deposited to the credit of the applicable subaccount of
25 the Revenue Account, which account is hereby created within the Solid
26 Waste Operations Fund. The money in such subaccounts may be used for
27 any of the following purposes in the order of priority set forth in any

1 indenture as provided in Title 10, Guam Code Annotated, §51811(j) *or* any
2 lease *or* lease-back as provided in Article 9 of this Chapter:

3 (a) to pay principal *or* interest on any bonds *or* any other
4 obligations of the *Department*;

5 (b) to pay amounts due and owing under any lease *or* lease-
6 back entered into pursuant to Article 9 of this Chapter;

7 (c) to pay any amounts due and owing under any credit
8 provider reimbursement agreement;

9 (d) to pay the annual system operation and maintenance
10 costs; and

11 (e) for any other purposes of the system, as provided in any
12 indenture *or* indentures and subject to any restrictions provided by law
13 *or* any indenture."

14 **Section 11.** Section 51837 of Article 8 of Chapter 51 of Title 10, Guam
15 Code Annotated, is hereby *amended* to read as follows:

16 "**§51837. Credit Enhancement.** *I Maga'lahañ Guåhan* is hereby
17 authorized to enter into such contracts *or* agreements, on behalf of the
18 government, with such banks, insurance companies *or* other financial
19 institutions as *I Maga'lahañ Guåhan* determines are necessary *or* desirable
20 to improve the security and marketability of the bonds. Such contracts *or*
21 agreements may contain an obligation to reimburse, with interest, any such
22 banks, insurance companies *or* other financial institutions for advances used
23 to pay principal of *or* interest on the bonds and to indemnify any such banks,
24 insurance companies *or* other financial institutions for costs and expenses
25 incurred in connection with any such advance. Any such reimbursement
26 obligation and any other obligations of the government under such contracts
27 *or* agreements ~~*shall*~~ *may* be secured by a pledge of the *pledged* revenue ~~*of*~~

1 ~~the system~~, but *only if* and to the extent that such revenue ~~of the system~~ has
2 been pledged to the bonds. In the event that the bonds *shall* constitute the
3 valid and binding general obligations of the government pursuant to Title 10,
4 Guam Code Annotated, §51823, any such reimbursement obligations *shall*
5 be general obligations of the government of Guam and any such advance, *if*
6 necessary, *shall* be treated for Organic Act purposes as creating an
7 obligation issued to refund the bonds.

8 Any reimbursement agreement may include a provision that the
9 obligations of the government under the agreement *shall* be secured by all *or*
10 by part of pledged revenue; provided that, at the time of execution and
11 delivery of each such agreement, any such provision *shall* be in compliance
12 with and *shall not* violate *or* breach any provision of any indenture, lease *or*
13 other instrument then in effect to which the government *or* the *Department*
14 is a party."

15 **Section 12.** Section 51843 of Article 8 of Chapter 51 of Title 10, Guam
16 Code Annotated, is hereby repealed.

17 **Section 13. Approval of Government of Guam Solid Waste**
18 **Management System Bonds.** *I Liheslaturan Guåhan*, pursuant to §50103 of
19 Title 12, Guam Code Annotated, and §51803 of Title 10, Guam Code Annotated,
20 hereby approves the issuance and sale by the government of bonds pursuant to
21 Article 8, Chapter 51, Title 10, Guam Code Annotated (the Act), in one (1) *or*
22 more series *or* issues (together with any related reimbursement obligations);
23 *provided* that the issuance, terms and conditions of the bonds, the indenture *or*
24 certificate pursuant to which the bonds are to be issued, and any reimbursement
25 agreements *shall* have been approved by the Guam Public Utilities Commission,
26 and *further provided* that such bonds shall have, together with any lease-back
27 obligations issued pursuant to Article 9, Chapter 51, Title 10, Guam Code

1 Annotated, an aggregate principal amount *not to exceed* Two Hundred Two
2 Million Four Hundred Twenty-five Thousand Dollars (\$202,425,000). Such bonds
3 shall be issued solely to pay, *or* reimburse the government for the payment of, the
4 costs of the closure of the Ordot Dump and the construction of the new landfill, *or*
5 to refund any other prior obligations of the government issued for any of such
6 system purposes, to fund any necessary reserves relating to such bonds, to pay
7 costs of issuance of such bonds, *or* for any combination of such system purposes
8 for which bonds may be issued and secured as provided in this Article. Such
9 bonds *shall* have a final maturity *not later than* 2042, *shall* bear interest at such
10 rate *or* rates and *shall* be sold for such price *or* prices as *shall* result in a yield to
11 the bondholders *not exceeding* nine percent (9%) per annum, and *shall* be issued
12 and sold in the manner, for the purposes and subject to the requirements and
13 limitations provided in Article 8, Chapter 51, Title 10, Guam Code Annotated.

14 This approval is intended to *supersede* and *replace* the approval, contained
15 in Section 3 of Public Law 30-1, by *I Liheslaturan Guåhan* of the issuance and sale
16 by the government of bonds pursuant to Article 8, Chapter 51, Title 10, Guam
17 Code Annotated, as enacted by said Public Law 30-1, which prior approval is
18 hereby repealed.

19 **Section 14. Amendment of Provisions Relative To The Valuation Of**
20 **Property Subject To Real Property Taxation.**

21 **(a)** §24102(f) of Article 1, Chapter 24, Division 2 of Title 11, Guam Code
22 Annotated, is hereby *amended* to read as follows:

23 "§24102(f). Value, full cash value, fair market value, and cash value
24 mean ninety percent (90%) ~~seventy percent (70%)~~ of the appraised value;
25 appraised value means the amount at which property would be taken in
26 payment of a just debt from a solvent debtor as determined by the last
27 completed valuation conducted pursuant to §24306, Title 11, Guam Code

1 Annotated, as amended by the annual adjustments mandated in this
2 Chapter."

3 (b) §24103 of Article 1, Chapter 24, Division 2 of Title 11, Guam Code
4 Annotated, is hereby *amended* to read as follows:

5 "§24103. **Levy.** There is hereby levied on all land property in Guam a
6 yearly tax at the rate of seven-seventy seconds ~~one-eighth-percent-(1/8%)~~
7 (7/72%) of the value thereof and seven-eighteenths ~~one-half-percent-(1/2%)~~
8 (7/18%) of the value of the improvements thereon. Such tax shall be
9 assessed and collected in the manner prescribed in this Chapter. All proceeds
10 derived by the government under any provision of this Chapter shall be
11 deposited in the Treasury of Guam to the credit of the General Fund."

12 **Section 15.** §1512.1(c) of Title 5, Guam Code Annotated, is hereby
13 *amended* to read as follows:

14 "§1512.1(c). **Valid and Binding.** The bonds authorized by this
15 Section *shall* constitute the valid and binding general obligations of the
16 government of Guam. The government of Guam pledges its full faith and
17 credit ~~and its Section 30 revenues~~ for the punctual payment of both principal
18 of and interest on the bonds and covenants that there *shall* be collected
19 annually in the same manner and at the same time as government revenue for
20 other purposes is collected, such sum as is required to pay the principal of
21 and interest on the bonds. There are hereby appropriated from the General
22 Fund such sums as may be necessary in each year to equal the amount of
23 money necessary to pay the principal and interest on such bonds. The
24 certificate *or* indenture *shall* require interest only payments for Fiscal Years
25 2009 and 2010 and *shall not* require bond principal payments until after such
26 Fiscal Years. All officers charged by law with any duty in the collection of
27 the revenues of the government from which debt service on the bonds will be

1 payable *shall* do every lawful thing necessary to collect such sum. The
2 validity of any such bonds *shall not* be affected by the validity *or* regularity
3 of any proceedings for the payment of the General Fund expenses paid *or* to
4 be paid with the proceeds of the bonds.

5 **Section 16.** Subsection 1512.1(i) of Title 5, Guam Code Annotated, is
6 hereby amended to read as follows:

7 **"(i) Use of Proceeds from the Sale of the Bonds.** The proceeds from
8 the sale of the bonds shall be used and are hereby appropriated to (i) pay the
9 General Fund expenses described below in this Subsection, (ii) establish
10 necessary reserves, (iii) pay expenses relating to the authorization, sale and
11 issuance of the bonds, including, without limitation, printing costs, costs of
12 reproducing documents, credit enhancement fees, underwriting, legal,
13 financial advisory and accounting fees and charges, fees paid to banks *or*
14 other financial institutions providing credit enhancement, costs of credit
15 ratings and other costs, charges and fees in connection with the issuance,
16 sale and delivery of the bonds, and (iv) fund capitalized interest on the bonds
17 for a period ending not later than thirty (30) months after their issuance. The
18 General Fund expenses authorized to be paid with the proceeds of the bonds
19 are as follows and shall be paid in the following order of priority:

20 (1) Cost of Living Adjustment (COLA) to discharge finally
21 and permanently the obligations of the government incurred pursuant
22 to the settlement agreement entered into between the Government of
23 Guam and the COLA Class as ordered by the Judgment in Rios v.
24 Camacho, Superior Court Case No. SP0206-93: \$92,000,000;

25 (2) 2006 and prior year individual and corporate tax refunds
26 including interest, if any, thereon and individual tax refunds shall be
27 paid first: \$112,000,000;

1 (3) Health Care Capital Improvement Projects at the Guam
2 Memorial Hospital: \$11,000,000;

3 (4) amounts past due as contributions to the Government of
4 Guam Retirement Fund, including interest, if any, thereon, on behalf
5 of the following:

6 (a) Guam Memorial Hospital: \$14,953,216

7 (b) Guam Public School System: \$16,867,640.

8 Total \$246,820,856

9 Payments made pursuant to this Subsection shall apply to any other
10 appropriations for the same items and shall not constitute double appropriations.

11 ~~Upon the issuance of the bonds authorized by this Section, I Maga'lahi is~~
12 ~~authorized to reprogram to pay costs of a new landfill the following amounts from~~
13 ~~the following priority categories, with the balance of the respective priority~~
14 ~~category to be used for its original purpose prior to the use of such bond proceeds~~
15 ~~for the landfill from any subsequent category: (X) up to Seven Million Dollars~~
16 ~~(\$7,000,000) of the amount provided for payment of the COLA, (Y) up to Seven~~
17 ~~Million Dollars (\$7,000,000) of the amount provided for payment of tax refunds,~~
18 ~~and (Z) up to Six Million Dollars (\$6,000,000) from the amount provided for~~
19 ~~Guam Memorial Hospital; and further provided, that the proceeds of the first~~
20 ~~revenue bonds or other obligations issued by the government to finance the costs~~
21 ~~of the new landfill shall be used to reimburse the General Fund, whereupon such~~
22 ~~reimbursement amounts shall be used to pay the General Fund expenses listed in~~
23 ~~subparagraphs (1) through (3) of this Subsection in amounts not exceeding the~~
24 ~~amounts reprogrammed."~~

25 **Section 17. Amendment Relative To The Pledge Of Section 30 Revenues**
26 **To Secure High School Lease-Leaseback Financing.** §58A109 of Chapter 58A,
27 Division 5 of Title 5, Guam Code Annotated, is hereby amended to read as

1 follows:

2 **"§58A109. Pledge of Section 30 Revenues.** Rental payments under
3 the Lease and the Lease-Back may be secured by a pledge *or* other
4 reservation of revenues received by *or* on behalf of the government of Guam
5 from the United States of America pursuant to Section 30 of the Guam
6 Organic Act (48 U.S.C.A. Section 1421h). ~~Any pledge *or* reservation of~~
7 ~~Section 30 revenues authorized by the Act *shall* be subordinate *only* to the~~
8 ~~existing lien securing the Government of Guam Limited Obligation (Section~~
9 ~~30) Bonds, Series 2001A.~~

10 Any such pledge *or* reservation authorized hereunder *shall* be valid
11 and binding from the time the pledge *or* reservation is made and *shall be*
12 *limited to* Nine Million Eight Hundred Twenty-five Thousand Dollars
13 (\$9,825,000) per year during the Lease-Back Period. The Section 30
14 revenues pledged *or* reserved and thereafter received by the government of
15 Guam *or* by any trustee, depository *or* custodian *shall* be deposited in a
16 separate account and *shall* be immediately subject to such reservation *or* the
17 lien of such pledge without any physical delivery thereof *or* further act, and
18 such reservation *or* the lien of such pledge *shall* be valid and binding against
19 all parties having claims of any kind in tort, contract *or* otherwise against the
20 government of Guam *or* such trustee, depository *or* custodian, irrespective
21 of whether the parties have notice thereof. The instrument by which such
22 pledge *or* reservation is created need *not* be recorded."

23 **Section 18. Severability.** *If* any provision of this Act *or* its application to
24 any person *or* circumstance is found to be invalid *or* contrary to law, such
25 invalidity *shall not* affect other provisions *or* applications of this Act which can be
26 given effect without the invalid provisions *or* application, and to this end the
27 provisions of this Act are severable.