

EDDIE BAZA CALVO
Governor



RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

October 4, 2011

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Unu Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

31-11-971
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 10/4/11
Time 4:00 PM
Received by [Signature]

Dear Madame Speaker:

Transmitted herewith is Substitute Bill No. 299-31 (LS) "AN ACT TO REPEAL CHAPTER 26 OF DIVISION 3, TITLE 17, GUAM CODE ANNOTATED; AND TO ADD A NEW CHAPTER 71 TO DIVISION 6 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO EMPOWERING THE GUAM NORTHERN AND SOUTHERN SOIL AND WATER CONSERVATION DISTRICTS", which was signed into law on September 30, 2011 as Public Law 31-125.

Senseramente,

EDDIE BAZA CALVO

2011 OCT - 5 AM 8:09
[Signature]

Attachment: copy of Bill

971

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

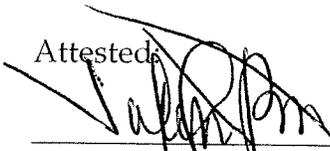
CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that Substitute Bill No. 299-31 (LS), "AN ACT TO *REPEAL* CHAPTER 26 OF DIVISION 3, TITLE 17, GUAM CODE ANNOTATED; AND TO *ADD* A NEW CHAPTER 71 TO DIVISION 6 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO EMPOWERING THE GUAM NORTHERN AND SOUTHERN SOIL AND WATER CONSERVATION DISTRICTS," was on the 19th day of September, 2011, duly and regularly passed.



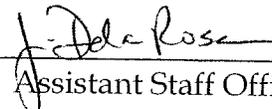
Judith T. Won Pat, Ed.D.
Speaker

Attested:



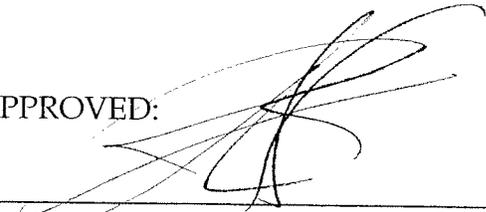
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 20th day of Sept, 2011, at
4:10 o'clock P..M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



RAYMOND S. TENORIO
Acting Governor of Guam

Date: _____

SEP 30 2011

Public Law No. 31-125

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 299-31 (LS)

As substituted by the Committee on Youth, Cultural Affairs,
Government Operations, Procurement and Public Broadcasting.

Introduced by:

R. J. Respicio
B. J.F. Cruz
T. R. Muña Barnes
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
Chris M. Dueñas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
Adolpho B. Palacios, Sr.
v. c. pangelinan
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

**AN ACT TO *REPEAL* CHAPTER 26 OF DIVISION 3,
TITLE 17, GUAM CODE ANNOTATED; AND TO *ADD* A
NEW CHAPTER 71 TO DIVISION 6 OF TITLE 5, GUAM
CODE ANNOTATED, RELATIVE TO EMPOWERING
THE GUAM NORTHERN AND SOUTHERN SOIL AND
WATER CONSERVATION DISTRICTS.**

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

2 **Section 1. Repeal.** Chapter 26 of Division 3, Title 17, Guam Code
3 Annotated (Soil & Water Conservation Programs), is hereby *repealed*.

1 (1) *Northern Soil and Water Conservation District*, or
2 *Northern District*, means the area organized pursuant to this
3 Act as that area covering the northern area of Guam.

4 (2) *Southern Soil and Water Conservation District*, or
5 *Southern District*, means the area organized pursuant to this Act
6 as that area covering the southern area of Guam.

7 (d) *District Board* means the government of Guam board
8 comprised of individuals elected by local farmers, farm land owners
9 or land occupiers to fulfill the duties set forth in this Act.

10 (1) *Northern Soil and Water Conservation District*
11 *Board*, or *Northern District Board*, means the District Board
12 which *shall* govern the Northern District, organized pursuant to
13 this Act.

14 (2) *Southern Soil and Water Conservation District*
15 *Board*, or *Southern District Board*, means the District Board
16 which *shall* govern the Southern District, organized pursuant to
17 this Act.

18 (e) *Farmer* means a resident registered as a farmer by the
19 Department of Agriculture.

20 (f) *Farm land owner* means a person, firm, or corporation
21 who is an owner or operator of land used for the purpose of producing
22 aquaculture products, bushes, crops, fruit or nut-bearing trees, herbs,
23 livestock, ornamentals, timber or vines.

24 (g) *Land occupier* includes any person, firm, or corporation
25 who holds title to or, in the case of leased land, the person, firm, or
26 corporation who holds possession of any lands lying within a district
27 organized under this Chapter.

1 (c) **Tenure of Directors.** Each district director *shall* be elected to
2 serve for a term of three (3) years. Individuals serving as district directors
3 upon the enactment of this Chapter *shall* be permitted to serve out the
4 remainder of their term.

5 (d) **Board Vacancies.** Vacancies *shall* be filled for an unexpired
6 term. The selection of a successor to fill a vacancy for an unexpired term
7 *shall* be made by *I Maga'lahren Guåhan* within thirty (30) days of the
8 notification of such vacancy; such selection to be subject to the advice and
9 consent of *I Liheslaturan Guåhan*.

10 (e) **Compensation of Directors.** District directors *shall* be
11 compensated in the amount of Fifty Dollars (\$50.00) per meeting attended,
12 such compensation *not to exceed* One Hundred Dollars (\$100.00) per month.

13 (1) **Per Diem Allowance.** District directors *shall* receive
14 one hundred twenty-five percent (125%) of the basic per diem rates,
15 just as other government boards and commissions, as stipulated in 5
16 GCA §23104(a)(2).

17 **§ 71104. Organization of Districts; District Membership.**

18 (a) **Organization of Districts.** To complete the organization of a
19 district, the University of Guam, in accordance with the Administrative
20 Adjudication Act, *shall* present to *I Maga'lahren Guåhan* a statement setting
21 out the name of the district and its boundaries, and certifying that the
22 procedures prescribed in this Chapter for the organization of a district have
23 been fully complied with. The statement *shall* request *I Maga'lahren Guåhan*
24 to issue a certificate of organization to the district. *I Maga'lahren Guåhan*
25 *shall* record the statement in his office and *shall* issue to each district, under
26 the seal of Guam, a certificate of the due organization of the district.

1 (h) *University* means the University of Guam.

2 § 71102. **Conservation Districts Established.** A Northern Soil
3 and Water Conservation District and a Southern Soil and Water
4 Conservation District are hereby established to work in partnership with the
5 University of Guam (University), and in cooperation with all government of
6 Guam entities overseeing local and federal programs established to promote
7 the conservation, development and the use of soil and water resources of
8 Guam in order to control and prevent soil erosion and flooding, and to
9 improve agriculture water management.

10 § 71103. **Selection of Directors; Composition of District**
11 **Boards; Tenure of Directors; Board Vacancies; and Compensation of**
12 **Directors.**

13 (a) **Selection of Directors.** Farmers or farm land owners or land
14 occupiers from within each district *shall* nominate individuals, from among
15 their number, to serve as non-partisan district directors; and *shall* elect five
16 (5) directors from among those nominated.

17 (b) **Composition of District Boards.** The Soil and Water
18 Conservation District Boards *shall* each:

19 (1) be composed of five (5) directors, each of whom is
20 largely engaged in farming and is a land occupier of the district to
21 which they are elected to serve;

22 (2) select a chairperson and a vice chairperson from among
23 the five (5) directors, who *shall* be elected by *at least* three (3)
24 affirmative votes; and

25 (3) have assigned to it an advisor from the University of
26 Guam College of Natural and Applied Sciences.

1 The organization of the Northern District and Southern District in
2 effect at the time of enactment of this Chapter *shall* remain in effect, until
3 and unless the University presents to *I Maga'lahaen Guahan* new information
4 concerning district names and boundaries; such determination having been
5 made in full compliance with the Administrative Adjudication Act, all
6 procedures prescribed in this Chapter, and all other pertinent requirements,
7 rules or regulations.

8 **(b) District Membership.** Each district board *shall* cause all
9 farmers, farm land owners or land occupiers, as appropriately registered with
10 the Department of Agriculture or the Department of Land Management, to
11 register as active members of each district.

12 Such membership roll *shall* be updated quarterly; and *shall* be
13 submitted to the advisor assigned to the board by the University. Such
14 membership roll *shall* serve as the official roster of those eligible to vote in
15 subsequent district elections.

16 **§ 71105. Duties of District Boards.**

17 **(a) Quorum, Meeting, and Budget Requirements.**

18 (1) Each board *shall* require a quorum of its members in
19 order to conduct business. Three (3) directors *shall* constitute a
20 quorum; and the concurrence of a majority vote, *at least* three (3)
21 votes, *shall* be necessary to take action on any official matter.

22 (2) Each board *shall* hold *at least* one (1) meeting per month,
23 which *shall* be subject to the Open Government Law.

24 (A) Attendance. Each director *shall* attend meetings of
25 the district board. Unexcused absences of a director from three
26 (3) consecutive board meetings *shall* constitute a cause for

1 removal of the director from the board, pursuant to 5 GCA
2 §43106 (Removal from Office for Absences).

3 (3) Both district boards *shall* have a joint meeting *at least*
4 once per year, during which time the district directors *shall* prepare an
5 operating budget to support their mission and mandates.

6 (A) Budget. Such budget *shall* be submitted to the
7 University, for subsequent submission to *I Liheslaturan*
8 *Guåhan*.

9 **(b) Development of Plans.**

10 (1) Each board *shall* prepare a long-range plan and an annual
11 work-plan with assistance from advisory members and agencies.

12 (2) Each board *shall* develop conservation plans for
13 cooperators of the district, at their request.

14 **(c) Record Keeping and Reporting Requirements.**

15 (1) Each board *shall* keep a record of proceedings,
16 resolutions, regulations, and orders issued or adopted.

17 (2) Each board *shall* keep a statement of activity
18 documenting all actions taken with respect to the receipt and
19 disbursement of any and all funds. Such report *shall* be forwarded to *I*
20 *Maga'lahaen Guåhan* and *I Liheslaturan Guåhan* on an annual basis.

21 (3) Each *board shall* furnish to their assigned advisor from
22 the University of Guam, copies of such documents, instruments or
23 information concerning their activities, as the University requests.

24 **(d) District Projects and Activities.**

25 (1) Projects and activities *shall* be limited to the following
26 types of land within the district:

1 (A) all public land leased for agricultural activities,
2 including leased federal land. Any and all projects which are
3 proposed for leased federal land *shall* require the review and
4 approval of the federal agency which has jurisdiction over the
5 land;

6 (B) public and private lands which are designated for
7 agricultural use *or* conservation preserves; and

8 (C) land which is used for the purpose of producing an
9 agricultural commodity which is located in an area designated
10 as urban or rural.

11 (2) Government Agency Input Required for District Projects
12 and Activities. For any project or activity proposed by a district
13 board, which involves the responsibilities of another government of
14 Guam entity, the district board *shall* request the input of each of the
15 affected entities on the scope of work of the project.

16 Projects proposed by a district board *shall* be planned and
17 executed in compliance with provisions of Guam law, and *shall not*
18 duplicate the efforts of, or conflict with, other local and federal
19 programs already in place on Guam.

20 Each entity consulted *shall* provide a response to the district
21 within thirty (30) calendar days from the date of receipt of the request
22 for input. The district *shall* keep on record, copies of all submitted
23 requests for input and all responses to such requests, and *shall* further
24 act on such responses, including providing any justification for any
25 rejected recommendations.

26 (3) District Coordination. Each district board *shall* inform
27 the other district board of their approved projects and activities.

1 **§ 71106. Powers of District Boards.** A district board, and the
2 directors thereof, elected to serve a district organized under this Chapter
3 *shall* have the following powers:

4 (a) to provide for and encourage surveys, investigations and
5 research relating to soil and water conservation, and to publish and
6 disseminate information concerning such subjects;

7 (b) to provide for and encourage demonstrations relative to
8 the control and prevention of erosion, and the conservation of soil and
9 water resources; and to carry out preventive control measures on
10 publicly owned land within the district with the consent of the land
11 occupier;

12 (c) to cooperate, or enter into agreements with, and to
13 furnish aid to any agency or land occupier within a district insofar as it
14 is feasible to do so, for specific soil and water conservation activities
15 not in conflict with or duplicating other activities of the University of
16 Guam or cooperating agencies. Such agreements *shall* be subject to
17 such conditions as the district board may deem necessary;

18 (d) to review conservation plans prepared by farm land
19 owners and land occupiers, which are a precondition for a contract
20 between the farm land owners and land occupiers and the U.S.
21 Secretary of Agriculture; to provide to the U.S. Secretary of
22 Agriculture, or his designee, a recommendation concerning the
23 acceptability of farm land owners' and land occupiers' plans, such
24 recommendation to be based upon the district's conservation plan; and
25 to provide, when requested by the Secretary, or his designee,
26 recommendations on the contract;

1 (e) to acquire property, such as equipment or machinery, to
2 introduce soil conservation practices to the agricultural community,
3 and to dispose of such property when appropriate;

4 (f) to acquire private land or land rights in full compliance
5 with all requirements set forth in Guam law, and in consultation with *I*
6 *Maga'lahaen Guåhan* and *I Liheslaturan Guåhan*, as needed for the
7 implementation of watershed projects for purposes such as flood
8 control, irrigation, or soil conservation.

9 (1) Disposition of Unused Land. Any land or land
10 rights acquired by a district board and *not* used for the purposes
11 justifying the acquisition, within the term of the district
12 directors who requested the acquisition, *shall* be returned to the
13 original owners for the price paid by the government when such
14 property was originally acquired;

15 (g) to construct, improve, and maintain structures, such as
16 sediment ponds or earthen dams, following all requirements set forth
17 in Guam law and any pertinent rules and regulations and proper
18 engineering standards and specifications, when these structures are
19 found necessary for carrying out the purposes of soil and water
20 conservation;

21 (h) to have a seal which can be affixed to certificates issued
22 to cooperators of the district, and to any contract or other instruments
23 requiring certification;

24 (i) as a condition to the extending of benefits, or the
25 performance of work upon land, the district board may require
26 contributions of services, materials or otherwise, to any operation
27 conferring such benefits, and may impose any other reasonable

1 condition, such as contributions of labor for the planting of trees and
2 payment for specific erosion control materials secured by the district
3 board for the benefit of its cooperators. All such contributions would
4 necessarily be determined by the district as a whole, and *must not* be
5 in violation of the laws of Guam or common practice;

6 (j) to hire personnel, under a restricted employment status,
7 to support their mandates as the district board deems appropriate.

8 (1) Restricted Employment Status. Restricted
9 employees hired pursuant to this Chapter *shall not* be in the
10 classified service of the government of Guam. Restricted
11 employees are ineligible for medical, dental or life insurance
12 benefits, but *shall* be entitled to government of Guam
13 Workmen's Compensation. They may *not* join the Government
14 of Guam Retirement Plan, but FICA must be paid on such
15 employees, with the district board responsible for the
16 employer's share of FICA. Annuitants of the Government of
17 Guam Retirement Fund may serve as Restricted Employees for
18 the district board without losing their annuities. Restricted
19 employees are *not* eligible to accrue annual or sick leave.
20 Working hours *shall* be determined by the district board.

21 (2) Selection of Employees. Restricted employees
22 *shall* be selected by majority vote of the district board, which
23 selection *shall* be evidenced by a memorandum from the district
24 chairperson to the President of the University of Guam.

25 (3) Dismissal of Employees. *Unless* otherwise
26 specified by law, the dismissal of a restricted employee of a
27 district *shall* be with a majority vote of the district board.

1 (4) Working Hours. Restricted employees who work
2 at irregular hours at the direction of the district board, *shall* be
3 deemed to work the complete assigned and designated hours
4 per week, and their work records *shall* so indicate, but such
5 employees *shall* receive *neither* overtime *nor* night-time
6 differential, but *shall* receive compensatory time off for hours
7 worked in excess of forty (40) hours per week.

8 (k) **Soil and Water Conservation District Funds, Created.**

9 There is hereby created, separate and apart from other funds of the
10 government of Guam, two (2) funds to be known as the “*Northern*
11 *Soil and Water Conservation District Fund*” and the “*Southern Soil*
12 *and Water Conservation District Fund*” (Funds) which *shall not* be
13 commingled with the General Fund. All payments *shall* be made
14 payable to the appropriate Fund and monies *shall* be kept in separate
15 bank accounts established by the Chairperson of each District Board.
16 Notwithstanding any other provision of law, any funds appropriated to
17 the University of Guam for the Districts *shall* be administered by the
18 Chairperson of each District Board. The Chairperson of the District
19 Board *shall* be the certifying officer of such Fund. Neither Fund *shall*
20 be used as a pledge of security or as collateral for government loans.
21 The Chairperson of the District Board *shall* make an annual report to *I*
22 *Maga’lahen Guåhan* and *I Liheslaturan Guahan* of the condition of,
23 and activity within, the Fund.

24 § 71107. **Duties of the University of Guam.** The University *shall*
25 work in partnership with the Soil and Water Conservation District Boards to
26 promote and support the conservation of Guam’s soil and water resources.
27 The University *shall* further:

1 (a) assign to the district boards an advisor from the College
2 of Natural and Applied Sciences;

3 (b) assist district boards with the coordination of programs,
4 projects and activities, insofar as that may be done by advice and
5 consultation;

6 (c) assist district boards with the dissemination of
7 information throughout the University and the island, concerning
8 district programs, projects and activities;

9 (d) assist the district boards with the preparation and
10 implementation of soil and water resource conservation and
11 utilization, to ensure the promotion of the conservation, improvement
12 and protection of Guam's soil and water resources, in coordination
13 with the pertinent government of Guam entities;

14 (e) assist the district boards in fulfilling their mandates, to
15 include obtaining the assistance of the federal government and
16 government of Guam agencies in the work of the districts;

17 (f) provide technical support at the request of a district, as
18 may be approved by the President of the University;

19 (g) keep a record of all official actions taken with respect to
20 working with, or providing support or assistance to the districts and
21 district boards; and

22 (h) conduct the election of all district directors, and in
23 conjunction therewith:

24 (1) promulgate the necessary rules and regulations by
25 which farmers, farm land owners, and land occupiers *shall*
26 nominate and elect, from among their number, district directors;
27 and

1 (2) the President of the University of Guam *shall*
2 certify the election results and provide a copy to *I Maga'laha*
3 *Guåhan* and *I Liheslaturan Guåhan*.

4 **§ 71108. Powers of the University of Guam.** The University
5 *shall* have the power to:

6 (a) delegate to any member, agent, or employee such powers and
7 duties as it may deem proper to fulfill the duties set forth in this Chapter;

8 (b) promulgate rules and regulations as may be necessary for the
9 execution of its duties set forth in this Chapter; and

10 (c) insofar as available appropriations and resources permit, request
11 for staff support and assistance from other agencies of the government of
12 Guam, to include the preparation or conduct of reports, surveys and studies
13 to fulfill the duties set forth in this Chapter.”

14 **Section 3. Enumeration.** The Compiler of Laws *shall* add this Act as a
15 new Chapter 71 to Title 5, Guam Code Annotated, under “Division 6:
16 Agriculture,” and *shall* renumber the remaining chapters accordingly.

I MINA' TRENTAI UNU NA LIHESLATURAN GUAHAN

2011 (FIRST) Regular Session

Date: Sept. 19, 2011

VOTING SHEET

SBill No. 299-31(LS)

Resolution No. _____

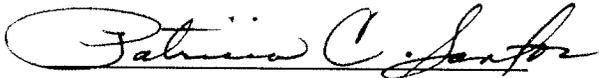
Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
ADA, V. Anthony	✓				
BLAS, Frank F., Jr.	✓				
CRUZ, Benjamin J. F.	✓				
DUENAS, Christopher M.	✓				
GUTHERTZ, Judith Paulette	✓				
MABINI, Sam	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓				
RESPICIO, Rory J.	✓				
RODRIGUEZ, Dennis G., Jr.	✓				
SILVA TAIJERON, Mana	✓				
WON PAT, Judith T.	✓				
YAMASHITA, Aline A.	✓				

TOTAL

15 0 0 0 0

CERTIFIED TRUE AND CORRECT:


 Clerk of the Legislature

* 3 Passes = No vote
 EA = Excused Absence

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement,
General Government Operations, and Public Broadcasting.
Web Address: www.senatorbjcruz.com



I MINA'TRENTAI UNU' NA LIHESLATURAN GUAHAN
The 31st Guam Legislature • senator@senatorbjcruz.com
155 Hesler Place, Hagatna, Guam 96910
Telephone: (671) 477-2520/1 • Fax: (671) 477-2522

COMMITTEE REPORT

ON

SUBSTITUTE BILL NO. 299-31 (LS)

“AN ACT TO *REPEAL* 17 GCA CHAPTER 26; AND TO *ADD A NEW* CHAPTER 70 TO 5 GCA DIVISION 6, RELATIVE TO EMPOWERING THE NORTHERN AND SOUTHERN GUAM SOIL AND WATER CONSERVATION DISTRICTS.”



September 15, 2011

MEMORANDUM

TO: All Members
Committee on Youth, Cultural Affairs, Procurement, General
Government Operations and Public Broadcasting

FROM: Vice Speaker Benjamin J.F. Cruz

SUBJECT: Committee Report on Bill No. 299-31(LS) As Substituted

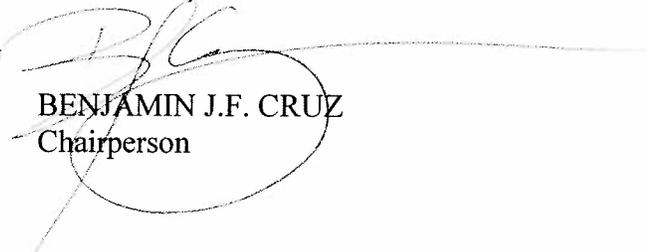
Transmitted herewith for your consideration is the **Committee Report on Substitute Bill No. 299-31(LS) – “AN ACT TO REPEAL 17 GCA CHAPTER 26; AND TO ADD A NEW CHAPTER 70 TO 5 GCA DIVISION 6, RELATIVE TO EMPOWERING THE NORTHERN AND SOUTHERN GUAM SOIL AND WATER CONSERVATION DISTRICTS.”**

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Bill No. 299-31(LS) As Substituted
- Bill No. 299-31(LS) As Introduced
- Public Hearing Sign-in Sheet
- COR Referral of Bill No. 299-31(LS)
- Fiscal Note on Bill No. 299-31 (LS)
- Public Hearing Notices
- Public Hearing Agenda

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,


BENJAMIN J.F. CRUZ
Chairperson



COMMITTEE VOTE SHEET

SUBSTITUTE BILL NO. 299-31(LS) - "AN ACT TO REPEAL 17 GCA CHAPTER 26; AND TO ADD A NEW CHAPTER 70 TO 5 GCA DIVISION 6, RELATIVE TO EMPOWERING THE NORTHERN AND SOUTHERN GUAM SOIL AND WATER CONSERVATION DISTRICTS."

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
CRUZ, BENJAMIN J.F. Chairperson		✓				
MUÑA BARNES, TINA ROSE Vice-Chairperson		✓				
WON PAT, JUDITH T. Speaker and Ex-Officio Member						
Ada, Thomas C. Member		✓				
GUTHERTZ, JUDITH P. Member		✓				
RESPICIO, RORY J. Member		✓				
RODRIGUEZ, DENNIS G. JR. Member				✓ 9/15/11		
ADA, V. ANTHONY Member		✓				
DUENAS, CHRISTOPHER Member						
MABINI, SAM Member		✓				
YAMASHITA, ALINE Member		✓				



Committee Report Digest

I. OVERVIEW

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting convened a public hearing on Friday, September 9, 2011 at 12:00 p.m. in the Public Hearing Room of *I Liheslatura*. On the agenda was the consideration of Bill No. 299-31 (LS) – “AN ACT TO *REPEAL* 17 GCA CHAPTER 26; AND TO *ADD A NEW* CHAPTER 70 TO 5 GCA DIVISION 6, RELATIVE TO EMPOWERING THE NORTHERN AND SOUTHERN GUAM SOIL AND WATER CONSERVATION DISTRICTS.”

Public Notice Requirements

All legal requirements for public notices were met, with requests for publication sent to all media and all senators on September 1, 2011 and September 7, 2011 via email. Copies of the hearing notices are appended to the report.

Senators Present

Vice Speaker Benjamin J.F. Cruz, Chairperson
Senator Rory J. Respicio, Committee Member
Senator Judith P. Guthertz, DPA, Committee Member
Senator Aline A. Yamashita, Ph.D., Committee Member

II. SUMMARY OF TESTIMONY AND DISCUSSION

Vice Speaker Benjamin J.F Cruz called the public hearing to order at 12:50 p.m. and announced the morning's agenda and the issuance of public hearing notices in compliance with the Open Government Law.

Vice Speaker Cruz then deferred to bill sponsor Senator Rory J. Respicio for opening remarks.

Senator Respicio expressed his intent in introducing the legislation and summarized the proposed changes in Bill 299 versus the current law.

Appearing before the Committee in support of Bill No. 299-31 (LS), were:

- Ernie Wusstig, Farmer
- R. Arlene Santos, Southern Soil & Water Conservation District
**Provided Written Testimony, Attached.*
- Hope Cristobal, Southern Soil & Water Conservation District
**Provided Written Testimony, Attached.*
- Bill McDonald, Southern Soil & Water Conservation District



- Delle Nadler, Talafofo Resident
**Provided Written Testimony, Attached.*

Indicating their support for Bill No. 299-31 (LS), but unable to appear before the Committee during the hearing, were:

- Agat Mayor Carol Tayama
- Bobing Wolford, Malojloj Resident

In opposition to Bill 299 was the Department of Agriculture, represented by Director Mariquita "Tita" Taitague and Deputy Director Manny Cruz.

**Provided Written Testimony, Attached.*

University of Guam President Robert Underwood provided written testimony (*attached*), neither in support nor in opposition to Bill 299, but expressed the University's concerns with certain provisions of the bill.

Vice Speaker Cruz thanked the individuals for their testimony, and adjourned the public hearing on Bill No. 299 at 1:24 p.m., declaring the measure as being publicly heard.

III. FINDINGS AND RECOMMENDATION

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting hereby submits for consideration, **Substitute Bill No. 299-31 (LS) - "AN ACT TO REPEAL 17 GCA CHAPTER 26; AND TO ADD A NEW CHAPTER 70 TO 5 GCA DIVISION 6, RELATIVE TO EMPOWERING THE NORTHERN AND SOUTHERN GUAM SOIL AND WATER CONSERVATION DISTRICTS"**, with the recommendation TO DO PASS.

I MINA TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (First) Regular Session

Bill No. 299- 31 (LS)

As Substituted by the Committee on Youth,
Cultural Affairs, Procurement,
General Government Operations,
and Public Broadcasting.

Introduced by:

R.J. Respicio
B.J.F. Cruz
T.R. Muna Barnes

**AN ACT TO REPEAL 17 GCA CHAPTER 26; AND TO
ADD A NEW CHAPTER 70 TO 5 GCA DIVISION 6,
RELATIVE TO EMPOWERING THE NORTHERN AND
SOUTHERN GUAM SOIL AND WATER
CONSERVATION DISTRICTS.**

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

2 **Section 1. Repeal.** Title 17 Guam Code Annotated, Chapter 26 – “Soil & Water
3 Conservation Programs” – is hereby *repealed*.

4 **Section 2. Soil and Water Conservation Districts and District Boards.** *A new*
5 Chapter 70 is hereby *added* to Title 5 Guam Code Annotated, Division 6 to read:

“Chapter 70

7 **Soil & Water Conservation Districts and District Boards.**

8 § 70101. **Definitions.**

9 § 70102. **Conservation Districts Established.**

10 § 70103. **Selection of Directors; Composition of District Boards; Tenure of**
11 **Directors; Board Vacancies; and Compensation of Directors.**

12 § 70104. **Organization of Districts; District Membership.**

13 § 70105. **Duties of District Boards.**

14 § 70106. **Powers of District Boards.**

1 § 70107. Duties of the University of Guam.

2 § 70108. Powers of the University of Guam.

3 ---

4 § 70101. **Definitions.** Whenever used in this Article, the following terms shall
5 have the meanings indicated, unless otherwise specified:

6 (a) *Cooperator* means a *land occupier* or *farm land owner* who has entered into an
7 agreement with a district requesting the district to provide aid under this Article.

8 (b) *Director*, or *district director*, means a member of either the *Northern* or *Southern*
9 *District Board*.

10 (c) *District* means the *Northern Soil and Water Conservation District* and the *Southern*
11 *Soil and Water Conservation District*.

12 (1) *Northern Soil and Water Conservation District*, or *Northern District*, means
13 the area organized pursuant to this Act as that area covering the northern
14 area of Guam.

15 (2) *Southern Soil and Water Conservation District*, or *Southern District*, means the
16 area organized pursuant to this Act as that area covering the southern area
17 of Guam.

18 (d) *District Board* means a Government of Guam board comprised of individuals
19 elected by local farmers, farm land owners or land occupiers to fulfill the duties
20 set forth in this Act.

21 (1) *Northern Soil and Water Conservation District Board*, or *Northern District*
22 *Board*, means the *District Board* which shall govern the *Northern District*,
23 organized pursuant to this Act.

24 (2) *Southern Soil and Water Conservation District Board*, or *Southern District*
25 *Board*, means the *District Board* which shall govern the *Southern District*,
26 organized pursuant to this Act.

27 (e) *Farmer* means a resident registered as a farmer by the Department of Agriculture.

1 (f) *Farm land owner* means a person, firm, or corporation who is an owner or
2 operator of land used for the purpose of producing aquaculture products,
3 bushes, crops, fruit or nut-bearing trees, herbs, livestock, ornamentals, timber or
4 vines.

5 (g) *Land occupier* includes any person, firm, or corporation who holds title to or, in
6 the case of leased land, the person, firm, or corporation who holds possession of
7 any lands lying within a district organized under this Article.

8 (h) *University* means the University of Guam.

9 **§ 70102. Conservation Districts Established.** A *Northern Soil and Water*
10 *Conservation District* and a *Southern Soil and Water Conservation District* are hereby
11 established to work in partnership with the University of Guam (University), and in
12 cooperation with all Government of Guam entities overseeing local and federal
13 programs established to promote the conservation, development and the use of soil and
14 water resources of Guam in order to control and prevent soil erosion, flooding and to
15 improve agriculture water management.

16 **§ 70103. Selection of Directors; Composition of District Boards; Tenure of**
17 **Directors; Board Vacancies; and Compensation of Directors.**

18 (a) **Selection of Directors.** *Farmers or farm land owners or land occupiers* from
19 within each district shall nominate individuals, from among their number, to serve
20 as non-partisan *district directors*; and shall elect five (5) *directors* from among those
21 nominated.

22 (b) **Composition of District Boards.** The Soil and Water Conservation
23 District Board shall each:

24 (1) Be composed of five (5) directors, each of whom is largely engaged
25 in farming and is a *land occupier* of the *district* to which they are elected to serve;

26 (2) Select a Chairperson and a Vice Chairperson from among the five
27 (5) *directors*, who shall be elected by at least three (3) affirmative votes.

1 **(3)** Have assigned to it an advisor from the University of Guam
2 College of Natural and Applied Sciences.

3 **(c) Tenure of Directors.** Each *district director* shall be elected for a term of
4 three (3) years. Individuals serving as *district directors* at the time this Act is signed
5 into law *shall* be permitted to serve out the remainder of their term.

6 **(d) Board Vacancies.** Vacancies *shall* be filled for an unexpired term. The
7 selection of a successor to fill a vacancy for an unexpired term *shall* be made by *I*
8 *Maga'lahaen Guåhan* within thirty (30) days of the notification of such vacancy; such
9 selection to be subject to the consent of *I Liheslaturan Guåhan*.

10 **(e) Compensation of Directors.** *District directors* shall be compensated in the
11 amount of Fifty Dollars (\$50) per meeting attended, such compensation not to
12 exceed One Hundred Dollars (\$100) per month.

13 **(1) Per Diem Allowance.** *District directors* shall receive one hundred
14 twenty-five percent (125%) of the basic per diem rates, just as other government
15 Boards and Commissions, as stipulated in 5 GCA §23104(a)(2).

16 **§ 70104. Organization of Districts; District Membership.**

17 **(a) Organization of Districts.** To complete the organization of a district, the
18 University of Guam, in accordance with the Administrative Adjudication Act, *shall*
19 present to *I Maga'lahaen Guåhan* a statement setting out the name of the district and its
20 boundaries and certifying that the procedures prescribed in this Article for the
21 organization of a district have been fully complied with. The statement *shall* request
22 *I Maga'lahaen Guåhan* to issue a certificate of organization to the district. *I Maga'lahaen*
23 *Guåhan shall* record the statement in his office and *shall* issue to each district, under
24 the seal of Guam, of the due organization of the district.

25 The organization of the *Northern District* and *Southern District* in effect at
26 the time this law is enacted *shall* remain in effect, until and unless the University
27 presents to *I Maga'lahaen Guåhan* new information concerning district names and

1 boundaries; such determination having been made in full compliance with the
2 Administrative Adjudication Act, all procedures prescribed in this Article, and all
3 other pertinent requirements, rules or regulations.

4 **(b) District Membership.** Each district board *shall* cause all farmers, farm
5 land owners or land occupiers, as appropriately registered with the Department of
6 Agriculture or the Department of Land Management, to register as active members
7 of each district.

8 Such membership roll *shall* be updated quarterly; and *shall* be submitted to
9 the advisor assigned to the *board* by the University. Such membership roll *shall* serve
10 as the official roster of those eligible to vote in subsequent *district* elections.

11 **§ 70105. Duties of District Boards.**

12 **(a) Quorum, Meeting and Budget Requirements.**

13 **(1)** Each board *shall* require a quorum of its members in order to conduct
14 business. Three (3) *directors shall* constitute a quorum; and the concurrence
15 of a majority vote, at least three (3) votes, *shall* be necessary to take action
16 on any official matter.

17 **(2)** Each *board shall* hold at least one meeting per month, which *shall* be subject
18 to the Open Government Law.

19 **(A)** Attendance. Each *director shall* attend meetings of the *district*
20 *board*. Unexcused absences of a director from three consecutive
21 board meetings *shall* constitute a cause for removal of the *director*
22 from the *board*, pursuant to 5 GCA §43106 "Removal from Office for
23 Absences."

24 **(3)** Both *district boards shall* have a joint meeting at least once per year, during
25 which time the *district directors shall* prepare an operating budget to
26 support their mission and mandates.

1 **(A) Budget.** Such budget *shall* be submitted to the University,
2 for subsequent submission to *I Liheslatura*.

3 **(b) Development of Plans.**

4 **(1)** Each *board shall* prepare a long range plan and an annual work-plan with
5 assistance from advisory members and agencies.

6 **(2)** Each *board shall* develop conservation plans for *cooperators* of the *district*, at
7 their request.

8 **(c) Record Keeping and Reporting Requirements.**

9 **(1)** Each *board shall* keep a record of proceedings, resolutions, regulations, and
10 orders issued or adopted.

11 **(2)** Each *board shall* keep a statement of activity documenting all actions taken
12 with respect to the receipt and disbursement of any all and funds. Such report *shall*
13 be forwarded to *I Maga'låhen Guåhan and I Liheslatura* on an annual ~~quarterly~~ basis.

14 **(3)** Each *board shall* furnish to their assigned advisor from the University of
15 Guam, copies of such documents, instruments or information concerning their
16 activities, as the *University* requests.

17 **(d) District Projects and Activities.**

18 **(1)** Projects and Activities *shall* be limited to the following types of land
19 within the district:

20 **(A)** All public land leased for agricultural activities, including leased
21 federal land. Any and all projects which are proposed for leased federal land
22 *shall* require the review and approval of the federal agency which has
23 jurisdiction over the land;

24 **(B)** Public and private land which is designated for agricultural use or
25 conservation preserves; and

26 **(C)** Land which is used for the purpose of producing an agricultural
27 commodity which is located in an area designated as urban or rural.

1 **(2) Government Agency Input Required for District Projects and Activities.**

2 For any project or activity proposed by a *district board*, which involves the
3 responsibilities of another Government of Guam entity, the *district board shall* request
4 the input of each of the affected entities on the scope of work of the project.

5 Projects proposed by a *district board shall* be planned and executed in
6 compliance with provisions of Guam Law, and *shall* not duplicate the efforts of, or
7 conflict with, other local and federal programs already in place in Guam.

8 Each entity consulted *shall* provide a response to the *district* within thirty (30)
9 calendar days from the date of receipt of the request for input. The district *shall* keep
10 on record, copies of all submitted requests for input and all responses to such
11 requests; and *shall* further act on such responses, including providing any
12 justification for any rejected recommendations.

13 **(3) District Coordination.** Each *district board shall* inform the other *district*
14 *board* of their approved projects and activities.

15 **§ 70106. Powers of District Boards.** A *district board*, and the *directors* thereof,
16 elected to serve a district organized under this Article *shall* have the following powers:

17 **(a)** To provide for and encourage surveys, investigations, and research
18 relating to soil and water conservation and to publish and disseminate information
19 concerning such subjects;

20 **(b)** To provide for and encourage demonstrations relative to the control and
21 prevention of erosion and the conservation of soil and water resources; and to carry
22 out preventive control measures on publicly owned land within the district with the
23 consent of the *land occupier*;

24 **(c)** To cooperate, or enter into agreements with, and to furnish aid to any
25 agency or *land occupier* within a *district* insofar as it is feasible to do so, for specific
26 soil and water conservation activities not in conflict with or duplicating other

1 activities of the University of Guam or cooperating agencies. Such agreements *shall*
2 be subject to such conditions as the *district board* may deem necessary;

3 (d) To review conservation plans prepared by *farm land owners* and *land*
4 *occupiers*, which are a precondition for a contract between the *farm land owners* and
5 *land occupiers* and the U.S. Secretary of Agriculture; to provide to the U.S. Secretary
6 of Agriculture, or his designee, a recommendation concerning the acceptability of
7 *farm land owners'* and *land occupiers'* plans, such recommendation to be based upon
8 the district's conservation plan; and to provide, when requested by the Secretary, or
9 his designee, recommendations on the contract;

10 (e) To acquire property such as equipment or machinery to introduce soil
11 conservation practices to the agricultural community and to dispose of such
12 property when appropriate;

13 (f) To acquire private land or land rights in full compliance with all
14 requirements set forth in Guam Law, and in consultation with *I Maga'lahaen Guåhan*
15 and *I Liheslaturan Guåhan*, as needed for implementation of watershed projects for
16 purposes such as flood control, irrigation, or soil conservation;

17 (1) **Disposition of Unused Land.** Any land or land rights acquired by a
18 *district board* and not used for the purposes justifying the acquisition,
19 within the term of the district directors who requested the acquisition,
20 *shall* be returned to the original owners for the price paid by the
21 government when such property was originally acquired;

22 (g) To construct, improve, and maintain structures, such as sediment ponds
23 or earthen dams, following all requirements set forth in Guam law and any
24 pertinent rules and regulations and proper engineering standards and specifications,
25 when these structures are found necessary for carrying out the purposes of soil and
26 water conservation;

1 **(h)** To have a seal which can be affixed to certificates issued to *cooperators* of
2 the *district* and to any contract or other instruments requiring certification;

3 **(i)** As a condition to the extending of benefits, or the performance of work
4 upon land, the *district board* may require contributions of services, materials or
5 otherwise, to any operation conferring such benefits, and may impose any other
6 reasonable condition, such as contributions of labor for the planting of trees and
7 payment for specific erosion control materials secured by the *district board* for the
8 benefit of its *cooperators*. All such contributions would necessarily be determined by
9 the *district* as a whole and must not be in violation of the laws of Guam or common
10 practice; and

11 **(j)** To hire personnel, under a restricted employment status, to support their
12 mandates as the *district board* deems appropriate.

13 **(1) Restricted Employment Status.** Restricted employees hired
14 pursuant to this Act *shall* not be in the classified service of the Government of
15 Guam. Restricted employees are ineligible for medical, dental or life insurance
16 benefits, but *shall* be entitled to government of Guam Workmen's Compensation.
17 They may not join the Government of Guam Retirement Plan, but FICA must be
18 paid on such employees, with the *district board* responsible for the employer's
19 share of FICA. Annuitants of the Government of Guam Retirement Fund may
20 serve as Restricted Employees for the *district board* without losing their annuities.
21 Restricted Employees are not eligible to accrue annual or sick leave. Working
22 hours *shall* be determined by the *district board*.

23 **(2) Selection of Employees.** Restricted employees *shall* be selected by
24 majority vote of the *district board*, which selection *shall* be evidenced by a
25 memorandum from the district chairperson to the president of the University of
26 Guam.

1 **(3) Dismissal of Employees.** Unless otherwise specified by law, the
2 dismissal of a restricted employee of a district *shall* be with a majority vote of the
3 *district board*.

4 **(4) Working Hours.** Restricted employees who work at irregular hours
5 at the direction of the *district board*, *shall* be deemed to work the complete
6 assigned and designated hours per week, and their work records *shall* so
7 indicate, but such employees *shall* receive *neither* overtime *nor* night-time
8 differential, but *shall* receive compensatory time off for hours worked in excess of
9 per week;

10 **(k) Soil and Water Conservation District Funds, created.** There is hereby
11 created, separate and apart from other funds of the government of Guam, two funds
12 to be known as the “Northern Guam Soil and Water Conservation District Fund” and
13 “Southern Guam Soil and Water Conservation District Fund” (hereinafter, “the Funds”)
14 which shall not be commingled with the General Fund. All payments shall be made
15 payable to the appropriate Fund and monies shall be kept in separate bank accounts
16 established by the Chairperson of each District Board. Notwithstanding any other
17 provision of law, any funds appropriated to the University of Guam for the Districts
18 shall be administered by the Chairperson of each District Board. The Chairperson of
19 the District Board shall be the Certifying Officer of such Fund. Neither Fund shall be
20 used as a pledge of security or as collateral for government loans. The Chairperson
21 of the District Board shall make an annual report to I Maga’lahen Guåhan and I
22 Lihselaturan Guahan of the condition of, and activity within, the Fund.

23 **§ 70107. Duties of the University of Guam.** The *University* shall work in
24 partnership with the *Soil and Water Conservation District Boards* to promote and support
25 the conservation of our island’s soil and water resources. The *University* shall further:

26 **(a)** Assign to the *district boards* an advisor from the College of Natural and Applied
27 Sciences;

1 (b) Assist *district boards* with the coordination of programs, projects and activities
2 insofar as that may be done by advice and consultation;

3 (c) Assist *district boards* with the dissemination of information throughout the
4 University and the island, concerning district programs, projects and activities.

5 (d) Assist the *district boards* with the preparation and implementation of soil and
6 water resource conservation and utilization to ensure the promotion the conservation,
7 improvement and protection of the island's soil and water resources, in coordination
8 with the pertinent Government of Guam entities;

9 (e) Assist the *district boards* in fulfilling their mandates, to include obtaining the
10 assistance of the Federal Government and of Government of Guam agencies in the work
11 of the districts;

12 (f) Provide technical support at the request of a district, as may be approved by the
13 President of the *University*;

14 (g) Keep a record of all official actions taken with respect to working with, or
15 providing support or assistance to the *districts* and *district boards*;

16 (h) Conduct the election of all *district directors* and in conjunction therewith:

17 (1) Promulgate the necessary rules and regulations by which *farmers, farm*
18 *land owners, and land occupiers* shall nominate and elect, from among their number,
19 *district directors*; and

20 (2) The President of the University of Guam shall certify the election results
21 and provide a copy to *I Maga'lahaen Guåhan* and *I Liheslaturan Guåhan*.

22 § 70108. **Powers of the University of Guam.** The *University* shall have the power
23 to:

24 (a) Delegate to any member, agent, or employee such powers and duties as it may
25 deem proper to fulfill the duties set forth in this Chapter;

26 (b) Promulgate rules and regulations as may be necessary for the execution of its
27 duties set forth in this Chapter; and

1 (c) Insofar as available appropriations and resources permit, request for staff
2 support and assistance from other agencies of the Government of Guam, to include the
3 preparation or conduct of reports, surveys and studies to fulfill the duties set for the in
4 this Chapter.

5 **Section 3. Enumeration.** The Compiler of Laws *shall* add this Act as a new Chapter
6 70 to Title 5 Guam Code Annotated, under “Division 6: Agriculture,” and *shall*
7 renumber the remaining chapters accordingly.

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I MINA TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (First) Regular Session

Bill No. 299 - 31 (LS)

Introduced by:

R.J. Respicio
B.J.F. Cruz
T.R. Muna Barnes

2011 AUG 31 PM 4:33

AN ACT TO REPEAL 17 GCA CHAPTER 26; AND TO
ADD A NEW CHAPTER 70 TO 5 GCA DIVISION 6,
RELATIVE TO EMPOWERING THE NORTHERN AND
SOUTHERN GUAM SOIL AND WATER
CONSERVATION DISTRICTS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Repeal. Title 17 Guam Code Annotated, Chapter 26 – “Soil & Water
3 Conservation Programs” – is hereby *repealed*.

4 Section 2. Soil and Water Conservation Districts and District Boards. A *new*
5 Chapter 70 is hereby *added* to Title 5 Guam Code Annotated, Division 6 to read:

6 “Chapter 70

7 Soil & Water Conservation Districts and District Boards.

8 § 70101. Definitions.

9 § 70102. Conservation Districts Established.

10 § 70103. Selection of Directors; Composition of District Boards; Tenure of
11 Directors; Board Vacancies; and Compensation of Directors.

12 § 70104. Organization of Districts; District Membership.

13 § 70105. Duties of District Boards.

14 § 70106. Powers of District Boards.

15 § 70107. Duties of the University of Guam.

16 § 70108. Powers of the University of Guam.

17

1 **§ 70101. Definitions.** Whenever used in this Article, the following terms shall
2 have the meanings indicated, unless otherwise specified:

3 **(a)** *Cooperator* means a *land occupier* or *farm land owner* who has entered into an
4 agreement with a district requesting the district to provide aid under this Article.

5 **(b)** *Director, or district director,* means a member of either the *Northern* or *Southern*
6 *District Board.*

7 **(c)** *District* means the *Northern Soil and Water Conservation District* and the *Southern*
8 *Soil and Water Conservation District.*

9 **(1)** *Northern Soil and Water Conservation District, or Northern District,* means
10 the area organized pursuant to this Act as that area covering the northern
11 area of Guam.

12 **(2)** *Southern Soil and Water Conservation District, or Southern District,* means the
13 area organized pursuant to this Act as that area covering the southern area
14 of Guam.

15 **(d)** *District Board* means a Government of Guam board comprised of individuals
16 elected by local farmers, farm land owners or land occupiers to fulfill the duties
17 set forth in this Act.

18 **(1)** *Northern Soil and Water Conservation District Board, or Northern District*
19 *Board,* means the *District Board* which shall govern the *Northern District,*
20 organized pursuant to this Act.

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22 *Board,* means the *District Board* which shall govern the *Southern District,*
23 organized pursuant to this Act.

24 **(e)** *Farmer* means a resident registered as a farmer by the Department of Agriculture.

25 **(f)** *Farm land owner* means a person, firm, or corporation who is an owner or
26 operator of land used for the purpose of producing aquaculture products,

1 bushes, crops, fruit or nut-bearing trees, herbs, livestock, ornamentals, timber or
2 vines.

3 **(g)** *Land occupier* includes any person, firm, or corporation who holds title to or, in
4 the case of leased land, the person, firm, or corporation who holds possession of
5 any lands lying within a district organized under this Article.

6 **(h)** *University* means the University of Guam.

7 **§ 70102. Conservation Districts Established.** A *Northern Soil and Water*
8 *Conservation District* and a *Southern Soil and Water Conservation District* are hereby
9 established to work in partnership with the University of Guam (University), and in
10 cooperation with all Government of Guam entities overseeing local and federal
11 programs established to promote the conservation, development and the use of soil and
12 water resources of Guam in order to control and prevent soil erosion, flooding and to
13 improve agriculture water management.

14 **§ 70103. Selection of Directors; Composition of District Boards; Tenure of**
15 **Directors; Board Vacancies; and Compensation of Directors.**

16 **(a) Selection of Directors.** *Farmers or farm land owners or land occupiers* from
17 within each district shall nominate individuals, from among their number, to serve
18 as non-partisan *district directors*; and shall elect five (5) *directors* from among those
19 nominated.

20 **(b) Composition of District Boards.** The Soil and Water Conservation
21 District Board shall each:

22 **(1)** Be composed of five (5) directors, each of whom is largely engaged
23 in farming and is a *land occupier* of the *district* to which they are elected to serve;

24 **(2)** Select a Chairperson and a Vice Chairperson from among the five
25 (5) *directors*, who shall be elected by at least three (3) affirmative votes.

26 **(3)** Have assigned to it an advisor from the University of Guam
27 College of Natural and Applied Sciences.

1 (c) **Tenure of Directors.** Each *district director* shall be elected for a term of
2 three (3) years. Individuals serving as *district directors* at the time this Act is signed
3 into law *shall* be permitted to serve out the remainder of their term.

4 (d) **Board Vacancies.** Vacancies *shall* be filled for an unexpired term. The
5 selection of a successor to fill a vacancy for an unexpired term *shall* be made by *I*
6 *Maga'lahaen Guåhan* within thirty (30) days of the notification of such vacancy; such
7 selection to be subject to the consent of *I Liheslaturan Guåhan*.

8 (e) **Compensation of Directors.** *District directors* shall be compensated in the
9 amount of Fifty Dollars (\$50) per meeting attended, such compensation not to
10 exceed One Hundred Dollars (\$100) per month.

11 (1) **Per Diem Allowance.** *District directors* shall receive one hundred
12 twenty-five percent (125%) of the basic per diem rates, just as other government
13 Boards and Commissions, as stipulated in 5 GCA §23104(a)(2).

14 § 70104. **Organization of Districts; District Membership.**

15 (a) **Organization of Districts.** To complete the organization of a district, the
16 University of Guam, in accordance with the Administrative Adjudication Act, *shall*
17 present to *I Maga'lahaen Guåhan* a statement setting out the name of the district and its
18 boundaries and certifying that the procedures prescribed in this Article for the
19 organization of a district have been fully complied with. The statement *shall* request
20 *I Maga'lahaen Guåhan* to issue a certificate of organization to the district. *I Maga'lahaen*
21 *Guåhan shall* record the statement in his office and *shall* issue to each district, under
22 the seal of Guam, of the due organization of the district.

23 The organization of the *Northern District* and *Southern District* in effect at
24 the time this law is enacted *shall* remain in effect, until and unless the University
25 presents to *I Maga'lahaen Guåhan* new information concerning district names and
26 boundaries; such determination having been made in full compliance with the

1 Administrative Adjudication Act, all procedures prescribed in this Article, and all
2 other pertinent requirements, rules or regulations.

3 **(b) District Membership.** Each district board *shall* cause all farmers, farm
4 land owners or land occupiers, as appropriately registered with the Department of
5 Agriculture or the Department of Land Management, to register as active members
6 of each district.

7 Such membership roll *shall* be updated quarterly; and *shall* be submitted to
8 the advisor assigned to the *board* by the University. Such membership roll *shall* serve
9 as the official roster of those eligible to vote in subsequent *district* elections.

10 **§ 70105. Duties of District Boards.**

11 **(a) Quorum, Meeting and Budget Requirements.**

12 **(1)** Each board *shall* require a quorum of its members in order to conduct
13 business. Three (3) *directors shall* constitute a quorum; and the concurrence
14 of a majority vote, at least three (3) votes, *shall* be necessary to take action
15 on any official matter.

16 **(2)** Each *board shall* hold at least one meeting per month, which *shall* be subject
17 to the Open Government Law.

18 **(A)** Attendance. Each *director shall* attend meetings of the *district*
19 *board*. Unexcused absences of a director from three consecutive
20 board meetings *shall* constitute a cause for removal of the *director*
21 from the *board*, pursuant to 5 GCA §43106 "Removal from Office for
22 Absences."

23 **(3)** Both *district boards shall* have a joint meeting at least once per year, during
24 which time the *district directors shall* prepare an operating budget to
25 support their mission and mandates.

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2 **(1)** Each *board shall* prepare a long range plan and an annual work-plan with
3 assistance from advisory members and agencies.

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5 their request.

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8 orders issued or adopted.

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11 be forwarded to *I Liheslatura* on a quarterly basis.

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13 Guam, copies of such documents, instruments or information concerning their
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17 within the district:

18 **(A)** All public land leased for agricultural activities, including leased
19 federal land. Any and all projects which are proposed for leased federal land
20 *shall* require the review and approval of the federal agency which has
21 jurisdiction over the land;

22 **(B)** Public and private land which is designated for agricultural use or
23 conservation preserves; and

24 **(C)** Land which is used for the purpose of producing an agricultural
25 commodity which is located in an area designated as urban or rural.

26 **(2)** Government Agency Input Required for District Projects and Activities.
27 For any project or activity proposed by a *district board*, which involves the

1 responsibilities of another Government of Guam entity, the *district board shall* request
2 the input of each of the affected entities on the scope of work of the project.

3 Projects proposed by a *district board shall* be planned and executed in
4 compliance with provisions of Guam Law, and *shall* not duplicate the efforts of, or
5 conflict with, other local and federal programs already in place in Guam.

6 Each entity consulted *shall* provide a response to the *district* within thirty (30)
7 calendar days from the date of receipt of the request for input. The district *shall* keep
8 on record, copies of all submitted requests for input and all responses to such
9 requests; and *shall* further act on such responses, including providing any
10 justification for any rejected recommendations.

11 **(3) District Coordination.** Each *district board shall* inform the other *district*
12 *board* of their approved projects and activities.

13 **§ 70106. Powers of District Boards.** A *district board*, and the *directors* thereof,
14 elected to serve a district organized under this Article *shall* have the following powers:

15 (a) To provide for and encourage surveys, investigations, and research
16 relating to soil and water conservation and to publish and disseminate information
17 concerning such subjects;

18 (b) To provide for and encourage demonstrations relative to the control and
19 prevention of erosion and the conservation of soil and water resources; and to carry
20 out preventive control measures on publicly owned land within the district with the
21 consent of the *land occupier*;

22 (c) To cooperate, or enter into agreements with, and to furnish aid to any
23 agency or *land occupier* within a *district* insofar as it is feasible to do so, for specific
24 soil and water conservation activities not in conflict with or duplicating other
25 activities of the University of Guam or cooperating agencies. Such agreements *shall*
26 be subject to such conditions as the *district board* may deem necessary;

1 **(4) Working Hours.** Restricted employees who work at irregular hours
2 at the direction of the *district board*, shall be deemed to work the complete
3 assigned and designated hours per week, and their work records *shall* so
4 indicate, but such employees *shall* receive *neither* overtime *nor* night-time
5 differential, but *shall* receive compensatory time off for hours worked in excess of
6 per week.

7 **§ 70107. Duties of the University of Guam.** The *University* shall work in
8 partnership with the *Soil and Water Conservation District Boards* to promote and support
9 the conservation of our island's soil and water resources. The *University* shall further:

10 **(a)** Assign to the *district boards* an advisor from the College of Natural and Applied
11 Sciences;

12 **(b)** Assist *district boards* with the coordination of programs, projects and activities
13 insofar as that may be done by advice and consultation;

14 **(c)** Assist *district boards* with the dissemination of information throughout the
15 University and the island, concerning district programs, projects and activities.

16 **(d)** Assist the *district boards* with the preparation and implementation of soil and
17 water resource conservation and utilization to ensure the promotion the conservation,
18 improvement and protection of the island's soil and water resources, in coordination
19 with the pertinent Government of Guam entities;

20 **(e)** Assist the *district boards* in fulfilling their mandates, to include obtaining the
21 assistance of the Federal Government and of Government of Guam agencies in the work
22 of the districts;

23 **(f)** Provide technical support at the request of a district, as may be approved by the
24 President of the *University*;

25 **(g)** Keep a record of all official actions taken with respect to working with, or
26 providing support or assistance to the *districts* and *district boards*;

27 **(h)** Conduct the election of all *district directors* and in conjunction therewith:

1 **(1)** Promulgate the necessary rules and regulations by which *farmers, farm*
2 *land owners, and land occupiers* shall nominate and elect, from among their number,
3 *district directors*; and

4 **(2)** The President of the University of Guam shall certify the election results
5 and provide a copy to *I Maga'lahaen Guåhan* and *I Liheslaturan Guåhan*.

6 **§ 70108. Powers of the University of Guam.** The *University* shall have the power
7 to:

8 **(a)** Delegate to any member, agent, or employee such powers and duties as it may
9 deem proper to fulfill the duties set forth in this Chapter;

10 **(b)** Promulgate rules and regulations as may be necessary for the execution of its
11 duties set forth in this Chapter; and

12 **(c)** Insofar as available appropriations and resources permit, request for staff
13 support and assistance from other agencies of the Government of Guam, to include the
14 preparation or conduct of reports, surveys and studies to fulfill the duties set for the in
15 this Chapter.

16 **Section 3. Enumeration.** The Compiler of Laws *shall* add this Act as a new Chapter
17 70 to Title 5 Guam Code Annotated, under “Division 6: Agriculture,” and *shall*
18 renumber the remaining chapters accordingly.

-0-

**Public Hearing
Sign-in Sheet(s)
for Bill No. 299-31 (LS)**

DATE: SEPTEMBER 9, 2011

TO: GUAM LEGISLATURE

FROM: DELLE NADLER
P. O. BOX 21509 (BARRIGADA)
TALOFOFO, GUAM
848-1732, *dellenadler@gmail.com*

RE: TESTIMONY IN RESPONSE TO BILL 299-3,
AN ACT TO *REPEAL* 17 GCA CHAPTER 26

The intent to clarify the mission and targeted outcomes of the Guam Soil and Water Districts to ensures that we are moving forward in securing our environmental, cultural, and economic welfare. Kudos to those who contributed to the preparation of BILL 299-31.

Here are two recommendations to amend the Bill 299-31.

1. Consolidate the Northern and Southern Soil and Water Districts. While the geology of Guam differs in the north and the south, the overarching conservation issues confronting Guam predominates island-wide. Erosion and run-off issues in Guam, for example, are not isolated, but interconnected – north to south, into the surrounding Pacific Ocean. Consolidating the districts will bring cohesiveness and economies to “projects, programs, and activities” addressing and engaging our community in soil and water conservation issues.
2. Stagger the terms for directors of the board. Staggered terms fosters continuity.

TESTIMONY ON BILL 299-31 (LS)

(An Act to *repeal* 17 GCA Chapter 26; and to *add* a new Chapter 70 to 5 GCA Division 6, relative to empowering the Northern and Southern Guam Soil and Water Conservation Districts.)

September 9, 2011

Senator Justice B.J. Cruz, Vice Speaker and Chairman
Committee on Youth, Cultural Affairs, Procurement, General Government
Operations, and Public Broadcasting
Mina' Trentai Uno na Liheslaturan Guahan
155 Hesler St., Hagatna, Guam 96910

Hafa adai Señor Presidente yan todus hamyo ni' sponsor gi Bill 299-31(LS) yan lokkue' todus ni membron este na komite.

My name is Hope Alvarez Cristobal. I am from the village of Tamuning. I am a bona fide farmer and one of five at-large elected district directors on the Northern Guam Soils and Water Conservation District Board. I came into office a year ago after a district wide election of farmers and ranchers was conducted on August 10, 2010 by UOG's College of Natural and Applied Sciences on behalf of the previous board.

My testimony favors the passage of Bill 299-31(LS). This Bill is simple. It updates the original enabling legislation and empowers the two Guam SWC Districts working in partnership with the University of Guam and in cooperation with all government of Guam entities that have purview over local and federal programs established to promote the conservation, development and the use of our island's soil, water and related resources in order to control and prevent soil erosion, flooding and to improve agriculture water management. It provides our at-large district elected Board similar powers as other elected Boards or Commissions to recruit from any category of staff (on a contractual basis not to exceed the three-year tenure of the Board)—staff that will be under the direction of the Board. As an example, a technical services provider and/or administrative personnel from the retired sector of our society—a major untapped resource of fully capable people who are looking for work to supplement their menial retirement pensions in Guam's high cost of living environment today. Yet, they are excluded or discriminated from employment by policies of this government. (For who should Guam jobs go to—the *taotao sanhiyong*?)

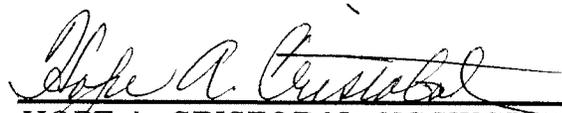
The Bill also realigns our Board's standard travel per diem rates with those rates authorized for other elected Boards in the government of Guam or in autonomous agencies--something that my experience tells me is highly recommended by the Public Auditor. Even though not all farmers in Guam are subsistence farmers, Mr. Chairman, many are. And although I speak on my behalf today, I take the liberty to make the case for those farmer and/or rancher district directors who must attend important official meetings off-island and, are expected to unfairly pay the difference in the currently allowed

per diem rates. In our case, rates set for UOG's appointed Board supersede the rates authorized our at-large elected farmer based Board.

Furthermore, inherent in this bill is the recognition of the important work of the Board to continually appraise our soils, water and related resources and to assist farmers, ranchers and land users through soils and water conservation (and enhancement) programs in collaboration with our partner agencies such as the USDA's Natural Resources Conservation Services and local partners like the UOG-CNAS' Cooperative Extension Services, Dept. of Agriculture, EPA and others including the Chamorro Land Trust Commission. This responsibility can not be overstated today with the growing demand on our soils, water and related resources to meet present and future needs; the felt need for a real third leg of Guam's economy—agriculture—that continues to take a back seat in this government's vision of sustainability and food security for our people; the concern for sustained use of our limited resource base now that the military is eyeing more lands and now, the imminent toxic contamination by the military industry of our finite resources; the need to build capacity with our farmers, ranchers and land users in terms of technical expertise in farming trends, in terms of conservation techniques and use of soils, plants, watershed protection, flood prevention, water use and conservation, animal husbandry and wildlife management, forestry, recreation, community development, related resource uses (such as the Umatac cemetery), etc. Bill 299-31(LS) as crafted aims to do all this. I would surmise that if and when this government is set on the right track to pay attention to the need for our small island's environmental and economic sustainability, that it may have to be revisited, updated, and made more responsive to a more viable, more healthy and more harmonious society in the 21st century.

Last but not least, I want to commend Legislative Research Analyst Ms. Stephanie Mendiola from Senator Rory Respicio's office and others who assisted in researching this Bill. Stephanie conducted a lengthy work session lasting some four hours with the board, studying the Bill and clarifying for us (both Northern Guam and Southern Guam boards) the implications and policy path that the Bill takes. Stephanie is brilliant and the Legislature is fortunate to have her among your cadre of analysts. Si Yu'os ma'ase', Stephanie!

Yan si Yu'os ma'ase' todus hamyo ni' sumupopote I che'cho' ma adahen I tano', I edda', I hanom yan I futuran I agrikottura guini na isla para I taotao, kosaki sina ta kontinua I rasa-ta taotaotano' Guahan.


HOPE A. CRISTOBAL, NGSWCD Director
P. O. Box 7932, Tamuning, GU 96931

Sept. 9, 2011
September 9, 2011

**Mayor Franklin M. Taitague
Municipality of Inarajan
P.O. Box 786
Hagatna, Guam 96932**

475-2510 (O), 828-8035 (H), 482-4666 ©

TESTIMONY ON BILL NO. 299-31(LS)

For the record, my name is Franklin M. Taitague, Mayor of the beautiful & historic village of Inalahan.

Buenas yan Hafa Adai!

On behalf of the existing Soil and Water Conservation Districts and District Boards, Island Farmers, Farm Land Owners, Land Occupiers and to everyone who in one way or another will become a stakeholder or benefactor of this new Chapter, I wish to express my sincerest gratitude and Dungkulo na Si Yu'os Ma'ase for the invitation to present our comments on Bill 299-31(LS).

The Bill is well written and formatted well, therefore, I am in full support of the Bill's intent which is the revocation of Title 17 GCA, Chapter 26 and for the addition of Chapter 70, Title 5 GCA, Division 6. This new Chapter clearly defines and provides for a clear direction of each districts' composition, operations and existence moving forward.

Thank You and Si Yu'os Ma'ase.

/s/Franklin M. Taitague

Public Hearing on Bill No. 299-31 (LS)

Friday, September 9, 2011

ORAL AND WRITTEN TESTIMONY

by: R. Arlene Santos, District Administrator

guamsoil.water@gmail.com

Contact Nos. (671) 727-2525 • (671) 648-4727 (Fax)

Southern Guam Soil and Water Conservation District

Buenas Vice Speaker B.J. Cruz yan miembros (Senadots yan Senadoras) I Komitten Youth, Cultural Affairs, Procurement, General Governmental Operations Yan Public Broadcasting.

i na'an-hu si R. Arlene Santos, Administradot I Distritun San Haya---District Administrator of the Southern Guam Soil and Water Conservation District.

It is indeed an honor to come before you today in support of Bill No. 299-31 (LS): AN ACT TO REPEAL 17 GCA CHAPTER 26; AND TO ADD A NEW CHAPTER 70 TO 5 GCA DIVISION 6, RELATIVE TO EMPOWERING THE NORTHERN AND SOUTHERN GUAM SOIL AND WATER CONSERVATION DISTRICTS.

With over forty years of work experience in Public Service, filling employment positions in supervisory and management capacities, I have experienced coming across statutes that are antiquated and often times cause inequities and disparity.

I observed this to be the case shortly after I was employed as the District Administrator of the Southern Guam Soil and Water Conservation District a year ago.

Public Hearing on Bill No. 299-31 (LS)

Friday, September 9, 2011

In my readings, the last time the statute governing the Guam Soil and Water Conservation Programs was repealed and reenacted was through Public Law 17-51 which became law on May 31, 1984.

This legislation basically made the Department of Agriculture the lead soil and water conservation agency naming two (2) partners--the Public Utility Agency of Guam now known as the Guam Waterworks Authority and the Environmental Protection Agency. That was twenty seven (27) years ago and so much has changed.

The only other statutory change we will see following this will be Public Law 28-82 which became law on December 9, 2005. This legislation transferred the Administration of Soil and Water Conservation Programs from the Department of Agriculture to the University of Guam.

What prompted this work to repeal and reenact Chapter 26 of Title 17 Guam Code Annotated?

Here we have an elected board, by statute, given distinct responsibilities and expectations by its government yet serves as a program assigned to work with a Division within the College of Natural and Applied Sciences of the University of Guam.

All administration and program operations fall under the purview of the University of Guam.

Public Hearing on Bill No. 299-31 (LS)

Friday, September 9, 2011

This technically did not really empower this elected board to carry out their mission as protectors and conservators of our soil and water resources.

Passage of Bill 299-31 (LS) will provide the Northern and Southern Guam Soil and Water Conservation Districts the following:

- (1) a distinct authority over its responsibilities;
- (2) makes the Districts partners of the University of Guam;
- (3) acknowledges and recognizes the many other working partners it has from both the federal and local governments;
- (4) it updates the definitions embodied in the legislation;
- (5) it gives hiring authority and responsibility for staffing; and
- (6) it brings parity to their elected office equivalent to other Boards and Commissions.

Much work and collaboration has gone into the making of this proposed legislation. All Districts Directors and University officials along with legislative staff helped formulate Bill 299-31 (LS).

I have only one suggestion I hope you will consider changing. I call your attention to **§26105. Duties of District Boards—(c-2) Record Keeping and Reporting Requirements**—last sentence requiring the board to submit a financial report on a *quarterly* basis.

Public Hearing on Bill No. 299-31 (LS)

Friday, September 9, 2011

With a fiscal year funding level at less than eighty thousand dollars (\$80,000) per District, it may be more reasonable to ask for an annual report rather than a quarterly report.

I take this opportunity to thank the main sponsors, Senator Rory Respicio, Vice-Speaker Benjamin J.F. Cruz and Senator Tina Muna-Barnes and your staff for working with the District Directors in crafting Bill 299-31 (LS).

This is a definite milestone in the Guam Soil and Water Conservation Programs, a move forward... a great accomplishment!

I strongly encourage all of you honorable senators to support the passage of Bill 299-31 (LS).

I commend President Robert Underwood, Vice-President David O'Brien, Dr. Lee Yudin of the College of Natural and Applied Sciences, Dr. Bob Barber who is assigned as adviser to us and their staff for all the support given to the Southern District.

Here we are today and I am proud to say Un Dangkulo Na Si Yu'os Ma'ase for listening to us and I look forward to your full support of passage of Bill 299-31 (LS). For what greater contribution can we all give to the preservation and conservation of the natural resources of our beautiful island of Guam.



R. Arlene Santos

Public Hearing on Bill No. 299-31 (LS)

Friday, September 9, 2011

ORAL AND WRITTEN TESTIMONY

By: Angelita P. Mendiola, Acting Chairperson
Southern Guam Soil and Water Conservation District

Vice Speaker B.J. Cruz and Members of the Committee on Youth, Cultural Affairs, Procurement, General Governmental Operations and Public Broadcasting:

Buenas Tardes!

My name is Angelita P. Mendiola the Acting Chairperson of the Southern Guam Soil and Water Conservation District.

I come before you today in support of Bill No. 299-31 (LS):

AN ACT TO REPEAL 17 GCA CHAPTER 26; AND TO ADD A NEW CHAPTER 70 TO 5 GCA DIVISION 6, RELATIVE TO EMPOWERING THE NORTHERN AND SOUTHERN GUAM SOIL AND WATER CONSERVATION DISTRICTS.

On September 1, 2010, I was sworn in as a Director of the Southern Guam Soil and Water Conservation District by the Honorable Senator Rory J. Respicio. I recall his commitment to support the Soil and Water Conservation Programs and in the few times I have met him, I must say he is and has been true to his word. *Si Yu'os Ma'ase, Senadot.*

As a newcomer to this elected board, I quickly orientated myself with the enabling legislation that governs the Guam Soil and Water Conservation Programs. Immediately, I noticed the antiquated language in the statute which, I understand,

Public Hearing on Bill No. 299-31 (LS)

Friday, September 9, 2011

came into effect in the 1980s. It was apparent that the provisions in Chapter 26 of Title 17 Guam Code Annotated needed revisiting.

Vice Speaker Cruz, Senator Pangelinan, Senator Respicio, Senator Rodriquez, Senator Yamashita, you may recall my visit with you shortly after I was sworn into my elected office to address some issues I felt existed with Chapter 26. I basically asked to update Chapter 26 and make the provisions amenable to the present Government of Guam Operations and to give this *Elected Board* parity to other elected Boards and Commissions.

We also asked that we be allowed to recruit staff whose employment will serve only the elected term of office of the Directors to which they are hired. Furthermore, as a condition of employment, they would, in effect, *not* be afforded *all* benefits given to civil service employees except for the basic requirements of taxes and Social Security.

Given the diminishing resources of our government and the very limited budget given the Guam Soil and Water Conservation Programs, we feel that this may be our contribution to help with the financial constraints our government is faced with today. I am confident that there are individuals out there in our community, credentialed and with experience, who would be willing to selflessly accept this type of employment.

As non-paid board members, we naturally need staff to carry out the administrative duties and responsibilities inherent with the work we've been asked to do.

Public Hearing on Bill No. 299-31 (LS)

Friday, September 9, 2011

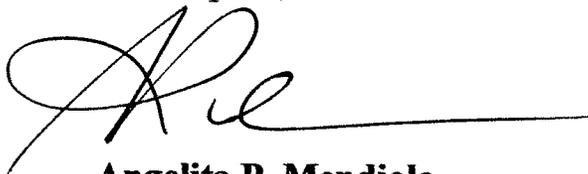
With your support in the passage of this legislation, I am proud to say that we will continue to be partners with the University of Guam. Furthermore, I am certain that passage of Bill 299 will bring a clearer understanding of our government's expectations of the Guam Soil and Water Conservation Programs.

I commend President Robert Underwood, Vice-President David O'Brien, Dr. Lee Yudin of the College of Natural and Applied Sciences, Dr. Bob Barber our assigned adviser, and their staff for all the support given to the Southern District.

I wish to extend a heart-felt "*Un Dangkulo Na Si Yu'os Ma'ase!*" for listening to us and for your continued support that has gotten us this far.

Thus, I humbly ask *all* you honorable senators to please support the passage of this Bill to help us efficiently continue our work in the preservation and conservation of the too-often overlooked natural resources of our island not just for benefit of us all, but more importantly, for our *future* generations.

Put Respetu,

A handwritten signature in black ink, appearing to read 'A. Mendiola', with a long horizontal line extending to the right.

Angelita P. Mendiola

Acting Chairperson



**UNIVERSITY OF GUAM
UNIBETSIDÁT GUAHAN**

OFFICE OF THE PRESIDENT

UOG Station, Mangilao, Guam 96923
Telephone: (671) 735-2990 • Fax: (671) 734-2296

September 8, 2011

The Honorable Benjamin J.F. Cruz
Vice Speaker, 31st Guam Legislature
Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and
Public Broadcasting
155 Hesler Place
Hagatna, Guam 96910

Re: Testimony on Bill No. 299, "An Act to Repeal 17 GCA Chapter 26; and to add a new Chapter 70 to 5 GCA Division 6, Relative to Empowering the Northern and Southern Guam Soil and Water Conservation Districts"

Dear Vice Speaker Cruz and Members of the Committee on Youth Cultural Affairs, General Government Operations, Procurement and Public Broadcasting,

The University of Guam submits this written testimony outlining some of the concerns that we have regarding Bill No. 299. We are interested in maintaining a good and supportive relationship with the Soil and Water Conservation Districts and their respective Boards. We understand that they have concerns regarding the hiring of personnel and the application of rules and regulations regarding the processing of administrative and financial records. These concerns are manifested in these bills.

For the University, the matter is pretty simple. If the University is expected to provide administrative and financial services to any external unit that we have a relationship with, it should be under the rules and procedures that exist at the University. This is the basis of our autonomy and generally positive examination of our administrative and financial systems provided by external reviewers. If an external unit wants to establish a different set of rules and operate on their own, the University is willing to negotiate a mutual agreement with them that clarifies the administrative and financial relationship. We do this with Guampedia and KPRG Public Radio. These activities are "housed" at the University and receive independent funding from the Guam Legislature.

The legislation also lists "duties of the University" which will require time, effort and resources. If these are understood to be discretionary in nature, then the University is supportive of the relationship. If the "duties" are deemed to be required of the University without consideration of its own academic planning and without resources, then we request alternative language. It would be preferable to list these as "responsibilities subject to University review."

Thank you for your consideration of the University's position.

Sincerely,

Robert A. Underwood
President

Office of the Vice Speaker

Benjamin J.F. Cruz

Red By 9-8-11



Department of Agriculture Dipattamenton Agrikottura

163 Dairy Road, Mangilao, Guam 96913



Eddie Baza Calvo
Governor

Ray Tenorio
Lt. Governor

Director's Office	734-3942/43; Fax 734-6569
Agricultural Dev. Services	734-3946/735-3950
Animal Health	734-3943
Aquatic & Wildlife Resources	735-3955/56; Fax 734-6570
Forestry & Soil Resources	735-3949/51; Fax 734-0111
Plant Nursery	734-3949
Plant Inspection Facility	475-1426/27; Fax 477-9487

Mariquita F. Taitague
Director

Manuel Q. Cruz
Deputy Director

**TESTIMONY
BEFORE THE
COMMITTEE ON YOUTH, CULTURAL AFFAIRS,
PROCUREMENT, GENERAL GOVERNMENT OPERATIONS,
AND PUBLIC BROADCASTING
LEGISLATIVE PUBLIC HEARING ROOM
FRIDAY, SEPTEMBER 09, 2011**

Mr. Chairman and Members of the Committee....

Good afternoon! My name is Mariquita F. Taitague. I am currently the Director of the Guam Department of Agriculture. I come before your Committee to testify on Bill No. 299-31 (LS), "an act to *repeal* 17 GCA Chapter 26; and to *add a new* Chapter 70 to 5 GCA Division 6, relative to empowering the Northern and Southern Guam Soil and Water Conservation Districts."

The Guam Department of Agriculture cannot support Bill No. 299-31, as it is written. It is quite apparent that the bill is an attempt to allow the Conservation Districts to legally leave the administrative oversight of the University of Guam and to become independent agencies of the Government of Guam, complete with Government of Guam Boards of Directors. Unfortunately, this runs contrary to the intent and purpose of the Soil Conservation Act of 1935. As defined, Conservation Districts are local governmental subdivisions of state government, but are not state agencies per se. I am providing the Committee with a "white paper", so that you can better understand my testimony.

Since the establishment of the Soil & Water Conservation Districts in Guam in the 1980s, the program was embedded in the Guam Department of Agriculture. The Department was mandated and given the responsibility of being the custodian of the meager funds of \$25,000 annually for the use of the two Districts. The funds were easily and quickly drawn down each year to pay for stipends and for off-island travel.

With the passage of Public Law 28-082 on December 2005, the funding and the administration of the Soil & Water Conservation Programs were transferred from the Department of Agriculture to the University of Guam. The legislative reason that was given for the transfer was that the Soil & Water Conservation Program was largely an educational function and that the University of Guam would be better suited to administer the program than the Department of Agriculture.

GUAM DEPARTMENT OF AGRICULTURE
163 DAIRY ROAD
MANGILAO, GUAM 96913

SOIL & WATER CONSERVATION DISTRICTS

1. What is a Soil & Water Conservation District?

Conservation districts are local governmental subdivisions of state government, but are not state agencies. Conservation districts are considered municipal corporations, a form of local government that is required to follow many of the same laws that govern state agencies. They are established, under state law, to carry out a program for the conservation, use and development of soil, water and related resources. Conservation districts are resource management agencies, coordinating and implementing resource and environmental programs at the local level in cooperation with federal and state agencies.

2. History

Conservation districts had their beginning in the 1930s when the U.S. Congress, in response to national concern over mounting erosion, floods and the sky blackening dust storms that swept across the country, enacted the Soil Conservation Act of 1935. The act stated for the first time a national policy to provide a permanent program for the control and prevention of soil erosion, and directed the Secretary of Agriculture to establish the Soil Conservation Service to implement this policy. Since about three-fourths of the continental United States is privately-owned, Congress realized that only active, voluntary support from landowners would guarantee the success of conservation work on private land. Thus, the conservation district concept was developed to enlist the cooperation of landowners and occupiers in carrying out the programs authorized by the act.

To encourage local participation in the program, President Franklin Roosevelt sent all State Governors a model legislation, *A Standard State Soil Conservation District Law*, with a recommendation for enactment of legislation along its lines. On March 3, 1937, Arkansas became the first State to adopt a law modeled on the *Standard Act*. Hugh Hammond Bennett, sometimes called the "Father of the Conservation Movement," organized the first Soil and Water Conservation District in the U.S. in August 1937. By 1938, twenty-seven (27) States had followed suit, and by the late 1940s, all fifty (50) States had adopted similar legislation. Conservation district laws were adopted in the 1960s by Puerto Rico and the Virgin Islands, and in the 1980s by the District of Columbia, Guam and

the Commonwealth of the Northern Mariana Islands (CNMI). Across the United States, nearly 3,000 conservation districts are helping local people to conserve land, water, forests, wildlife and related natural resources.

Rather than have federal and state governments big-foot landowners and force them to protect private lands for future generations, the proposed act suggested establishing conservation districts to direct and manage soil erosion control programs. Local citizens would participate in planning and installing conservation practices. Each conservation district would be empowered to decide its community needs. Personal contact with individual landowners would encourage maximum cooperation.

3. What do Conservation Districts do?

Conservation districts work with landowners, land managers, local government agencies, and other local interests in addressing a broad spectrum of resource concerns: erosion control, flood prevention, water conservation and use, wetlands, ground water, water quality and quantity, no point source pollution, forestland protection, wildlife, recreation, waste water management and community development.

4. How many Conservation Districts are there?

In Guam, there are two (2) Conservation Districts, namely, the Northern Soil & Water Conservation District and the Southern Soil & Water Conservation District. Even though the two Districts primarily deal with farming-related issues and the members are mostly farmers, a significant part of their mandate is focused on conservation and resource management-related issues. Both Conservation Districts have partnered with Government of Guam Departments and Agencies, such as the Guam Department of Agriculture, the Guam Environmental Protection Agency, the Bureau of Statistics & Plans, the Department of Land Management, the Department of Public Works, and the University of Guam. Also, as Conservation Districts, they maintain partnerships with the U.S. Department of Agriculture (USDA), the Natural Resource and Conservation Service (NRCS), and the Farm Service Agency (FSA).



COMMITTEE ON RULES

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E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

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Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

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Senator
Christopher M. Ducnas

September 2, 2011

VIA FACSIMILE
(671) 472-2825

John A. Rios
Acting Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note -
Bill Nos. 294-31 (LS) through 302-31 (LS)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Unu na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Rory J. Respicio

Attachments

Cc: Clerk of the Legislature

2011 SEP -2 PM 2:12 /

Bureau of Budget & Management Research
Fiscal Note of Bill No. 299-31 (LS)

AN ACT TO REPEAL 17 GCA CHAPTER 26; AND TO ADD A NEW CHAPTER 70 TO 5 GCA DIVISION 6, RELATIVE TO EMPOWERING THE NORTHERN AND SOUTHERN GUAM SOIL AND WATER CONSERVATION DISTRICTS.

Department/Agency Appropriation Information

Dept./Agency Affected: University of Guam		Dept./Agency Head: Dr. Robert Underwood	
Department's General Fund (GF) appropriation(s) to date:		31,960,107	
Department's Other Fund (Specify) appropriation(s) to date: Healthy Futures Fund (HFF), Guma Highway Fund (GHF), Tourist Attraction Fund (TAF)		1,549,998	
Total Department/Agency Appropriation(s) to date:		\$33,510,105	

Fund Source Information of Proposed Appropriation

	General Fund:	(Specify Special Fund):	Total:
FY 2010 Unreserved Fund Balance		\$0	\$0
FY 2011 Adopted Revenues	\$0	\$0	\$0
FY 2011 Appro. (P.L. 30-196)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2011 (if applicable)	FY 2012	FY 2013	FY 2014	FY 2015
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	<u>1/</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

1. Does the bill contain "revenue generating" provisions? // Yes /X/ No
 If Yes, see attachment
2. Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A // Yes // No
 If no, what is the additional amount required? \$ _____ // N/A
3. Does the Bill establish a new program/agency? // Yes // No
 If yes, will the program duplicate existing programs/agencies? /X/ N/A // Yes // No
 Is there a federal mandate to establish the program/agency? // Yes // No
4. Will the enactment of this Bill require new physical facilities? // Yes /X/ No
5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: // Yes /X/ No
 // Requested agency comments not received by due date /X/ Other: Time constraint

Analyst (s): Joe Certeza Date: 09/12/2011 Director: [Signature] Date: 9/15/11
[Signature] Jose A. Blos, Acting Director

1/ Footnotes:
 The Bill has a potential fiscal impact for additional funding requirements. However, in its present form, such impact cannot be determined at this time.

MESSAGE CONFIRMATION

SEP-02-2011 11:48 AM FRI

FAX NUMBER : 4772240
NAME : GNF

NAME/NUMBER : 4722825
PAGE : 7
START TIME : SEP-02-2011 11:47AM FRI
ELAPSED TIME : 01' 24"
MODE : STD ECM
RESULTS : [O.K]



COMMITTEE ON RULES

I Mina'trentai Unu na Liheslaturan Guåhan • The 31st Guam Legislature
155 Heslet Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryjorguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

MAJORITY MEMBERS:

Speaker
Judith T. Won Pat

Vice Speaker
Benjamin J. F. Cruz

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Ducas

September 2, 2011

VIA FACSIMILE
(671) 472-2825

John A. Rios
Acting Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

**RE: Request for Fiscal Note -
Bill Nos. 294-31 (LS) through 302-31 (LS)**

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Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Rory J. Respicio

Attachments

Cc: Clerk of the Legislature

Rec'd by: Analyn
date: 9-2-11
time: 2:00pm

I Mina'Trentai Unu Na Liheslaturan Guåhan

Bill Log Sheet

August 31, 2011

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date) Passed? Failed? Vetoed? Overridden? Public Law?
299-31 (LS)	R.J. Respicio, B.J.F. Cruz, T.R. Muna Barnes	AN ACT TO REPEAL 17 GCA CHAPTER 26; AND TO ADD A NEW CHAPTER 70 TO 5 GCA DIVISION 6; RELATIVE TO EMPOWERING THE NORTHERN AND SOUTHERN GUAM SOIL AND WATER CONSERVATION DISTRICTS.	08/31/11 4:33 p.m.	8/31/11		Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting.			



COMMITTEE ON RULES

I Mina'trentai Unu na Liheslaturan Guåhan • The 31st Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Handwritten notes: "Pat Santos" and "8/31/11 11:59 AM".

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

MAJORITY MEMBERS:

Speaker
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Vice Speaker
Benjamin J. F. Cruz

Senator
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LEGISLATIVE SECRETARY
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Senator
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Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

August 31, 2011

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio 

Subject: Referral of Bill No299-31 (LS)

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill No.299-31 (LS).

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

(1) Attachment

I Mina 'Trentai Unu Na Liheslaturan Guåhan

Bill Log Sheet

August 31, 2011

Page 1 of 1

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September 1, 2011

MEMORANDUM

TO: All Members/All Senators

FROM: Vice Speaker Benjamin J.F. Cruz 

RE: First Notice of Public Hearing – September 9, 2011

Hafa Adai! Please be advised that the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting will conduct a Public Hearing on Friday September 9, 2011, at 12:00 P.M. in *I Liheslaturan's* Public Hearing Room with the following agenda:

- Bill No.299-31(LS)- R.J. Respicio / B.J.F. Cruz / T.R. Muña Barnes –“An act to *repeal* 17 GCA Chapter 26; and to *add a new* Chapter 70 to 5 GCA Division 6, relative to empowering the Northern and Southern Guam Soil and Water Conservation Districts”

Please provide written testimonies at least one day prior to the hearing to the Office of the Vice Speaker Benjamin J.F Cruz, 155 Hesler Place, Hagatna Guam 96910. They may be sent via facsimile to 477-2522, or via email to chris.carillo@senatorbjcruz.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or special accommodations, please contact Chris Carillo at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at chris.carillo@senatorbjcruz.com.



Chris Carillo <chris.carillo@senatorbjcruz.com>

First Notice of Public Hearing- September 9,2011

4 messages

Chris Carillo <chris.carillo@senatorbjcruz.com>

Thu, Sep 1, 2011 at 5:37 PM

To: speaker@judiwonpat.com, Senator Tom Ada <tom@senatorada.org>, senatortonyada@guamlegislature.org, senator@tinamunabarnes.com, "Senator Frank F. Blas, Jr." <frank.blasjr@gmail.com>, senator@senatorbjcruz.com, duenasenator@gmail.com, judiguthertz@gmail.com, senatorsam@senatormabini.com, "Senator Ben C. Pangelinan" <senbenp@guam.net>, cor@guamlegislature.org, senatordrodriguez@gmail.com, senatormana@gmail.com, Aline Yamashita <Aline4families@gmail.com>, phnotice@guamlegislature.org

Cc: dmgeorge@guampdn.com, hottips@kuam.com, Sabrina Salas <sabrina@kuam.com>, mindy@kuam.com, dcristostomo@guampdn.com, Janela <janela@mvguam.com>, thebigshow@k57.com, therese.hart.writer@gmail.com, Therese Hart <therese@mvguam.com>, Ray Gibson <rgibson@k57.com>, bmkelman@guampdn.com, William Gibson <breakfastshowk57@gmail.com>, krystal@kuam.com, cipo@guamlegislature.org, Stephanie Mendiola <sem@guamlegislature.org>, cherbert.senatordrodriguez@gmail.com, chechsantos@gmail.com, alerta.jermaine@gmail.com, evelyn4families@gmail.com, phnotice@guamlegislature.org, clerks@guamlegislature.org, Pat Santos <psantos@guamlegislature.org>, Rennae Perez <rennae@guamlegislature.org>, "Atty. Therese Terlaje" <tterlaje@guam.net>, yong@guamlegislature.org, mis@guamlegislature.org, sgtarms@guamlegislature.org, "Steven A. Dierking" <steve@believeinguam.com>, cyrus@senatorada.org, louise_atalig@yahoo.com, chelsea@tinamunabarnes.com, mike.lidia@senatorbjcruz.com, Kevin Kerrigan <kevin@spbg Guam.com>, clynt@spbg Guam.com

Please disregard notice I sent this morning.

Please see attached for new notice.

September 1, 2011

MEMORANDUM

TO: All Members/All Senators

FROM: Vice Speaker Benjamin J.F. Cruz

RE: First Notice of Public Hearing – September 9, 2011

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Bill No.299-31(LS)- R.J. Respicio / B.J.F. Cruz / T.R. Muña Barnes –“An act to *repeal* 17 GCA Chapter 26; and to *add a new* Chapter 70 to 5 GCA Division 6, relative to empowering the Northern and Southern Guam Soil and Water Conservation Districts”

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We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or special accommodations, please contact Chris Carillo at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at chris.carillo@senatorbjcruz.com.

Senseramente,

Chris Carillo

**Office of the Vice-Speaker, Senator Benjamin J.F.Cruz
Chairman,Committee on Youth, Cultural Affairs,Procurement,
General Government Operations, and Public Broadcasting**

**I Mina'Trentai Unu na Liheslaturan Guáhan
The 31st Guam Legislature
155 Hesler Place
Hagátña, Guam 96910
Phone: (671) 477-2520/1
Fax: (671) 477-2522
Web Address: <http://www.senatorbjcruz.com>
E-mail: chris.carillo@senatorbjcruz.com**

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 **9.9.2011PHNOTICE.pdf**
159K

MAILER-DAEMON@mail.networksolutionsemail.com <MAILER-DAEMON@mail.networksolutionsemail.com>
To: chris.carillo@senatorbjcruz.com

**Thu, Sep 1, 2011 at
5:38 PM**

Listserv: phnotice@guamlegislature.org

aline4families@gmail.com
audrey@judiwonpat.com
berleneranae@hotmail.com
bruce.lloyd.media@gmail.com
carlo@tinamunabarnes.com
chechsantos@gmail.com
chelsa@tinamunabarnes.com
cherbert.senatordrodriguez@gmail.com
cipo@guamlegislature.org
clerks@guamlegislature.org
cor@guamlegislature.org
cyrus@senatorada.org
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duenasenator@gmail.com
edleonguerrero@gmail.com
edwardglee671@yahoo.com
elaine@tinamunabarnes.com
etajalle@guamlegislature.org
evelyn4families@gmail.com
fbtorres@judiwonpat.com
frank.blasjr@gmail.com
gavin@tinamunabarnes.com
guamnativesun@yahoo.com
jamespcastro@gmail.com
jane@tinamunabarnes.com
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maryfejeran@gmail.com
mis@guamlegislature.org
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senatortonyada@guamlegislature.org
senbenp@guam.net
sgtarms@guamlegislature.org
speaker@judiwonpat.com
steve@judiwonpat.com
tanya4families@gmail.com
tom@senatorada.org
tterlaje@guam.net



September 7, 2011

MEMORANDUM

TO: All Members/All Senators
FROM: Vice Speaker Benjamin J.F. Cruz
RE: Second Notice of Public Hearing – September 9, 2011

Hafa Adai! Please be advised that the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting will conduct a Public Hearing on Friday September 9, 2011, at 12:00 P.M. in *I Liheslaturan's* Public Hearing Room with the following agenda:

- Bill No.299-31(LS)- R.J. Respicio / B.J.F. Cruz / T.R. Muña Barnes –“An act to *repeal* 17 GCA Chapter 26; and to *add a new* Chapter 70 to 5 GCA Division 6, relative to empowering the Northern and Southern Guam Soil and Water Conservation Districts”

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Chris Carillo <chris.carillo@senatorbjcruz.com>

Second Notice of Public Hearing- September 9, 2011

4 messages

Chris Carillo <chris.carillo@senatorbjcruz.com>

Wed, Sep 7, 2011 at 1:51 PM

To: speaker@judiwonpat.com, Senator Tom Ada <tom@senatorada.org>, senatortonyada@guamlegislature.org, senator@tinamunabarnes.com, "Senator Frank F. Blas, Jr." <frank.blasjr@gmail.com>, senator@senatorbjcruz.com, duenasenator@gmail.com, judiguthertz@gmail.com, senatorsam@senatormabini.com, "Senator Ben C. Pangelinan" <senbenp@guam.net>, cor@guamlegislature.org, senatordrodriguez@gmail.com, senatormana@gmail.com, Aline Yamashita <Aline4families@gmail.com>, phnotice@guamlegislature.org

Cc: dmgeorge@guampdn.com, hottips@kuam.com, Sabrina Salas <sabrina@kuam.com>, mindy@kuam.com, dcrisostomo@guampdn.com, Janela <janela@mvguam.com>, thebigshow@k57.com, therese.hart.writer@gmail.com, Therese Hart <therese@mvguam.com>, Ray Gibson <rgibson@k57.com>, bmkelman@guampdn.com, William Gibson <breakfastshowk57@gmail.com>, krystal@kuam.com, cipo@guamlegislature.org, Stephanie Mendiola <sem@guamlegislature.org>, cherbert.senatordrodriguez@gmail.com, chechsantos@gmail.com, alerta.jermaine@gmail.com, evelyn4families@gmail.com, phnotice@guamlegislature.org, clerks@guamlegislature.org, Pat Santos <psantos@guamlegislature.org>, Rennae Perez <rennae@guamlegislature.org>, "Atty. Therese Terlaje" <tterlaje@guam.net>, yong@guamlegislature.org, mis@guamlegislature.org, sgtarms@guamlegislature.org, "Steven A. Dierking" <steve@believinguam.com>, cyrus@senatorada.org, louise_atalig@yahoo.com, chelsea@tinamunabarnes.com, mike.lidia@senatorbjcruz.com, Kevin Kerrigan <kevin@spbgum.com>, clynt@spbgum.com

September 7, 2011

MEMORANDUM

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FROM: Vice Speaker Benjamin J.F. Cruz

RE: Second Notice of Public Hearing – September 9, 2011

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Chris Carillo

**Office of the Vice-Speaker, Senator Benjamin J.F.Cruz
Chairman, Committee on Youth, Cultural Affairs, Procurement,
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MAILER-DAEMON@mail.networksolutionsemail.com <MAILER-DAEMON@mail.networksolutionsemail.com>

**Wed, Sep 7, 2011
at 1:51 PM**

To: chris.carillo@senatorbjcruz.com

Your message did not reach some or all of the intended recipients.

<janela@mvquam.com>:



Public Hearing Agenda

September 9, 2011

Public Hearing Notice was provided to all Senators and the Media on
September 1 and September 7, 2011

- Bill No. 299-31 (LS) - R.J. Respicio / B.J.F. Cruz / T.R. Muña Barnes -An act to *repeal* 17 GCA Chapter 26; and to *add a new* Chapter 70 to 5 GCA Division 6, relative to empowering the Northern and Southern Guam Soil and Water Conservation Districts

I MINA'TRENTAI UNU NA LIHESLATURAN GUÁHAN
2011 (First) Regular Session

Bill No. 299 - 31 (LS)

Introduced by:

R.J. Respicio
B.J.F. Cruz
T.R. Muna Barnes

2011 AUG 31 PM 4:33

AN ACT TO REPEAL 17 GCA CHAPTER 26; AND TO
ADD A NEW CHAPTER 70 TO 5 GCA DIVISION 6,
RELATIVE TO EMPOWERING THE NORTHERN AND
SOUTHERN GUAM SOIL AND WATER
CONSERVATION DISTRICTS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Repeal. Title 17 Guam Code Annotated, Chapter 26 – “Soil & Water
3 Conservation Programs” – is hereby *repealed*.

4 Section 2. Soil and Water Conservation Districts and District Boards. A *new*
5 Chapter 70 is hereby *added* to Title 5 Guam Code Annotated, Division 6 to read:

6 “Chapter 70

7 Soil & Water Conservation Districts and District Boards.

8 § 70101. Definitions.

9 § 70102. Conservation Districts Established.

10 § 70103. Selection of Directors; Composition of District Boards; Tenure of
11 Directors; Board Vacancies; and Compensation of Directors.

12 § 70104. Organization of Districts; District Membership.

13 § 70105. Duties of District Boards.

14 § 70106. Powers of District Boards.

15 § 70107. Duties of the University of Guam.

16 § 70108. Powers of the University of Guam.

17 ---

1 **§ 70101. Definitions.** Whenever used in this Article, the following terms shall
2 have the meanings indicated, unless otherwise specified:

3 **(a)** *Cooperator* means a *land occupier* or *farm land owner* who has entered into an
4 agreement with a district requesting the district to provide aid under this Article.

5 **(b)** *Director*, or *district director*, means a member of either the *Northern* or *Southern*
6 *District Board*.

7 **(c)** *District* means the *Northern Soil and Water Conservation District* and the *Southern*
8 *Soil and Water Conservation District*.

9 **(1)** *Northern Soil and Water Conservation District*, or *Northern District*, means
10 the area organized pursuant to this Act as that area covering the northern
11 area of Guam.

12 **(2)** *Southern Soil and Water Conservation District*, or *Southern District*, means the
13 area organized pursuant to this Act as that area covering the southern area
14 of Guam.

15 **(d)** *District Board* means a Government of Guam board comprised of individuals
16 elected by local farmers, farm land owners or land occupiers to fulfill the duties
17 set forth in this Act.

18 **(1)** *Northern Soil and Water Conservation District Board*, or *Northern District*
19 *Board*, means the *District Board* which shall govern the *Northern District*,
20 organized pursuant to this Act.

21 **(2)** *Southern Soil and Water Conservation District Board*, or *Southern District*
22 *Board*, means the *District Board* which shall govern the *Southern District*,
23 organized pursuant to this Act.

24 **(e)** *Farmer* means a resident registered as a farmer by the Department of Agriculture.

25 **(f)** *Farm land owner* means a person, firm, or corporation who is an owner or
26 operator of land used for the purpose of producing aquaculture products,

1 bushes, crops, fruit or nut-bearing trees, herbs, livestock, ornamentals, timber or
2 vines.

3 (g) *Land occupier* includes any person, firm, or corporation who holds title to or, in
4 the case of leased land, the person, firm, or corporation who holds possession of
5 any lands lying within a district organized under this Article.

6 (h) *University* means the University of Guam.

7 **§ 70102. Conservation Districts Established.** A *Northern Soil and Water*
8 *Conservation District* and a *Southern Soil and Water Conservation District* are hereby
9 established to work in partnership with the University of Guam (University), and in
10 cooperation with all Government of Guam entities overseeing local and federal
11 programs established to promote the conservation, development and the use of soil and
12 water resources of Guam in order to control and prevent soil erosion, flooding and to
13 improve agriculture water management.

14 **§ 70103. Selection of Directors; Composition of District Boards; Tenure of**
15 **Directors; Board Vacancies; and Compensation of Directors.**

16 (a) **Selection of Directors.** *Farmers or farm land owners or land occupiers* from
17 within each district shall nominate individuals, from among their number, to serve
18 as non-partisan *district directors*; and shall elect five (5) *directors* from among those
19 nominated.

20 (b) **Composition of District Boards.** The Soil and Water Conservation
21 District Board shall each:

22 (1) Be composed of five (5) directors, each of whom is largely engaged
23 in farming and is a *land occupier* of the *district* to which they are elected to serve;

24 (2) Select a Chairperson and a Vice Chairperson from among the five
25 (5) *directors*, who shall be elected by at least three (3) affirmative votes.

26 (3) Have assigned to it an advisor from the University of Guam
27 College of Natural and Applied Sciences.

1 **(c) Tenure of Directors.** Each *district director* shall be elected for a term of
2 three (3) years. Individuals serving as *district directors* at the time this Act is signed
3 into law *shall* be permitted to serve out the remainder of their term.

4 **(d) Board Vacancies.** Vacancies *shall* be filled for an unexpired term. The
5 selection of a successor to fill a vacancy for an unexpired term *shall* be made by *I*
6 *Maga'lahaen Guåhan* within thirty (30) days of the notification of such vacancy; such
7 selection to be subject to the consent of *I Liheslaturan Guåhan*.

8 **(e) Compensation of Directors.** *District directors* shall be compensated in the
9 amount of Fifty Dollars (\$50) per meeting attended, such compensation not to
10 exceed One Hundred Dollars (\$100) per month.

11 **(1) Per Diem Allowance.** *District directors* shall receive one hundred
12 twenty-five percent (125%) of the basic per diem rates, just as other government
13 Boards and Commissions, as stipulated in 5 GCA §23104(a)(2).

14 **§ 70104. Organization of Districts; District Membership.**

15 **(a) Organization of Districts.** To complete the organization of a district, the
16 University of Guam, in accordance with the Administrative Adjudication Act, *shall*
17 present to *I Maga'lahaen Guåhan* a statement setting out the name of the district and its
18 boundaries and certifying that the procedures prescribed in this Article for the
19 organization of a district have been fully complied with. The statement *shall* request
20 *I Maga'lahaen Guåhan* to issue a certificate of organization to the district. *I Maga'lahaen*
21 *Guåhan shall* record the statement in his office and *shall* issue to each district, under
22 the seal of Guam, of the due organization of the district.

23 The organization of the *Northern District* and *Southern District* in effect at
24 the time this law is enacted *shall* remain in effect, until and unless the University
25 presents to *I Maga'lahaen Guåhan* new information concerning district names and
26 boundaries; such determination having been made in full compliance with the

1 Administrative Adjudication Act, all procedures prescribed in this Article, and all
2 other pertinent requirements, rules or regulations.

3 **(b) District Membership.** Each district board *shall* cause all farmers, farm
4 land owners or land occupiers, as appropriately registered with the Department of
5 Agriculture or the Department of Land Management, to register as active members
6 of each district.

7 Such membership roll *shall* be updated quarterly; and *shall* be submitted to
8 the advisor assigned to the *board* by the University. Such membership roll *shall* serve
9 as the official roster of those eligible to vote in subsequent *district* elections.

10 **§ 70105. Duties of District Boards.**

11 **(a) Quorum, Meeting and Budget Requirements.**

12 **(1)** Each board *shall* require a quorum of its members in order to conduct
13 business. Three (3) *directors shall* constitute a quorum; and the concurrence
14 of a majority vote, at least three (3) votes, *shall* be necessary to take action
15 on any official matter.

16 **(2)** Each *board shall* hold at least one meeting per month, which *shall* be subject
17 to the Open Government Law.

18 **(A)** Attendance. Each *director shall* attend meetings of the *district*
19 *board*. Unexcused absences of a director from three consecutive
20 board meetings *shall* constitute a cause for removal of the *director*
21 from the *board*, pursuant to 5 GCA §43106 "Removal from Office for
22 Absences."

23 **(3)** Both *district boards shall* have a joint meeting at least once per year, during
24 which time the *district directors shall* prepare an operating budget to
25 support their mission and mandates.

26 **(A) Budget.** Such budget *shall* be submitted to the University,
27 for subsequent submission to *I Liheslatura*.

1 **(b) Development of Plans.**

2 **(1)** Each *board shall* prepare a long range plan and an annual work-plan with
3 assistance from advisory members and agencies.

4 **(2)** Each *board shall* develop conservation plans for *cooperators* of the *district*, at
5 their request.

6 **(c) Record Keeping and Reporting Requirements.**

7 **(1)** Each *board shall* keep a record of proceedings, resolutions, regulations, and
8 orders issued or adopted.

9 **(2)** Each *board shall* keep a statement of activity documenting all actions taken
10 with respect to the receipt and disbursement of any all and funds. Such report *shall*
11 be forwarded to *I Liheslatura* on a quarterly basis.

12 **(3)** Each *board shall* furnish to their assigned advisor from the University of
13 Guam, copies of such documents, instruments or information concerning their
14 activities, as the *University* requests.

15 **(d) District Projects and Activities.**

16 **(1)** Projects and Activities *shall* be limited to the following types of land
17 within the district:

18 **(A)** All public land leased for agricultural activities, including leased
19 federal land. Any and all projects which are proposed for leased federal land
20 *shall* require the review and approval of the federal agency which has
21 jurisdiction over the land;

22 **(B)** Public and private land which is designated for agricultural use or
23 conservation preserves; and

24 **(C)** Land which is used for the purpose of producing an agricultural
25 commodity which is located in an area designated as urban or rural.

26 **(2)** Government Agency Input Required for District Projects and Activities.
27 For any project or activity proposed by a *district board*, which involves the

1 responsibilities of another Government of Guam entity, the *district board shall* request
2 the input of each of the affected entities on the scope of work of the project.

3 Projects proposed by a *district board shall* be planned and executed in
4 compliance with provisions of Guam Law, and *shall* not duplicate the efforts of, or
5 conflict with, other local and federal programs already in place in Guam.

6 Each entity consulted *shall* provide a response to the *district* within thirty (30)
7 calendar days from the date of receipt of the request for input. The district *shall* keep
8 on record, copies of all submitted requests for input and all responses to such
9 requests; and *shall* further act on such responses, including providing any
10 justification for any rejected recommendations.

11 **(3) District Coordination.** Each *district board shall* inform the other *district*
12 *board* of their approved projects and activities.

13 **§ 70106. Powers of District Boards.** A *district board*, and the *directors* thereof,
14 elected to serve a district organized under this Article *shall* have the following powers:

15 (a) To provide for and encourage surveys, investigations, and research
16 relating to soil and water conservation and to publish and disseminate information
17 concerning such subjects;

18 (b) To provide for and encourage demonstrations relative to the control and
19 prevention of erosion and the conservation of soil and water resources; and to carry
20 out preventive control measures on publicly owned land within the district with the
21 consent of the *land occupier*;

22 (c) To cooperate, or enter into agreements with, and to furnish aid to any
23 agency or *land occupier* within a *district* insofar as it is feasible to do so, for specific
24 soil and water conservation activities not in conflict with or duplicating other
25 activities of the University of Guam or cooperating agencies. Such agreements *shall*
26 be subject to such conditions as the *district board* may deem necessary;

1 **(d)** To review conservation plans prepared by *farm land owners* and *land*
2 *occupiers*, which are a precondition for a contract between the *farm land owners* and
3 *land occupiers* and the U.S. Secretary of Agriculture; to provide to the U.S. Secretary
4 of Agriculture, or his designee, a recommendation concerning the acceptability of
5 *farm land owners'* and *land occupiers'* plans, such recommendation to be based upon
6 the district's conservation plan; and to provide, when requested by the Secretary, or
7 his designee, recommendations on the contract;

8 **(e)** To acquire property such as equipment or machinery to introduce soil
9 conservation practices to the agricultural community and to dispose of such
10 property when appropriate;

11 **(f)** To acquire private land or land rights in full compliance with all
12 requirements set forth in Guam Law, and in consultation with *I Maga'lahren Guåhan*
13 and *I Liheslaturan Guåhan*, as needed for implementation of watershed projects for
14 purposes such as flood control, irrigation, or soil conservation;

15 **(1) Disposition of Unused Land.** Any land or land rights acquired by a
16 *district board* and not used for the purposes justifying the acquisition,
17 within the term of the district directors who requested the acquisition,
18 *shall* be returned to the original owners for the price paid by the
19 government when such property was originally acquired;

20 **(g)** To construct, improve, and maintain structures, such as sediment ponds
21 or earthen dams, following all requirements set forth in Guam law and any
22 pertinent rules and regulations and proper engineering standards and specifications,
23 when these structures are found necessary for carrying out the purposes of soil and
24 water conservation;

25 **(h)** To have a seal which can be affixed to certificates issued to *cooperators* of
26 the *district* and to any contract or other instruments requiring certification;

1 (i) As a condition to the extending of benefits, or the performance of work
2 upon land, the *district board* may require contributions of services, materials or
3 otherwise, to any operation conferring such benefits, and may impose any other
4 reasonable condition, such as contributions of labor for the planting of trees and
5 payment for specific erosion control materials secured by the *district board* for the
6 benefit of its *cooperators*. All such contributions would necessarily be determined by
7 the *district* as a whole and must not be in violation of the laws of Guam or common
8 practice; and

9 (j) To hire personnel, under a restricted employment status, to support their
10 mandates as the *district board* deems appropriate.

11 **(1) Restricted Employment Status.** Restricted employees hired
12 pursuant to this Act *shall* not be in the classified service of the Government of
13 Guam. Restricted employees are ineligible for medical, dental or life insurance
14 benefits, but *shall* be entitled to government of Guam Workmen's Compensation.
15 They may not join the Government of Guam Retirement Plan, but FICA must be
16 paid on such employees, with the *district board* responsible for the employer's
17 share of FICA. Annuitants of the Government of Guam Retirement Fund may
18 serve as Restricted Employees for the *district board* without losing their annuities.
19 Restricted Employees are not eligible to accrue annual or sick leave. Working
20 hours *shall* be determined by the *district board*.

21 **(2) Selection of Employees.** Restricted employees *shall* be selected by
22 majority vote of the *district board*, which selection *shall* be evidenced by a
23 memorandum from the district chairperson to the president of the University of
24 Guam.

25 **(3) Dismissal of Employees.** Unless otherwise specified by law, the
26 dismissal of a restricted employee of a district *shall* be with a majority vote of the
27 *district board*.

1 **(4) Working Hours.** Restricted employees who work at irregular hours
2 at the direction of the *district board*, shall be deemed to work the complete
3 assigned and designated hours per week, and their work records shall so
4 indicate, but such employees shall receive neither overtime nor night-time
5 differential, but shall receive compensatory time off for hours worked in excess of
6 per week.

7 **§ 70107. Duties of the University of Guam.** The *University* shall work in
8 partnership with the *Soil and Water Conservation District Boards* to promote and support
9 the conservation of our island's soil and water resources. The *University* shall further:

10 **(a)** Assign to the *district boards* an advisor from the College of Natural and Applied
11 Sciences;

12 **(b)** Assist *district boards* with the coordination of programs, projects and activities
13 insofar as that may be done by advice and consultation;

14 **(c)** Assist *district boards* with the dissemination of information throughout the
15 University and the island, concerning district programs, projects and activities.

16 **(d)** Assist the *district boards* with the preparation and implementation of soil and
17 water resource conservation and utilization to ensure the promotion the conservation,
18 improvement and protection of the island's soil and water resources, in coordination
19 with the pertinent Government of Guam entities;

20 **(e)** Assist the *district boards* in fulfilling their mandates, to include obtaining the
21 assistance of the Federal Government and of Government of Guam agencies in the work
22 of the districts;

23 **(f)** Provide technical support at the request of a district, as may be approved by the
24 President of the *University*;

25 **(g)** Keep a record of all official actions taken with respect to working with, or
26 providing support or assistance to the *districts* and *district boards*;

27 **(h)** Conduct the election of all *district directors* and in conjunction therewith:

1 **(1)** Promulgate the necessary rules and regulations by which *farmers, farm*
2 *land owners, and land occupiers* shall nominate and elect, from among their number,
3 *district directors*; and

4 **(2)** The President of the University of Guam shall certify the election results
5 and provide a copy to *I Maga'lahen Guåhan* and *I Liheslaturan Guåhan*.

6 **§ 70108. Powers of the University of Guam.** The *University* shall have the power
7 to:

8 **(a)** Delegate to any member, agent, or employee such powers and duties as it may
9 deem proper to fulfill the duties set forth in this Chapter;

10 **(b)** Promulgate rules and regulations as may be necessary for the execution of its
11 duties set forth in this Chapter; and

12 **(c)** Insofar as available appropriations and resources permit, request for staff
13 support and assistance from other agencies of the Government of Guam, to include the
14 preparation or conduct of reports, surveys and studies to fulfill the duties set for the in
15 this Chapter.

16 **Section 3. Enumeration.** The Compiler of Laws *shall* add this Act as a new Chapter
17 70 to Title 5 Guam Code Annotated, under "Division 6: Agriculture," and *shall*
18 renumber the remaining chapters accordingly.

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