

*I Mina'trentai Singko Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
269-35 (COR)	James C. Moylan	AN ACT TO ADD ARTICLE 9, TO CHAPTER 77, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE REPAIR AND REHABILITATION OF THE SOUTHERN HIGH SCHOOL AUDITORIUM.	1/13/20 1:17 p.m.						

*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN*  
2020 (SECOND) Regular Session

Bill No. *2187-35 (COR)*

Introduced by:

James C. Moylan



**AN ACT TO ADD ARTICLE 9, TO CHAPTER 77, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE REPAIR AND REHABILITATION OF THE SOUTHERN HIGH SCHOOL AUDITORIUM.**

2020 JAN 13 PM 1:17 JPT

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that the Southern High School Auditorium is a beacon of pride for the southern region as a facility that has the potential of perpetuating the arts and our culture, and for providing the youth a structure to pursue much positive activity. Unfortunately the auditorium has not been effectively usable for years due to a broken air conditioning system, whose repair has been a victim to fiscal woes over the years. Even today, the management of the Southern High School is forced to padlock this unit, allowing it to mold away, thus fading away its objective.

A Public Private Partnership, which this Act proposes, would allow the infusion of private dollars up front, thus allowing the Department of Education to attain the funds to make the needed repairs at the earliest. In lieu, the Guam Economic Development Authority would issue tax credits for those entities, which shall be spread over a two year period. This “interest free loan” would create an impact of no more than \$500,000 per year, for only two years, towards the government of Guam’s expenses, which represents less than 1% of the nearly

1 billion dollar budget. With some creative cost cutting measures, this new expense  
2 is certainly achievable.

3 According to this Act, the \$1,000,000 being sought after would repair the air  
4 conditioning of the facility and any molding which resulted from the heated  
5 conditions. Contributing entities would be able to market their company name in  
6 the auditorium as an added marketing incentive. The Guam Department of  
7 Education shall work with the Guam Economic Development Authority (GEDA)  
8 in seeking the contributions and approving the plans. GEDA shall manage the  
9 approval, issuance, and management of the tax credits applied towards unpledged  
10 business privilege taxes.

11 With a working auditorium, thousands of students would benefit from the  
12 usage of the facility, and the Southern High School management can seek some  
13 revenue from leasing the hall to outside entities, including international programs,  
14 who wish to take advantage of Guam's weather. The investment being proposed in  
15 this Act would accomplish many benefits, while prioritizing the perpetuation of the  
16 arts and culture, and most importantly, our youth.

17 **Section 2.** Article 9 is hereby *added* to Chapter 77, Title 12, Guam Code  
18 Annotated to read as follows:

19 **“ARTICLE 9**

20 **TAX CREDITS TO REPAIR AND REHABILITATE THE SOUTHERN**  
21 **HIGH SCHOOL AUDITORIUM.**

22 § 77901. Applicability of Article.

23 § 77902. Southern High School Auditorium.

24 § 77903. Credits Against Unpledged Business Privilege Tax.

25 §77904. Cap on Business Privilege Tax for the Repair and  
26 Rehabilitation of the Southern High School Auditorium.

27 §77905. GEDA Report

1        §77906. Rules and Regulations.

2        §77907. Approval of Contributions

3        §77908. Regulatory Oversight, Approval, and Marketing

4        §77909. Fines and Penalties.

5        **§ 77901. Applicability of Article.**

6            The provisions of this Article are applicable to the Repair and  
7        Rehabilitation of the Southern High School Auditorium as authorized by this  
8        Act.

9        **§ 77902. Southern High School Auditorium.**

10           For the purposes of this Article, the repairs and the rehabilitation of  
11        the Southern High School Auditorium shall be prioritized as follows; 1).  
12        Repairing of the Air Condition, and 2). Rehabilitation associated with the  
13        molding as a result of the lack of Air Conditioning.

14        **§ 77903. Credits Against Unpledged Business Privilege Tax.**

15           (a) A business, to the extent that such business contributes to  
16        the cost of the labor, materials, construction, and/or the design for the  
17        Repair and Rehabilitation of the Southern High School Auditorium, as  
18        identified and approved by the Guam Economic Development  
19        Authority (hereinafter shall be referred to as GEDA), shall be entitled  
20        to credits of unpledged business privilege taxes. The basis of the  
21        contribution to the project shall be the actual cost of the contribution  
22        plus the cost of transportation from the point of origin to its  
23        destination.

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

1                   (c) The total credits allowed under this Act shall not exceed the  
2                   actual dollar amount of the expenditures.

3                   **§77904. Cap on Business Privilege Tax for the Repair and**  
4                   **Rehabilitation of the Southern High School Auditorium.**

5                   (a) The total amount of credits against unpledged business  
6                   privilege taxes for the Repair and Rehabilitation of the Southern High  
7                   School Auditorium shall not exceed One Million Dollars (\$1,000,000)  
8                   over a two (2) year period. No more than Five Hundred Thousand  
9                   Dollars (\$500,000) in tax credits shall be authorized for each year of  
10                  the program.

11                  (b) If, at the expiration of the two (2) year period authorized  
12                  pursuant to this Article, there are still unclaimed authorized tax  
13                  credits, then I Liheslaturan Guahan may, in its discretion, extend the  
14                  eligible period until such time that all eligible tax credits are  
15                  exhausted.

16                  (c) I Liheslaturan Guahan may, in its discretion, extend the  
17                  terms and modify any part of the program based on the need of  
18                  Southern High School Auditorium.

19                  (d) Construction and professional services and equipment,  
20                  materials and furnishings shall be competitively procured.

21                  **§77905. GEDA Report**

22                  GEDA shall submit a report to I Liheslaturan Guahan detailing the  
23                  impact of the program on the business privilege taxes and economic  
24                  activities on Guam. GEDA shall also include in its report its monitoring  
25                  efforts and any other information related to the program. The report shall be  
26                  transmitted to the I Liheslaturan Guahan on an annual basis until the tax  
27                  credit caps pursuant to §77904 of this Article are exhausted.

1        **§77906.     Rules and Regulations.**

2                GEDA shall implement and monitor the tax credit program authorized  
3 pursuant to this Article based on rules and regulations already adopted by  
4 GEDA for previous tax credit programs.

5        **§77907.     Approval of Contributions**

6                GEDA, or its designee, shall be responsible for approving the  
7 contributions made towards the labor, materials, construction and/or designs  
8 of Repair and Rehabilitation of the Southern High School Auditorium  
9 pursuant to this Article.

10       **§77908.     Regulatory Oversight, Approval, and Marketing**

11               The Guam Department of Education, in coordination with GEDA,  
12 shall have regulatory oversight, and authority to approve the repair and  
13 rehabilitation plan of the Southern High School Auditorium pursuant to this  
14 Article, along with the selection of the contributors, based on criteria  
15 established by the Guam Services Agency. The management of the  
16 Southern High School shall have the authority to manage the Southern High  
17 School Auditorium, its marketing and revenue stream. The Guam  
18 Department of Education and the management of the Southern High School  
19 shall also have the authority to reach out to the community to market this  
20 program and seek contributors. Any contributor who successfully  
21 participates in this tax credit program shall have the authority to display the  
22 name of their business in the Southern High School Auditorium as a  
23 contributor, by a sign approved by the Department of Public Works.

24       **§77909.     Fines and Penalties.**

25               To the extent that a company providing materials and services for the  
26 project contained herein takes more tax benefits in terms of unpledged  
27 business privilege or excise taxes that the actual value of the materials or

1 services contributed to the project authorized herein, that company shall be  
2 required to pay all interest and penalties applicable under Guam law and the  
3 Internal Revenue Code for failure to pay taxes, in addition to payment of the  
4 actual taxes due. To the extent that any individual, officer, director, or other  
5 person having interest in a company providing materials or services for the  
6 project contained herein knowingly and willingly causes such company to  
7 take more tax benefits in terms of business privilege or excise taxes that the  
8 actual value of the material or services contributed to the project, such  
9 individual shall be guilty of a felony in the third degree punishable by a fine  
10 of not less than Five Thousand Dollars (\$5,000) or one (1) year in prison or  
11 both.”

12 **Section 3. Severability.** If any provision of this Act or its application to  
13 any person or circumstance is found to be invalid or contrary to law, such  
14 invalidity *shall not* affect other provisions or applications of this Act that can be  
15 given effect without the invalid provision or application, and to this end the  
16 provisions of this Act are severable.

17 **Section 4. Effective Date.** The Act *shall* become effective upon enactment.