

EDDIE BAZA CALVO
Governor



RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

April 19, 2011

31-11-432

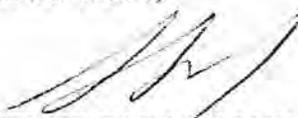
Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Unu Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

4/19/11
5:04 pm
Rahul

Dear Madame Speaker:

Transmitted herewith is Substitute Bill No. 35-31 (COR) "AN ACT TO AMEND §12000 OF CHAPTER 12 OF TITLE 12, GUAM CODE ANNOTATED; TO AMEND §1921 OF CHAPTER 19 OF TITLE 1, GUAM CODE ANNOTATED; AND TO REPEAL §§51103(b) AND 51118 OF CHAPTER 51, AND TO REPEAL ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10, GCA, AND REENACT THEM UNDER A NEW CHAPTER 51A, TITLE 10, GCA, RELATIVE TO ESTABLISHING THE GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS PUBLIC CORPORATION", which I signed into law on April 18, 2011 as Public Law 31-20.

Senseramente,



EDDIE BAZA CALVO

Attachment: copy of Bill

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

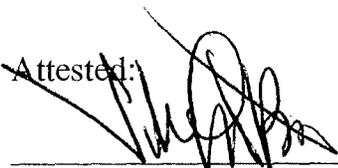
CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Substitute Bill No. 35-31 (COR)**, “AN ACT TO *AMEND* §12000 OF CHAPTER 12 OF TITLE 12, GUAM CODE ANNOTATED; TO *AMEND* §1921 OF CHAPTER 19 OF TITLE 1, GUAM CODE ANNOTATED; AND TO *REPEAL* §§51103(b) AND 51118 OF CHAPTER 51, AND TO *REPEAL* ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10, GCA, AND *REENACT* THEM UNDER A NEW CHAPTER 51A, TITLE 10, GCA, RELATIVE TO ESTABLISHING THE GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION”, was on the 4th day of April, 2011, duly and regularly passed.



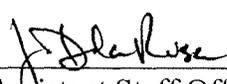
Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 7th day of April, 2011, at 04:50 o'clock A.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date: _____

APR 18 2011

Public Law No. 31-20

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

Bill No. 35-31 (COR)

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

Introduced by:

T .C. Ada
R. J. Respicio
B. J.F. Cruz
V. Anthony Ada
F. F. Blas, Jr.
Chris M. Duenas
Sam Mabini, Ph.D.
Judith P. Guthertz, DPA
T. R. Muña Barnes
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 *AMEND* §12000 OF CHAPTER 12 OF TITLE 12, GUAM CODE ANNOTATED; TO *AMEND* §1921 OF CHAPTER 19 OF TITLE 1, GUAM CODE ANNOTATED; AND TO *REPEAL* §§51103(b) AND 51118 OF CHAPTER 51, AND TO *REPEAL* ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10, GCA, AND *REENACT* THEM UNDER A NEW CHAPTER 51A, TITLE 10, GCA, RELATIVE TO ESTABLISHING THE GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds

3 that the history of the government of Guam's (GovGuam) violation of the Clean
4 Water Act dates back to 1986, when the United States Environmental Protection
5 Agency issued an administrative order directing the island's Department of Public
6 Works to cease the discharge of leachate from the *Ordot* Dump. Twenty-four (24)
7 years later, the *Ordot* Dump, the island's only municipal site for solid waste
8 disposal, continues to leach contaminants, posing an environmental and health
9 hazard. A Consent Decree was approved by the U.S. District Court of Guam in
10 February 2004, yet compliance with its mandates has been minimal. GovGuam's
11 commitment to comply with the Consent Decree was not enough to rectify the
12 island's solid waste crisis. Consequently, on March 17, 2008, Gershman, Brickner
13 & Bratton, Inc. (GBB), solid waste management consultants, was appointed as
14 Receiver by the District Court of Guam to achieve the government's compliance
15 with the Clean Water Act as set forth in the Consent Decree. GBB has full power
16 and authority to enforce the terms of the Consent Decree to include assumption of
17 the functions, powers and authority of the Solid Waste Management Division of
18 the Department of Public Works insofar as they affect GovGuam's compliance
19 with the Consent Decree.

20 *I Liheslaturan Guåhan* intends to prepare GovGuam for the eventual
21 resumption of all functions, responsibilities and authority for solid waste
22 management and operations, subsequent to the U.S. District Court determination
23 that the Consent Decree has been satisfied, and that GovGuam would have the
24 capability to manage, operate and sustain a compliant solid waste service and
25 landfill. *I Liheslaturan Guåhan* intends to establish the Guam Solid Waste
26 Authority (GSWA), an autonomous public corporation, as successor to the Solid
27 Waste Management Division, a sub-entity of the Department of Public Works.

1 *I Liheslaturan Guåhan* intends to place the GSWA under the governance of a
2 Board of Directors appointed by *I Maga'lahi* (the Governor) and subject to the
3 advice and consent of *I Liheslatura* (the Legislature).

4 **Section 2. Transition Liaison.** Upon the enactment of this Act, *I*
5 *Maga'lahi* (the Governor) *shall* initiate procedures for the appointment of
6 members to the GSWA Board of Directors, and *shall* submit said nominations to *I*
7 *Liheslatura* (the Legislature) within ninety (90) days. Within thirty (30) days of
8 empanelment, the Board *shall* establish a liaison with the Receiver, Gershman,
9 Brickner & Bratton, Inc., and begin discussions preliminary to achieving the
10 objective of GovGuam's eventual resumption of all functions, responsibilities and
11 authority for solid waste management and operations, and the governance thereof.

12 **Section 3.** A new Chapter 51A is hereby *added* to Title 10, Guam Code
13 Annotated, to read:

14 **“CHAPTER 51A**

15 **GUAM SOLID WASTE AUTHORITY**

16 **Article 1. General Provisions**

17 **Article 2. Guam Solid Waste Authority Revenue Bonds**

18 **Article 3. Solid Waste Operations Fund**

19 **Article 4. Annual Contract for Scrap Removal**

20 **Article 5. Contract for Collection of Recyclable Paper**

21 **Article 6. Municipal Recycling Program**

22 **Article 7. Recycling Enterprise Zone**

23 **Article 1**

24 **General Provisions**

25 **§51A101. Short Title.**

26 **§51A102. Definitions.**

27 **§51A103. Continuation of Existence.**

- 1 **§51A104. Powers and Duties of the Authority.**
- 2 **§51A105. Governance of the Authority.**
- 3 **§51A106. General Manager (GM).**
- 4 **§51A107. Assistant GM: Operations and Technical**
- 5 **Support.**
- 6 **§51A108. Assistant GM: Administration.**
- 7 **§51A109. Chief Financial Officer.**
- 8 **§51A110. Other Officers.**
- 9 **§51A111. Employees.**
- 10 **§51A112. Acquisition of Existing Systems, Employees and**
- 11 **Debt.**
- 12 **§51A113. Exemption from Taxation, and In Lieu**
- 13 **Payments.**
- 14 **§51A114. General Operations.**
- 15 **§51A115. Accounting and Expenditures.**
- 16 **§51A116. Annual Budget.**
- 17 **§51A117. Employment.**

18 **§51A101. Short Title.**

19 This Chapter may be cited as the **Guam Solid Waste Authority Act.**

20 **§51A102. Definitions.** As used in this Chapter, *unless* otherwise
21 indicated:

22 (a) *Authority* means the Guam Solid Waste Authority
23 (GSWA).

24 (b) *General Manager (GM)* means the General Manager of
25 GSWA.

26 (c) *Best public interest* means any activity which: lessens the
27 demand for landfill sites, conserves land resources and serves to

1 insure proper, cost effective, and environmentally sound disposal of
2 solid waste; and, does *not* pose health risks to human life or endanger
3 plant and animal life.

4 (d) *Board* means the Board of Directors of the Guam Solid
5 Waste Authority (GSWA).

6 (e) *Business* means and includes any activity or conduct,
7 whether proprietary, partnerships, corporate or whatever form,
8 engaged in, or caused to be engaged in, with the object of gain or
9 economic benefit, either direct or indirect, but *shall not* include casual
10 sales, personal service contracts, fundraising activities by political
11 candidates, or the activities of non-profit associations.

12 (f) *Collection* or *Collect* means the removal of solid waste
13 from a generator.

14 (g) *Collector* means any individual, governmental
15 organization or business, which has received a permit to collect and
16 transport waste in accordance with applicable laws and regulations.

17 (h) *Combustion* means to thermally break down certain types
18 of solid waste in an enclosed device using controlled temperatures.

19 (i) *Composting* means the controlled degradation of organic
20 solid waste.

21 (j) *Disposal* means the discharge, deposit, injection,
22 dumping, spilling, leaking, or placing of any solid waste or hazardous
23 waste into or on any land or water so that such solid waste or
24 hazardous waste or any constituent thereof may enter the environment
25 or be emitted into the air or discharged into any waters, including
26 ground water.

1 (k) *Dump* means a land site where solid waste is disposed
2 without a valid permit, or a landfill that has historically been in
3 regulatory noncompliance.

4 (l) *Duplex* means a residential building containing two (2)
5 separate dwelling units either side by side or one above the other.

6 (m) *Dwelling* means a building or portion thereof designed
7 exclusively for residential occupancy by one (1) family for living and
8 sleeping purposes, and *not* to exceed two (2) dwelling units.

9 (n) *Dwelling unit* means one (1) or more rooms and a single
10 kitchen in a dwelling, designed as a unit for occupancy by one (1)
11 family for living and sleeping purposes.

12 (o) *Financial assurance* means a financial guarantee
13 assuring that funds are available to pay for the design, construction,
14 operation and closure of a solid waste landfill facility, for rendering
15 post-closure at a solid waste landfill facility, for corrective action and
16 to compensate third parties for bodily injury and property damage
17 caused by sudden and non-sudden accidents related to the operation of
18 a solid waste landfill facility.

19 (p) *Generator* means any person that generates or produces
20 solid waste.

21 (q) *Government* means the government of Guam, all of its
22 agencies, whether line or autonomous, and all public corporations.

23 (r) *Hardfill* means a method of compaction and earth cover
24 of solid wastes other than those containing garbage or other
25 putrescible (putrescent) waste, including, but *not* limited to,
26 demolition material, and like materials not constituting a health or

1 nuisance hazard, where cover need *not* be applied on a per day used
2 basis. *No* combustible materials *shall* be deposited in a hardfill.

3 (s) *Combustible Materials* means any solid or liquid that
4 may be ignited.

5 (t) *Combustible Solids* is defined in Title 49 of the Code of
6 Federal Regulations, Chapter 1, Subtitle B, Part 173.124, and are
7 those solids capable of igniting and burning.

8 (u) *Combustible Liquids* is defined in Title 29 of the Code of
9 Federal Regulations, Chapter 17, Subtitle B, Part 1910.106, and *shall*
10 mean any materials having a flash point at or above 100 degrees
11 Fahrenheit (37.8 degrees Celsius), but below 200 degrees Fahrenheit
12 (93.3 degrees Celsius), *except* any mixture having components with
13 flashpoints of 200 degrees Fahrenheit (93.3 degrees Celsius), or
14 higher, the total volume of which make up ninety-nine percent (99%)
15 or more of the total volume of the mixture.

16 (v) *Hazardous Waste* means any material or substance
17 which, by reason of its composition or characteristics:

18 (1) hazardous waste is defined in the Solid Waste
19 Disposal Act, 42 USC '6901, et seq., as amended, replaced or
20 superseded and the regulations implementing same;

21 (2) a hazardous substance is defined by the
22 Comprehensive Environmental Response, Compensation and
23 Liability Act of 1980, 42 USC § 9601, et seq.;

24 (3) hazardous material, the disposal of which is
25 regulated by the Toxic Substances Control Act, 15 USC ' 2601,
26 et seq., as amended, replaced or superseded, and the regulations
27 implementing same;

1 (4) special nuclear or by-products material within the
2 meaning of the Atomic Energy Act of 1954;

3 (5) pathological, infectious or biological waste;

4 (6) treated as hazardous waste or as a hazardous
5 substance under applicable law;

6 (7) requires a hazardous waste or similar permit for its
7 storage, treatment, incineration or disposal;

8 (8) may cause or significantly contribute to an
9 increase in mortality or an increase in serious irreversible, or
10 incapacitating reversible illness; or

11 (9) may pose a substantial present or potential hazard
12 to human health or the environment when improperly treated,
13 stored, transported or disposed of, or otherwise damaged.

14 (w) *Highway* means the entire width between the boundary
15 lines of every right-of-way or publicly maintained travel ways when
16 any part thereof is open to the use of the public for purposes of
17 vehicular travel.

18 (x) *Incinerator* means an enclosed device using controlled
19 flame combustion, the primary purpose of which is to thermally break
20 down solid waste.

21 (y) *Multi-family dwelling* means a building containing three
22 (3) or more dwellings.

23 (z) *Operator* means any person who accepts solid waste
24 from a collector for transfer, storage, recycling, combustion,
25 processing or disposal.

1 (aa) *Performance bond* means a security for financial loss
2 caused by the act or default performance of a person or by
3 uncontrollable conditions.

4 (bb) *Person* means any individual, partnership, co-
5 partnership, firm, company, corporation, association, joint stock
6 company, trust, estate, or any agency, department, or instrumentality
7 of the Federal or local government, or any other legal representatives,
8 agents or assigns.

9 (cc) *Plan* means the interim or final Solid Waste Management
10 Plan (SWMP) prepared and adopted by the GEPA in accordance with
11 the Administrative Adjudication Law.

12 (dd) *Plasma torch heating technology* means converting
13 electrical energy into heat energy producing clean fuel gas and
14 recyclable slag.

15 (ee) *Plasma Remediation In-Situ Materials (PRISM)* means a
16 plasma torch technology process that melts down and converts landfill
17 material into slag and fuel gas.

18 (ff) *Pollution* means the condition caused by the presence in
19 the environment of substances of such character and in such quantities
20 that the quality of the environment is impaired or rendered offensive
21 to life.

22 (gg) *Processing* means any method, system or other treatment
23 designed to change the physical, chemical or biological character or
24 composition of any solid waste. This includes the neutralization of
25 any hazardous waste; the rendering of any hazardous waste non-
26 hazardous, safer for transport, amenable for recovery, amenable for
27 storage or reduced in volume; or any other activity or processing

1 designed to change the physical form or chemical composition of
2 hazardous waste so as to render it non-hazardous.

3 (hh) *Recyclable materials* includes the following materials
4 discarded from households, businesses, commercial and industrial
5 establishments, hotels, and government, agricultural, landscaping,
6 yard maintenance and military operations which may be reused, or for
7 which a market exists:

8 (1) *aluminum* means any product manufactured of
9 aluminum or aluminum alloy;

10 (2) *battery* means any lead acid battery or dry cell
11 battery discarded on Guam, independent of intended use;

12 (3) *biomass* means any large biomass source, such as
13 trees, wood, grass, hedge cuttings, jungle growth, yard waste
14 and sewage sludge;

15 (4) *construction debris* means the materials from
16 building construction;

17 (5) *corrugated cardboard* means kraft, jute or test
18 liner pulp which is made by combining two (2) or more webs of
19 paper and formed or shaped into wrinkles or folds or into
20 alternate ridges and grooves;

21 (6) *demolition waste* means the materials obtained
22 from the demolishment or razing of buildings;

23 (7) *glass* means any product manufactured from a
24 mixture of silicates, borates or phosphates;

25 (8) *metal scrap* means any metal, in whole or in parts,
26 from buildings, equipment, machinery or vehicles;

1 (9) *newspaper* means a publication which is
2 distributed and contains news articles, opinions, features, and
3 advertising and is printed on impermanent wood pulp materials;

4 (10) *office paper* means computer paper and white and
5 colored ledger paper;

6 (11) *used oil* means any petroleum-based, mineral, or
7 synthetic oil which through use, storage or handling has
8 become unsuitable for its original purpose due to the presence
9 of impurities or loss of original properties; and

10 (12) such other materials which the Authority
11 determines, from time to time, may be recycled.

12 (ii) *Recycle* or *Recycling* means the method by which
13 recovered resources are converted for use as raw material or feedstock
14 to make new products.

15 (jj) *Resource recovery* means the process of recovering
16 recyclable materials or the recovery of energy from solid waste.

17 (kk) *Resource Recovery Facility (RRF)* is a facility that
18 recovers for sale or reuse of recyclable materials.

19 (ll) *Reusing* means the reintroduction of a commodity in the
20 economic stream without any changes.

21 (mm) *Sanitary landfill* means an approved site where solid
22 waste and ash are disposed using modern sanitary landfilling
23 techniques in accordance with Federal and local regulations.

24 (nn) *Sanitary landfilling* means an engineered method of
25 disposing of solid waste on land in accordance with Federal and local
26 laws and regulations in a manner that protects the environment by
27 spreading the waste in thin layers, compacting it to the smallest

1 practical volume, and covering it with approved material at the end of
2 each working day.

3 (oo) *Separation* means the systematic division of solid waste
4 into designated components.

5 (pp) *Single Family Residence* means a detached building
6 designed for and/or occupied exclusively by one (1) family, or one (1)
7 of two (2) dwelling units on a duplex.

8 (qq) *Solid waste* means any garbage, refuse or sludge from a
9 waste treatment plant, water supply treatment plant, or air pollution
10 control facility and other discarded and/or spilled materials, including
11 solid, liquid, semisolid or contained gaseous material resulting from
12 industrial, mining, commercial, and agriculture operations, and from
13 community activities, but does *not* include solid or dissolved material
14 in domestic sewage, or solid or dissolved materials in irrigation return
15 flows or industrial discharges which are point sources subject to
16 permits under 402 of the Federal Water Pollution Control Act, as
17 amended (68 Stat. 880), or source, special nuclear, or by-product
18 material as defined by the Atomic Energy Act of 1954, as amended
19 (68 Stat. 923) .

20 (rr) *Solid waste management* means the purposeful,
21 systematic control of the generation, storage, collection,
22 transportation, separation, processing and disposal of solid waste.

23 (ss) *Solid waste management facilities* means any facility, or
24 any machinery, equipment, vehicles, structures or any part of
25 accessories thereof installed or acquired for the primary purpose of
26 collection, transportation, storage, recycling, processing or disposal of

1 solid waste, and *shall* include sanitary landfills, resource recovery
2 facilities, or plasma torch.

3 (tt) *Solid Waste Management Plan* means a comprehensive
4 plan and all amendments and revisions thereto for provisions of solid
5 waste management throughout Guam.

6 (uu) *Solid waste management practices* means the actions to
7 effectuate the generation, storage, collection, transportation,
8 processing, recycling, plasma torch or resource recovery or disposal
9 of solid waste.

10 (vv) *Solid Waste Management System (SWMS)* means the
11 entire system covered in the SWMP and designated by the Director
12 for the storage, collection, generation, transportation, processing,
13 recycling, plasma torch and disposal of solid waste within Guam.

14 (ww) *Source separated waste* means recyclable materials that
15 are set aside by the generator for segregated collection and transport
16 to solid waste management facilities.

17 (xx) *Storage* means the interim containment of solid waste in
18 accordance with Federal and local regulations.

19 (yy) *Transfer station* means any intermediate waste facility in
20 which solid waste collected from any source is temporarily deposited
21 and stored while awaiting transportation to another solid waste
22 management facility.

23 **§51A103. Continuation of Existence.** The Solid Waste
24 Management Division, a sub-entity of the Department of Public Works *shall*
25 continue in existence as an autonomous, public corporation now referred to
26 as the Guam Solid Waste Authority (GSWA).

27 **§51A104. Powers and Duties of the Authority.** The Authority

1 *shall* have and exercise each and all of the following powers:

2 (a) administer those powers listed under this Chapter 51A, Title 10
3 of the Guam Code Annotated;

4 (b) acquire by grant, purchase, gift, devise or lease, or by the
5 exercise of the right of eminent domain in accordance with the provisions
6 and subject to limitations of Title 21 GCA Chapter 15, and hold and use any
7 real or personal property necessary or convenient or useful for the carrying
8 on of any of the powers pursuant to the provisions of this Chapter;

9 (c) establish its internal organization and management, and adopt
10 regulations for the administration of its operations;

11 (d) establish and modify from time to time, with approval of the
12 Public Utility Commission (PUC), reasonable rates and charges for the
13 collection, transportation, disposal, storage, recycling and processing of
14 solid waste to recover the full cost of providing solid waste management
15 services, and collect money from customers using such services. Similarly,
16 the Authority *shall* establish and modify from time to time, with the
17 approval of the Public Utilities Commission, reasonable rate and charges for
18 servicing of debt obtained to undertake capital improvements to solid waste
19 management;

20 (e) enter into contracts and execute all instruments necessary or
21 convenient in the exercise of its powers, adopt a seal, and sue or be sued in
22 its own corporate name;

23 (f) at any time or from time to time, incur indebtedness pursuant to
24 Article 2 of this Chapter;

25 (g) enter into contracts with the government of Guam or with the
26 United States for loans or grants;

27 (h) employ, retain or contract for the services of qualified solid

1 waste management specialists or experts, as individuals or as organizations,
2 to provide technical advice and assistance;

3 (i) adopt such rules and regulations as may be necessary for the
4 exercise of the powers and performance of the duties conferred or imposed
5 upon the Authority or the Board by this Act;

6 (j) control, operate, improve, equip, maintain, repair, renew,
7 replace, reconstruct, alter and insure that the solid waste management system
8 is compliant with any applicable zoning, building, environmental and health
9 regulations of Guam; and

10 (k) do any and all other things necessary to the full and convenient
11 exercise of the above powers;

12 (l) enter into public-private partnerships for solid waste
13 management facilities and operations, the closure and beneficial use of the
14 *Ordot* Landfill site, source reduction, recycling, composting, resource
15 recovery, waste reduction and transfer stations. This duty *shall* also address
16 construction debris or demolition waste, metallic debris, white goods, tires
17 and green waste and hazardous waste contracts;

18 (m) organize, plan for, secure and manage resources and promote
19 the implementation of the Solid Waste Management Plan;

20 (n) evaluate and promote capital improvements and maintenance
21 programs to the solid waste management system;

22 (o) address the necessity for a facility for the shredding of tires for
23 recycling or for use as rubberized asphalt;

24 (p) address the necessity for a facility for the recycling of glass,
25 including its use as glassphalt;

26 (q) address the necessity for a facility for the recycling of scrap
27 metals, including discarded vehicles, appliances and equipment, e-waste

1 such as T.V monitors, computers, and televisions, including shredding for
2 containerization or other shipment;

3 (r) require the preparation of any necessary environmental impact
4 assessments or environmental impact reports, and plans for any mitigation
5 measures;

6 (s) mandate the inspection and monitoring of all solid waste
7 management facilities to ensure compliance with this Act, the Plan, other
8 law, rules and regulations applicable to Guam;

9 (t) apply for all grants-in-aid requests and administer any such
10 programs or funds, *except* those established for recycling.

11 (u) adopt rules and regulations governing selection, compensation,
12 promotion, performance evaluation, disciplinary action and other terms and
13 conditions of employment affecting *certified technical and professional*
14 personnel, subject to the provisions of the Administrative Adjudication Act.
15 Such rules and regulations *shall* provide for the employment and retention of
16 persons on the basis of merit, and *shall* include an orderly and systematic
17 method of recruitment and the establishment of a list of qualified applicants.
18 *Certified Technical and Professional* personnel are defined as personnel
19 employed by the Guam Solid Waste Authority who are professional
20 engineers, attorneys, and other licensed professionals. Compensation for all
21 other personnel *shall* remain consistent with compensation plans and pay
22 scales as determined by law.

23 Nothing contained in this Section or elsewhere in this Article *shall* be
24 construed directly or by implication to be in any way in derogation or
25 limitation of powers conferred upon or existing in the Authority or the Board
26 by virtue of any provisions of the Organic Act of Guam or Statutes of the
27 Territory or any other provision of this Code.

1 **§51A105. Governance of Authority.** All powers vested in the
2 Authority, *except* as provided herein, *shall* be exercised by a GWSA Board
3 of Directors comprised of five (5) members appointed by *I Maga'lahi* (the
4 Governor) with the advice and consent of *I Liheslatura* (the Legislature). A
5 majority of the members *shall* constitute a quorum. The official vote of the
6 majority of members *shall* be required for a decision of the Board. The
7 Board may adopt Rules and Regulations pursuant to AAL governing the
8 conduct of its affairs.

9 **§51A106. General Manager (GM).**

10 (a) The Board *shall* appoint a General Manager, who *shall* be its
11 chief executive officer and *shall* serve at its pleasure. The General Manager
12 *shall*, at a minimum, possess the following qualifications:

13 (1) a combined minimum of six (6) years of documented
14 experience successfully managing a solid waste management system
15 of similar size as the GSWA system, and

16 (2) graduation from an accredited institution of higher
17 education with a Bachelors degree in Business Management,
18 Engineering Management, Engineering Technology or Civil
19 Engineering.

20 (b) The Board *shall* fix the General Manager's compensation,
21 notwithstanding any other provision of law. The General Manager *shall*
22 manage the construction, maintenance, operation and administration of
23 business affairs of the Authority.

24 (c) The Board may contract with a business entity to perform any
25 or all of the duties, and to exercise any or all of the powers of the General
26 Manager as provided in this Section, and the General Manager, subject to
27 the approval of the Board, may contract with a business entity to perform

1 some of the duties or to render expert and technical assistance in the
2 operation of the Authority. The initial term of such a management contract
3 *shall* be for a period of *up to* three (3) years. The Authority *shall* also have
4 the option for two (2) renewal terms of five (5) years each. The contracted
5 business entity pursuant to this Section *must* have a minimum of ten (10)
6 years experience in the management and operation of a solid waste system
7 of similar or greater scope than the Authority.

8 (d) The powers and responsibilities of the General Manager *shall*
9 include the following:

10 (1) to enforce all rules and regulation of the Authority;

11 (2) to attend all meetings of the Authority and submit a
12 general report of the affairs of the Authority;

13 (3) to keep the Board advised as to the needs of the
14 Authority, to approve demands for the payment of obligations of the
15 Authority, and to approve expenditures and collection of revenue
16 within the purposes and amounts authorized by the annual budget;

17 (4) to prepare, or cause to be prepared, all plans and
18 specifications for the constructions of work by the Authority in
19 accordance with the annual budget;

20 (5) to select and appoint the employees of the Authority,
21 *except* as otherwise provided by this Chapter, and to plan, organize,
22 coordinate and control the services of such employees in the exercise
23 of the powers of the Authority under the general direction of the
24 Board;

25 (6) to cause to be published within one hundred twenty (120)
26 days from the end of each fiscal year a financial report, which *shall*
27 include an annual financial audit pursuant to §1908 and §1909 of

1 Chapter 19, Title 1 Guam Code Annotated. This report should present
2 the result of operations for the preceding fiscal year and the financial
3 status of the Authority on the last day thereof. The publication *shall*
4 be made in the manner provided by the Board; and

5 (7) to perform such other and additional duties as the Board
6 may require.

7 **§51A107. Assistant General Manager: Operations and**
8 **Technical Support.**

9 The General Manager, with the consent of the Board, may appoint an
10 Assistant General Manager for Operations and Technical Support, who *shall*
11 serve at the pleasure of the General Manager.

12 (a) The Assistant General Manager for Operations and
13 Technical Support *shall* be entitled to receive compensation as
14 recommended by the General Manager, and approved by the Board.

15 (b) Such Assistant General Manager *shall* devote his entire
16 time to the business of the Authority and *shall* have full charge and
17 control, subject to the direction of the General Manager, of all
18 operations, engineering and technical services pertaining to the
19 generation, storage, collection, transportation, processing, recycling,
20 resource recovery or disposal of solid waste.

21 (c) Such Assistant General Manager *shall* have such other
22 duties as may be designated by the General Manager.

23 **§51A108. Assistant General Manager: Administration.**

24 The General Manager, with the consent of the Board, may appoint an
25 Assistant General Manager for Administration, who *shall* serve at the
26 pleasure of the General Manager.

27 (a) The Assistant General Manager for Administration *shall* be

1 entitled to receive compensation as recommended by the General Manager,
2 and approved by the Board.

3 (b) Such Assistant General Manager *shall* devote his/her entire
4 time to the business of the Authority and *shall* have full charge and control,
5 subject to the direction of the General Manager, of all administration of the
6 Authority.

7 (c) Such Assistant General Manager *shall* have such other duties as
8 may be designated by the General Manager.

9 **§51A109. Chief Financial Officer.** The Board may appoint a
10 Chief Financial Officer, who *shall* be a Certified Public Accountant. The
11 Board *shall* fix the Chief Financial Officer's compensation. The Chief
12 Financial Officer *shall* have full charge and control of the fiscal, business
13 and accounting operations of the Authority, subject to the supervision of the
14 Board.

15 **§51A110. Other Officers.**

16 (a) The Board may also appoint a Secretary and an Attorney, who
17 all *shall* serve at the pleasure of the Board, and whose duties and
18 compensation *shall* be fixed by the Board. The Board may appoint one (1)
19 or more assistants to any such office. Any of such offices may be
20 consolidated in one (1) person.

21 (b) The Secretary *shall* have charge of all records and minutes of
22 the Commission.

23 (c) The Attorney, who must have been admitted to practice in
24 Guam, *shall* advise the Board and the General Manager on all legal matters
25 to which the Authority is a party or in which the Authority is legally
26 interested and may represent the Authority in connection with legal matters
27 before *I Liheslatura* (the Legislature), boards and other agencies of the

1 government of Guam. The Attorney General *shall* represent the Authority in
2 litigation concerning the affairs of the Authority provided that he may
3 delegate this duty to the Attorney of the Authority, with respect to any such
4 litigation.

5 **§51A111. Employees.** All employees of the Authority *shall* be
6 eligible for all insurance, retirement, worker's compensation and other
7 benefits as extended to employees of the government of Guam, and *shall* be
8 employees of the government of Guam for the purposes of the application of
9 all civil service laws and personnel rules and regulations that apply to
10 government of Guam employees, inclusive of all scales, tables and schedules
11 for compensation. With respect to compensation, this Section shall *not* apply
12 to the compensation of the General Manager, Assistant General Manager:
13 Administration, Assistant General Manager: Operations and Technical
14 Support, Secretary, Attorney or the Chief Financial Officer.

15 **§51A112. Acquisition of Existing Systems, Employees and Debt.**
16 Ninety (90) days after the effective date of this Act the Authority *shall*
17 assume in writing from the Department of Public Works, Solid Waste
18 Management Division:

19 (a) all real property under the DPW Solid Waste Management
20 Division (SWMD) administration and items of property, materials and
21 supplies which the SWMD owns or controls, including construction work in
22 progress; and

23 (b) all working capital, cash, accounts payable and receivable,
24 deposits, advances payable and receivable, all books, records and maps and
25 all other rights, obligations, assets, liabilities, agreements and privileges of
26 the Authority or attributable to the Authority.

27 (c) Each government of Guam employee assigned to the

1 Department of Public Works, Solid Waste Management Division at the date
2 of the transfer pursuant to statute *shall* be transferred to the Authority. All
3 classified and unclassified employees occupying solid waste technicians
4 positions *shall* be classified.

5 **§51A113. Exemption from Taxation, and In Lieu Payments.** As
6 an instrumentality of the government of Guam, the Authority and all
7 property acquired by or for the Authority and all revenues and income
8 therefrom are exempt from taxation by the government of Guam, or by any
9 political subdivision or public corporation thereof and from all taxes
10 imposed under the authority of *I Liheslaturan Guåhan* (the Guam
11 Legislature), or with respect to which *I Liheslatura* (the Legislature) is
12 authorized to grant exemption.

13 **§51A114. General Operations. Rates for Services.** The Authority
14 *shall* apply to the Public Utilities Commission (PUC) for establishment of its
15 rates for its services including, but *not* limited to:

16 (a) Operating Costs:

- 17 (1) *Layon* Landfill
- 18 (2) Commercial Transfer Stations
- 19 (3) Retail Transfer Stations
- 20 (4) Residential Trash Collection
- 21 (5) Bulky and Metallic Waste collection
- 22 (6) Recycling
- 23 (7) Customer Service and Education
- 24 (8) Equipment Maintenance
- 25 (9) Household Hazardous Waste
- 26 (10) Administration

27 (b) Reserve Fund Costs:

- 1 (1) Debt Service
- 2 (2) Equipment Replacement
- 3 (3) New Cell Development
- 4 (4) Closure of Cells
- 5 (5) Post Closure Care

6 **§51A115. Accounting and Expenditures.**

7 (a) The Board *shall* adopt and maintain a system of accounting.

8 (b) The Board *shall* authorize, by means of the annual budget,
9 payment of demands against the Authority resulting from the exercise of its
10 powers under this Act if:

11 (1) the purposes and amounts of such demands are projected
12 in the budget, expressed in terms of major account groups of the
13 Uniform System of Accounts, which has been adopted by the Board
14 after receiving recommendations from the General Manager; and

15 (2) the specific demands which are made are approved by the
16 Board before payment.

17 (c) The Board *shall* employ, in accordance with the appropriate
18 procurement laws and the annual budget, a firm of locally licensed,
19 independent Certified Public Accountants who *shall* annually examine the
20 financial status and workings of the Authority for the previous fiscal year.
21 Said firm *shall* submit *no later than* February 1st of each year, a written
22 report on the financial status and workings of the Authority during the
23 previous fiscal year to *I Maga'lahen Guåhan* [Governor], the General
24 Manager, and *I Liheslaturan Guåhan*. *I Maga'lahen Guåhan* and *I*
25 *Liheslaturan Guåhan* may request special reports within thirty (30) days
26 after the end of each fiscal quarter. The financial information presented in
27 the reports required by this Section *shall* be in accordance with the Uniform

1 System of Accounts adopted by the Board. Claims against the Guam Solid
2 Waste Authority *shall* be submitted to the Attorney General of Guam in
3 accordance with the Government Claims Act.

4 **§51A116. Annual Budget.** For the purposes of Chapter 51A of
5 Title 10 of the Guam Code Annotated, the term *annual budget* means a
6 balanced budget for expenditures of the Guam Solid Waste Authority for a
7 fiscal year to be funded by the anticipated revenues and other funds to be
8 received and expended for the same fiscal year, submitted by the Authority
9 to *I Liheslaturan Guåhan* (the Guam Legislature) and approved by Law for
10 the next fiscal year.

11 **§51A117. Employment.**

12 (a) Pursuant to the provisions of Title 4 GCA §§4105 and 4106, the
13 Board *shall* establish rules and regulations regarding selection, promotion,
14 performance evaluation, demotion, suspension and other disciplinary action
15 for the employees of the Authority which *shall* be transmitted to *I*
16 *Liheslaturan Guåhan* [Legislature] to be ratified. All contracts for the hiring
17 of off island employees *shall* conform to the provisions of Title 4 GCA
18 §§6501 and 6501.1.

19 (b) Classified employees of the Authority *shall* be members of the
20 Government of Guam Retirement Fund. The Authority *shall* contribute to
21 the Government of Guam Retirement Fund on the basis of annual billings as
22 determined by the Board of Trustees of the Government of Guam
23 Retirement Fund, for the government share of the cost of the retirement
24 benefits applicable to the Authority's employees and their beneficiaries. The
25 Authority *shall* also contribute to the Worker's Compensation Fund, on the
26 basis of annual billings as determined by the Worker's Compensation
27 Commissioner, for the benefit payments made from such Fund on account of

1 the Authority's employees.

2 (c) Notwithstanding any other provisions of law, neither the
3 General

4 Manager, Assistant General Managers, Secretary nor Chief Financial
5 Officer, of the Authority *shall* be within the classified service of the
6 government of Guam but *shall* be hired, compensated and employed under
7 the terms and conditions fixed by, and at the pleasure of the Board.

8 Article 2

9 Guam Solid Waste Authority Revenue Bonds

10 §51A201. Authorization of Indebtedness Through GEDA.

11 §51A202. Guam Economic Development Authority as Central
12 Financial Manager.

13 §51A203. Evidence of Transfers Filed at the Department of
14 Land Management.

15 §51A204. Statutory Approval Required for Sale.

16 §51A205. Acceptance of Payments, Installation Applications
17 and Service/Repair Requests via the Internet.

18 §51A201. Authorization of Indebtedness through GEDA. The
19 Guam Economic Development Authority (GEDA) may obtain funds through
20 the issuance of bonds or other obligations on behalf of the Authority.

21 (a) Bonds or Notes. Accordingly, the Authority, through
22 GEDA, with the approval of *I Maga'lahaen Guåhan* and *I Liheslaturan*
23 *Guåhan* is authorized to incur indebtedness, and to issue bonds or
24 notes therefor, secured by a pledge of all or any portion of the
25 revenues of the Authority, to establish and facilitate the Solid Waste
26 Management Plan, and collection, transportation, storage, recycling,
27 processing or disposal of solid waste, which *shall* include sanitary

1 landfills and resource recover facilities.

2 (b) Subordinated Indebtedness. In addition, the Authority,
3 acting through GEDA, may incur indebtedness for any other lawful
4 purpose of the Authority, provided that such indebtedness *shall* have a
5 term *not* exceeding fifty (50) years and *shall* be subordinate to any
6 contractual obligation of the Authority to the holders of any
7 indebtedness issued pursuant to Subsection (a) of this Section.

8 (c) Short Term Borrowing. Pursuant to GEDA, the
9 Authority may incur indebtedness with the approval of *I Maga'lahi*
10 (the Governor) for any lawful purpose for a term *not* exceeding five
11 (5) years; provided, that such indebtedness *shall* be subject and
12 subordinate to any contractual obligation of the Authority to the
13 holders of any bonds issued pursuant to Subsections (a) or (b) of this
14 Section. The principal of and interest of any such short term
15 borrowing may be repaid from revenues, or if incurred for a purpose
16 for which bonds may be issued, from revenues or from the proceeds
17 of sale of bonds.

18 (d) Character of Indebtedness. All indebtedness incurred by
19 the Authority pursuant to this Article *shall* be repayable solely from
20 monies of the Authority available therefor, including revenues, and
21 shall *not* be deemed to be public indebtedness of the Territory as that
22 term is used in Section 11 of the Organic Act.

23 (e) Waiver of Immunity. Notwithstanding any substantive
24 or procedural provision of Chapter 6, Title 5, Guam Code Annotated,
25 the Authority shall *not* be entitled to immunity from any suit or action
26 in contract on the indebtedness authorized by this Article.

27 **§51A202. Guam Economic Development Authority as Central**

1 **Financial Manager.** Notwithstanding any other provisions of this Article,
2 the Guam Economic Development Authority *shall* act as the Central
3 Financial Manager and Consultant to the Authority and *shall* provide
4 technical assistance in obtaining funds through the issuance of bonds or
5 other obligations. The Authority must comply with all provisions under this
6 Section relative to the financial requirements and needs as directed by
7 GEDA.

8 **§51A203. Evidence of Transfers Filed at the Department of**
9 **Land Management.** Transfer of real property interests pursuant to this Act,
10 including, but *not* limited to, fee estates, easements and land use rights
11 evidenced by easements, leases and licenses, *shall* be filed in the form of
12 deeds or assignments signed by *I Maga'lahaen Guåhan* in good form
13 containing specific property descriptions, lot numbers and map numbers, at
14 the Department of Land Management within three hundred sixty (360) days
15 of the effective date of this Act. Any transfer *not* filed within such time
16 frame *shall* lapse and be of no further force and effect unless re-initiated or
17 authorized by separate statutory legislation authority. Any subsequent
18 easements or transfers of property from the government of Guam, including
19 the *Chamorro* Land Trust Commission, *shall* be in the form of deeds or
20 assignments in good form containing specific property descriptions, lot
21 numbers and map numbers, recorded at the Department of Land
22 Management.

23 **§51A204. Statutory Approval Required for Sale.**
24 Notwithstanding any of the provisions of this Act, specific legislative
25 statutory approval *shall* be required prior to sale, transfer or lease of any real
26 property assets or lands of the Guam Solid Waste Authority. Nothing herein
27 *shall* be construed as such approval. In addition, notwithstanding any other

1 provision contained herein, the provisions of Title 1 GCA § 1800 *shall* be
2 applicable to the Guam Solid Waste Authority.

3 **§51A205. Acceptance of Payments, Installation Applications**
4 **and Service/Repair Requests via the Internet.**

5 (a) Notwithstanding any other provision of law, the Guam Solid
6 Waste Authority *shall* provide that the following services be made available
7 via the internet:

8 (1) acceptance of online payments;

9 (2) application for installation of new and additional
10 services, and

11 (3) requests for service and repair.

12 (b) The Guam Solid Waste Authority *shall* provide an email
13 address(es) for inquiries regarding Subsection (a) (1), (2) and (3).

14 (c) Nothing herein *shall* be construed as limiting the Authority's
15 ability to receive payments through online payment and/or banking services.

16 (d) The Guam Solid Waste Authority *shall* set, by Administrative
17 Rule, the timeframes to which email inquiries must be addressed and
18 dispensed with.

19 (e) The Guam Solid Waste Authority *shall* adopt appropriate
20 security measures necessary to protect its customers from fraud and identity
21 theft.”

22 **Section 4.** §51118 of Chapter 51, Title 10 Guam Code Annotated is
23 hereby *repealed* and *reenacted* under Article 3, Chapter 51A, Title 10 Guam Code
24 Annotated, and shall read:

25 **“ARTICLE 3**

26 **SOLID WASTE OPERATIONS FUND**

27 **§51A301. Solid Waste Operations Fund.**

1 (a) **Commercial Haulers.** For commercial, including multi-family
2 dwellings and government agencies, the charge is a disposal tipping fee and
3 does *not* include collection fees independently charged by commercial waste
4 haulers.

5 (b) **Commercial and Residential Tipping Fees.** All commercial
6 and residential tipping fees charged by the Authority *shall* be subject to the
7 review and approval of the Public Utilities Commission.

8 (c) **Business and Governmental Tipping Fees.** A tipping fee per
9 cubic yard, uncompacted, *shall* be established for business and government
10 generators, subject to approval by the Public Utilities Commission (PUC),
11 and *shall* be published in a rate order developed by the PUC.

12 (d) **Residential Tipping Fees.** A residential tipping fee, which
13 may include collection charges and a Self-Drop Fee, may be established
14 subject to the approval of the PUC.

15 (e) **PUC Rate-making.** The Public Utilities Commission of Guam
16 [PUC] is hereby authorized to establish, amend and approve, in accordance
17 with Chapter 12 of Title 12, Guam Code Annotated, all commercial,
18 government and residential tipping and user fees [including without
19 limitation a self-drop fee, a variable residential tipping fee and, collectively
20 referred to as ‘tipping fees’], which when established *shall* replace those
21 previously created by law. Tipping fees authorized and established by PUC
22 *shall* be based on volume and on an analysis of operations costs, including
23 those cost components specifically listed under Title 10 GCA §51114A.
24 PUC is empowered to undertake a focused management audit of the existing
25 operations of the Guam Solid Waste Authority. In performing its duties
26 under this Section, PUC *shall* have the full authority and powers conferred

1 upon it by its enabling legislation, Title 12 GCA 12000 et. sec., including the
2 audit power conferred upon it by Public Laws 25-05:12 and 26-78:2.

3 (f) **Solid Waste Operations Fund.** All tipping, user and other fees
4 authorized under this Section and collected based on duly established rules
5 and regulations or on a PUC rate order *shall* be deposited in a special fund
6 designated and hereby established as the Solid Waste Operations Fund. All
7 tipping/user fees in the Fund *shall* be used solely for solid waste
8 management purposes and, pursuant to PUC order, for the payment of
9 regulatory costs and expenses as may be incurred by PUC in performing its
10 regulatory duties under Subsection (e).”

11 **Section 5.** Article 3 of Chapter 51, Title 10 Guam Code Annotated is hereby
12 *repealed* and *reenacted* under Article 4, Chapter 51A, Title 10 Guam Code
13 Annotated, and shall read:

14 **“ARTICLE 4**

15 **ANNUAL CONTRACT FOR SCRAP REMOVAL**

16 **§51A401. Contract to Remove Scrap.**

17 **§51A402. Biennial Contract.**

18 **§51A403. Environmental Impact Study.**

19 **§51A404. Conformity to Waste Removal Regulations.**

20 **§51A405. Reports.**

21 **§51A401. Contract to Remove Scrap.**

22 The General Manager, after duly advertising for a request for
23 proposals for the removal of scrap metal, *shall* enter into a contract with any
24 interested business organization, either local or off-island, to collect and
25 remove from Guam scrap metal. The successful offeror may *not* be charged
26 for the scrap metal but *shall* post a performance bond equal to seventy
27 percent (70%) of contract value to assure contract completion of the removal

1 project within twenty-four (24) months from receiving from the General
2 Manager a Notice to Proceed. A “Scrap Metal” for the purpose of this
3 Article means abandoned vehicles and other abandoned metal implements of
4 which the Authority has jurisdiction and the right to dispose. In so disposing
5 of such scrap metal, the General Manager shall *not* charge any fees to the
6 owner of the same.

7 **§51A402. Biennial Contract.**

8 The General Manager *shall* advertise for and execute such a contract
9 every two (2) years with any qualified party on the same terms as are set out
10 in §51401A of this Article.

11 **§51A403. Environmental Impact Study.**

12 The Guam Solid Waste Authority *shall* cause an environmental
13 impact study to be undertaken by the successful offeror prior to the issuance
14 of a permit and the Notice to Proceed to ensure that scrap removal project
15 will *not* have potential adverse ecological damage to aquifers or the
16 environment at the temporary consolidation site and source location.

17 **§51A404. Conformity to Waste Removal Regulations.**

18 The successful offeror *shall* perform all work under this Article in
19 compliance with applicable rules and regulations of GEPA on the removal of
20 scrap metal and hazardous waste. As a minimum, the Authority *shall* ensure
21 that all successful offerors include as part of their processing, an intake
22 system to screen and remove batteries and other potentially hazardous
23 residual material including, engine oil, hydraulic fluids and coolant and
24 freon from air conditioning units.

25 **§51A405. Reports.**

1 active recycling experience and knowledge in Guam. The RFP *shall* include
2 the requirement that the prospective contractor accepts and pays for all
3 recyclable paper, to include newsprint, office paper and magazines offered
4 by the public. The successful offeror *shall* be one who bids the highest
5 amount per pound to be paid to the public for the recyclable paper for the
6 duration of the contract term. The successful offeror may *not* be charged for
7 the recyclable paper but *shall* post a performance bond equal to seventy
8 percent (70%) of contract value to assure contract completion of the
9 recyclable paper collection project within twenty-four (24) months from
10 receiving from the General Manager a Notice to Proceed.

11 **§51A502. Biennial Contract.**

12 The Authority *shall* advertise for and execute such a contract every
13 two (2) years with any qualified party on the same terms as are set out in
14 §15501 of this Article.

15 **§51A503. Conformity to All Laws and Rules and Regulations.**

16 The successful offeror *shall* perform all work under this Article
17 in compliance with all applicable laws, including those of this Chapter, and
18 rules and regulations of GEPA as may be established. As a minimum, the
19 Authority *shall* ensure that all offerors include as part of their processing, a
20 plan to remove the collected paper from Guam's waste stream.

21 **§51A504. Reports.**

22 Each successful bidder *shall* file a report on a quarterly basis with *I*
23 *Maga'lahañ Guåhan* [the Governor], *I Liheslaturan Guåhan* [the
24 Legislature] and the Guam Solid Waste Authority outlining the following:

- 25 (a) total type and amount of paper recycled;

1 (b) cost comparison of the cost of the paper-recycling
2 program versus landfill disposal of paper, or any less-than-
3 conventional methods of paper waste reduction; and

4 (c) recommendations for permanent implementation and
5 improvements to the recycling program.”

6 **Section 7.** Article 6 of Chapter 51, Title 10 Guam Code Annotated is
7 hereby *repealed* and *reenacted* under Article 6, Chapter 51A, Title 10 Guam Code
8 Annotated, and shall read:

9 **“ARTICLE 6**

10 **MUNICIPAL RECYCLING PROGRAM**

11 **§51A601. Definitions.**

12 **§51A602. Creation of Municipal Recycling Proceeds Fund for**
13 **Each Village.**

14 **§51A603. Creation of the Municipal Recycling Program.**

15 **§51A604. Authorization for Municipal Planning Councils to Use**
16 **the Proceeds from the Sale of Recyclable Materials**
17 **for Village Needs.**

18 **§51A601. Definitions.**

19 For purposes of this Article, except as otherwise provided, the
20 following words and phrases, together with all of the common derivatives
21 thereof, *shall* have the meaning ascribed to them as follows:

22 (a) *GEPA* means the Guam Environmental Protection
23 Agency.

24 (b) *Recycling* means the process by which recovered
25 resources are transformed into new products in such a manner that
26 products lose their initial identity, as defined in § 51102 (18) of
27 Chapter 51 of Title 10 of the Guam Code Annotated.

1 (c) *Recyclable materials* means materials which still have
2 useful physical or chemical properties after serving a specific purpose
3 for the same or other purpose. Recyclable materials are as follows:

- 4 (1) batteries (i.e., lead-acid, portable computer batteries,
5 nickel-cadmium, sealed types for power backup);
- 6 (2) automobiles, buses, and trucks or any form of motorized
7 vehicle;
- 8 (3) tires (passenger/commercial);
- 9 (4) enameled white goods;
- 10 (5) home appliances (other small appliances that are *not*
11 considered enameled white goods);
- 12 (6) glass and plastic bottles;
- 13 (7) foam padding;
- 14 (8) lead;
- 15 (9) metals (ferrous/non-ferrous);
- 16 (10) organic material (i.e., tree trimmings, palm fronds, grass,
17 food waste, soiled cardboard);
- 18 (11) paper products;
- 19 (12) wood pallets and scrap wood;
- 20 (13) construction and demolition debris ('C&D');
- 21 (14) x-ray film;
- 22 (15) automobile oil and fluids;
- 23 (16) Freon and other refrigerant gases;
- 24 (17) electronic waste (i.e., computers, circuit boards,
25 televisions, and portable phones);
- 26 (18) heavy equipment; and

1 (19) other recyclable materials deemed recyclable by GEPA
2 pursuant to the Rules and Regulations.

3 (d) *Recycling Company* means any business licensed by the
4 Department of Revenue and Taxation, and issued a permit, as required in §
5 51104 of Chapter 51 of Title 10 of the Guam Code Annotated, from the
6 Guam Environmental Protection Agency to conduct business on Guam.

7 **§51A602. Creation of Municipal Recycling Proceeds Fund for**
8 **Each Village.**

9 There is hereby established a Municipal Recycling Proceeds Fund for
10 each municipality which *shall* be maintained separate and apart from any
11 other funds, including the General Fund of the government of Guam, and
12 independent records and accounts *shall* be maintained in connection
13 therewith. The proceeds from the sale of recyclable materials collected, in
14 accordance with the Municipal Recycling Program, from each village *shall*
15 be deposited in the respective Municipal Recycling Proceeds Fund. All
16 revenue deposited in each Municipal Recycling Proceeds Fund shall *not* be
17 commingled with General Fund monies and *shall* be kept in a separate bank
18 account. All proceeds from fees collected in accordance with §51703A of
19 this Chapter *shall* be deposited in the Municipal Recycling Proceeds Fund
20 for the respective village and used exclusively for the purposes authorized in
21 §51704 of this Chapter. The Municipal Planning Council of each
22 municipality *shall* administer the Municipal Recycling Proceeds Fund for its
23 municipality which *shall* be subject to audits by the Public Auditor.

24 **§51A603. Creation of the Municipal Recycling Program.**

25 There is hereby created a Municipal Recycling Program within the
26 Guam Solid Waste Authority to promote recycling on the municipal level in

1 partnership with the village mayors. The program *shall* incorporate the
2 following components:

3 (a) Recycling Drop-Off Bins. GSWA *shall* solicit drop-off
4 bins from recycling companies that would be made available to each
5 mayor participating in the Municipal Recycling Program. The
6 recycling drop-off bins *shall* be rust-proof, and located at a suitable
7 site within the respective villages so that the residents will have a
8 repository to which they can bring recyclable materials in accordance
9 with guidelines established by the Guam Solid Waste Authority. The
10 mayors of each village participating in the program will be
11 responsible for the security and cleaning of the bins, and the
12 supervision of their use for recycling purposes.

13 (b) Village Education Program. In coordination with the
14 village mayors, GEPA and GSWA *shall* create educational programs
15 to promote recycling and the use of the recycling drop-off bins within
16 each village.

17 (c) Sale of Recyclable Materials. In partnership with the
18 village mayors, GSWA *shall* arrange for the sale of recyclable
19 materials, collected at the Recycling Drop-off Bins in each village, to
20 recycling companies. The proceeds from the sale of recyclable
21 materials *shall* be deposited into the respective Municipal Recycling
22 Proceeds Fund of the village from which the recyclable materials were
23 collected.

24 (d) The Program *shall* first begin with pilot programs at three
25 (3) villages; one (1) each from northern, central, and southern Guam.
26 The selection of the three (3) villages *shall* be made by GSWA in
27 concert with the village mayors.

1 (c) *Recycling company* means any business licensed by
2 the Department of Revenue and Taxation, and has been issued a
3 permit as required in § 51104 of Chapter 51, Title 10 of the Guam
4 Code Annotated by the Guam Environmental Protection Agency
5 (GEPA) to conduct business on Guam and that specifically commits
6 eighty percent (80%) of its operations to recycling.

7 (d) *Transshipment shall* mean to transfer for further
8 transportation from one (1) ship or conveyance to another.

9 (e) *Recyclable materials* means materials that still have
10 useful physical or chemical properties after serving a specific purpose
11 for the same or other purpose. Recyclable materials are as follows:

- 12 (1) batteries (i.e., lead-acid, portable computer batteries,
13 nickel-cadmium, sealed types for power backup);
- 14 (2) automobiles, buses, and trucks or any form of motorized
15 vehicle;
- 16 (3) tires (passenger/commercial);
- 17 (4) enameled white goods;
- 18 (5) home appliances (other small appliances that are *not*
19 considered enameled white goods);
- 20 (6) glass and plastic bottles;
- 21 (7) foam padding;
- 22 (8) lead;
- 23 (9) metals (ferrous/non-ferrous);
- 24 (10) organic material (i.e., tree trimmings, palm fronds, grass,
25 food waste, soiled cardboard);
- 26 (11) paper products;
- 27 (12) wood pallets and scrap wood;

- 1 (13) construction and demolition debris ('C&D');
- 2 (14) x-ray film;
- 3 (15) automobile oil and fluids;
- 4 (16) freon and other refrigerant gases;
- 5 (17) electronic waste (i.e., computers, circuit boards,
- 6 televisions, and portable phones);
- 7 (18) heavy equipment; and
- 8 (19) other recyclable materials deemed recyclable by GEPA
- 9 pursuant to the Rules and Regulations.

10 **§51A702. Establishment of Recycling Enterprise Zone.**

11 There is established a "Recycling Enterprise Zone" at the Jose D.
12 Leon Guerrero Commercial Port for use by recycling companies for the
13 processing of automobiles, trucks and tires for recycling purposes, and the
14 transshipment of recyclable materials. The size of the zone and its site on
15 the JLGCP property *shall* be designated by the Board of Directors of the
16 Port Authority of Guam and guided by the provisions of Section 7.1.4 of the
17 Integrated Solid Waste Management Plan. Such designation *shall* be made
18 within sixty (60) days of the enactment hereof and the site *shall* be made
19 available for lease to eligible recycling companies. The Board of Directors
20 of the Port Authority of Guam *shall* determine and charge a reasonable rate
21 for the lease of said property.

22 **§51A703. Eligibility of Recycling Companies for use of the**
23 **Recycling Enterprise Zone.**

24 Lease space in the Recycling Enterprise Zone *shall only* be available
25 to companies that qualify for Qualifying Certificates as recycling companies
26 under guidelines established by the Guam Economic Development
27 Authority."

1 **Section 9.** Article 8 and Article 9, of Chapter 51, Title 10 Guam Code
2 Annotated are hereby *repealed* and *reenacted* without change under a new Article
3 8 and Article 9, Chapter 51A, Title 10 Guam Code Annotated.

4 **Section 10.** §1921 of Title 1, Chapter 19 Guam Code Annotated is hereby
5 *amended* to read as follows:

6 “**§1921. Supervision of Audits in Autonomous Agencies and**
7 **Grantees, Manpower Audits.**

8 The Public Auditor is specifically authorized to supervise audits, or at
9 the Public Auditor’s discretion, perform audits, of autonomous agencies and
10 instrumentalities of the government of Guam, inclusive of, but *not limited to*,
11 the Guam Visitors Bureau (GVB), the Guam Economic Development
12 Authority (GEDA), the Port Authority of Guam (PAG), the A.B. Won Pat
13 International Airport Authority, Guam (WPIAA), the University of Guam
14 (UOG), the Guam Community College (GCC), the Guam Memorial Hospital
15 (GMHA), the Guam Housing Corporation (GHC), the Guam Housing and
16 Urban Renewal Authority (GHURA), the Guam Power Authority (GPA), the
17 Guam Waterworks Authority (GWA), the Guam Telephone Authority
18 (GTA), the Government of Guam Retirement Fund GGRF), and the Guam
19 Solid Waste Authority (GSWA).

20 The Public Auditor is authorized to supervise audits of all funds in
21 excess of Three Hundred Thousand Dollars (\$300,000.00) for a single fiscal
22 year from the government of Guam that are given in grant or subsidy to non-
23 profit or profit-making groups, inclusive of GVB. The Public Auditor is
24 authorized to audit the hiring practices, manpower levels and staffing
25 patterns of all departments, agencies and bureaus of the Executive Branch of
26 the government of Guam, and to determine and report to *I Maga’lahen*
27 *Guåhan* [Governor], *I Liheslaturan Guåhan* [Legislature] and the Public

1 Utilities Commission (*PUC*), as appropriate, on the necessity and
2 applicability of employment levels and categories to the department or
3 agency's purpose and function, as well as draw comparisons with similar
4 entities located elsewhere."

5 **Section 11.** §12000 of Chapter 12, Title 12 Guam Code Annotated is
6 hereby *amended* to read:

7 **"§12000. Definitions.**

8 As used in this Chapter:

9 (a) *Public Utility* means the Guam Power Authority, the Jose
10 D. Leon Guerrero Commercial Port, the Guam Waterworks Authority,
11 the Guam Solid Waste Authority or any duly licensed private
12 contractors operating:

13 (1) a facility or subsystem of the community-wide
14 water production and distribution system, or

15 (2) a facility or subsystem of the community-wide
16 waste water disposal system, or both, or any private golf course
17 management corporation leasing public property providing
18 preferential golf rates and reservations to Guam residents, or

19 (3) a marine terminal with facilities for loading and
20 unloading commercial cargo or passengers onto and from ocean
21 common carriers.

22 (b) *Commission* means the Public Utilities Commission.

23 (c) *General lifeline rate* means a lower than average cost per unit
24 charge for a level of utility service necessary to fulfill the essential needs of
25 all residential customers."

26 **Section 12.** Subsection (b) of §51103 of Chapter 51, Title 10 Guam Code
27 Annotated is hereby *repealed*.

1 **Section 13. Transition to the Guam Solid Waste Authority; Effective**
2 **Date.** The provisions of this Act *shall* take effect upon ninety (90) days after the
3 date of enactment.

4 **Section 14. Severability.** *If* any provision of this law or its application to
5 any person or circumstance is found to be invalid or contrary to law, such
6 invalidity shall *not* affect other provisions or applications of this law which can be
7 given effect without the invalid provisions or application, and to this end the
8 provisions of this law are severable.

6

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2011 (FIRST) Regular Session

Date: 4/4/11

VOTING SHEET

SBill No. 35-31(COR)

Resolution No. _____

Question: _____

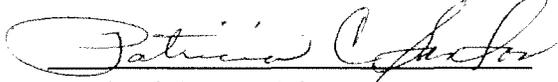
<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
ADA, V. Anthony	✓				
BLAS, Frank F., Jr.	✓				
CRUZ, Benjamin J. F.					EA
DUENAS, Christopher M.	✓				
GUTHERTZ, Judith Paulette	✓				
MABINI, Sam	✓				
MUNA-BARNES, Tina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

TOTAL

13
1

1

CERTIFIED TRUE AND CORRECT:


 Clerk of the Legislature

* 3 Passes = No vote
 EA = Excused Absence



March 14, 2011

The Honorable Judith T. Won Pat
Speaker
I Mina' Trentai Unu Na Liheslatuan Guahan
31st Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

VIA: The Honorable Rory J Respicio
Chairperson, Committee on Rules

RE: Committee Report on Bill No. 35-31 As Substituted

2011 MAR 17 PM 03:05
MWA

Dear Speaker Won Pat:

Transmitted herewith is the Report of Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting the on **Bill No. 35-31 As Substituted** AN ACT TO *AMEND* §12000 OF CHAPTER 12 OF TITLE 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND §1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA), AND TO *REPEAL (b)§51103, §51118, ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10 GCA AND REENACT THEM UNDER A NEW CHAPTER 15, TITLE 12 GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION .*

Committee votes are as follows:

- | | |
|----------|---------------------------|
| <u>5</u> | TO DO PASS |
| <u>0</u> | TO NOT PASS |
| <u>1</u> | TO REPORT OUT ONLY |
| <u>0</u> | TO ABSTAIN |
| <u>0</u> | TO PLACE IN INACTIVE FILE |

Sincerely,

BENJAMIN J.F. CRUZ
Chairperson



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

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. Duenas

Supplement to the Committee Report On Substitute Bill No. 35-31 (COR)

"An act to amend §12000 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to repeal §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and reenact them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation."

*NOTE: The original Committee Report on
Substitute Bill No. 35-31(COR)
was filed on March 17, 2011.



COMMITTEE REPORT

ON

SUBSTITUTE BILL NO. 35-31 (COR)

“An act to *amend* §1200 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 if Chapter 19 of Title 1 Guam Code Annotated (GCA), and to *repeal* (b)§51103, §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and *reenact* them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation”



March 14, 2011

MEMORANDUM

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

FROM: Vice Speaker Benjamin J.F. Cruz, Chairperson

SUBJECT: Committee Report on Bill No. 35-31 (COR) As Substituted

Transmitted herewith for your consideration is the Committee Report on Substitute Bill No. 35-31 (COR)- "An act to *amend* §1200 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 if Chapter 19 of Title 1 Guam Code Annotated (GCA), and to *repeal* (b)§51103, §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and *reenact* them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation".

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Substitute Bill No. 35-31 (COR)
- Copy of Bill No. 35-31 (COR)
- Public Hearing Sign-in Sheet
- COR Referral of Bill No. 35-31
- Notices of Public Hearing
- Public Hearing Agenda

Please take the appropriate action on the attached voting 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,

A handwritten signature in black ink, appearing to read "Benjamin J.F. Cruz".

BENJAMIN J.F. CRUZ
Chairperson



COMMITTEE VOTING SHEET

Substitute Bill No. 35-31 (COR) “An act to *amend* §1200 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 if Chapter 19 of Title 1 Guam Code Annotated (GCA), and to *repeal* (b)§51103, §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and *reenact* them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation”.

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT 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				3/14/11 ✓		
ADA, THOMAS C. Member		3/14/11 ✓				
GUTHERTZ, JUDITH P. Member						
RESPICIO, RORY J. Member		3/14/11 ✓				
RODRIGUEZ, DENNIS G. JR. Member						
ADA, V. ANTHONY Member		3/14/11 ✓				
DUENAS, CHRISTOPHER Member		3/14/11 ✓				
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 Thursday March 10, 2011 at 2:30 p.m. in the Public Hearing Room of *I Liheslatura*. Among the items on the agenda was the consideration of Bill No. 35-31 (COR) - "An act to *amend* §1200 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 if Chapter 19 of Title 1 Guam Code Annotated (GCA), and to *repeal* §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and *reenact* them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation".

Public Notice Requirements

All legal requirements for public notices were met, with requests for publication sent to all senators and all media on March 3 and March 8 via email. Copies of the hearing notices are appended to the report.

Senators Present

Senator Benjamin J. F. Cruz, Chairman
Senator Rory Respicio, Committee Member
Senator Thomas C. Ada, Committee Member
Senator V. Anthony Ada, Committee Member
Senator Christopher M. Duenas, Committee Member
Senator Sam Mabini, Ph.D., Committee Member
Senator Aline A. Yamashita, Ph.D., Committee Member
Senator Vincente Pangelinan

The public hearing was called to order at 2:40 p.m.

II. SUMMARY OF TESTIMONY AND DISCUSSION

Joseph Duenas

Provided oral testimony on behalf of the Consolidated Commission on Utilities

Mr. Duenas states the creation of the autonomous agency as envisioned by Bill No. 35-31 is an effective way to provide utility service similar to electric, water and wastewater services provided by the Guam Power Authority and Guam Waterworks Authority. A utility is an entity that provides a basic public service subject to government regulations and paid for by customers

who utilize the service. He further states that the past 8 years have proven the value and effectiveness of the current model of establishing a utility as a public corporation focused on providing the needed service and governed by an elected commission who answers to the public ratepayers. Lastly, Mr. Duenas states changes should be made to §15004 and §15005 to include language regarding the governance of the Consolidated Commission on Utilities, and Certified Technical Professions (CTP).

III. FINDINGS AND RECOMMENDATIONS

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting finds that the collection, transportation, separation, processing, reduction and disposal of solid waste requires an organization with specialized expertise that is focused to operate and maintain an efficient, environmentally acceptable and sustainable solid waste management system.

The Committee finds that the United States of America, on behalf of the United States Environmental Protection Agency filed a civil lawsuit against the Government of Guam for continued violation of the Clean Water Act. Despite an administrative order issued on July 24, 1990 to the Government of Guam Department of Public Works, continued violation of the Clean Water Act resulted in a Consent Decree between the United States and the Government of Guam. Currently, the administration of the solid waste services is performed by a Receiver, Gershman, Brickner, & Bratton, Inc. (GBB) who has been designated by the U.S. Federal District Court. As specified in the Court Order, GBB has full power and authority to enforce the terms of a Consent Decree, and assume all of the responsibilities, functions, duties, powers and authority of the Solid Waste Management Division of the Department of Public Works and any and all departments or other divisions of the Department of Public Works insofar as they affect the Government of Guam's compliance with the Consent Decree.

The Committee finds that the operation of the Solid Waste Management Division of DPW requires the establishment of a specialized organization, such as the Guam Solid Waste Authority (GSWA) as outlined in this Act, under the governance of the Consolidated Commission on Utilities, to implement the Guam Solid Waste Management Plan.

It is the intent of *I Liheslaturan Guåhan* to establish the Guam Solid Waste Authority (GSWA) to prepare for and ensure a successful transition that will occur upon satisfaction of the consent decree, and the return of solid waste management and operations to the Government of Guam.

Following the public hearing and review of the testimony provided, the Committee solicited and accepted amendments to Bill 35-31(COR) from its primary sponsor, Senator Tom Ada, Chairman of the Legislative Utilities Oversight Committee.

Following the public hearing and review of the testimony provided, the Committee solicited and accepted amendments to Bill 35-31(COR) from its primary sponsor, Senator Tom Ada, Chairman of the Legislative Utilities Oversight Committee.

The Bill was amended as follows:

- Clarify references to Board and Commission
- Repeal (b)§51103, Chapter 51, Title 10 GCA
- Add (u)§15504 to Bill 35-31 (COR)
- Amend §15005 to Bill 35-31 (COR)
- Amend Title to reflect changes

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting to which was referred Bill No. 35-31 (COR), hereby submits these findings to *I Mina' Trentai Unu Na Liheslaturan Guâhan* and reports out Substitute Bill No. 35-31(COR) with a recommendation TO REPORT OUT ONLY.

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

Bill No. 35-31 (COR)

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

Introduced by:

**T.C. Ada
R.J. Respicio
B.J.F. Cruz**

AN ACT TO *AMEND* §12000 OF CHAPTER 12 OF TITLE 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND §1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA), AND TO *REPEAL (b)§51103, §51118*, ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10 GCA AND *REENACT* THEM UNDER A NEW CHAPTER 15, TITLE 12 GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*

finds that the history of the Government of Guam's (GovGuam) violation of the Clean Water Act goes back to 1986, when the United States Environmental Protection Agency issued an administrative order directing the island's Department of Public Works to cease the discharge of leachate from the Ordot Dump. Twenty-four (24) years later, the Ordot Dump, the island's only municipal site for solid waste disposal, continues to leach contaminants, posing an environmental and health hazard. A Consent Decree was approved by the U.S. District Court of Guam in February 2004, yet compliance with its mandates has been minimal. GovGuam's commitment to comply with the Consent Decree was not enough to rectify

1 the island's solid waste crisis. Consequently, on March 17, 2008, Gershman,
2 Brickner & Bratton, Inc. (GBB), solid waste management consultants, was
3 appointed as Receiver by the District Court of Guam to achieve the
4 government's compliance with the Clean Water Act as set forth in the
5 Consent Decree. GBB has full power and authority to enforce the terms of
6 the Consent Decree to include assumption of the functions, powers and
7 authority of the Solid Waste Management Division of the Department of
8 Public Works insofar as they affect GovGuam's compliance with the
9 Consent Decree.

10 *I Liheslaturan Guåhan* intends to prepare GovGuam for the eventual
11 resumption of all functions, responsibilities and authority for solid waste
12 management and operations, subsequent to the U.S. District Court
13 determination that the Consent Decree has been satisfied and that GovGuam
14 would have the capability to manage, operate and sustain a compliant solid
15 waste service and landfill. *I Liheslaturan Guåhan* intends to establish the
16 Guam Solid Waste Authority (GSWA), an autonomous public corporation,
17 as successor to the Solid Waste Management Division, a sub-entity of the
18 Department of Public Works.

19 *I Liheslaturan Guåhan* intends to place the GSWA under the
20 governance of the CCU. *I Liheslaturan Guåhan* finds that the Consolidated
21 Commission on Utilities (CCU), a governing body created by P.L. 26-76 in
22 March 2002, has successfully provided effective governance to the Guam
23 Power Authority (GPA) and the Guam Waterworks Authority (GWA) using
24 best management and business practices and that the CCU has the governing
25 experience and capacity to similarly manage the GSWA. Placing the GSWA
26 under the governance of the CCU from the outset, will better assure a
27 successful and stabilized transition.

1 **Section 2.** §79100 of Chapter 79 of Title 12 of the Guam Code
2 Annotated is hereby *amended* to read as follows:

3 “**§79100. Creation of Commission.** There is established an
4 elected Consolidated Commission on Utilities whose purpose is to exercise
5 powers vested in them by the laws establishing the Guam Power Authority
6 (‘GPA’), the Guam Solid Waste Authority (‘GSWA’) and the Guam
7 Waterworks Authority (‘GWA’). The Consolidated Commission on
8 Utilities, hereinafter referred to as “Commission” shall be elected by
9 registered voters of Guam.”

10 **Section 3.** §79101 of Chapter 79 of Title 12 of the Guam Code
11 Annotated is hereby *amended* to read as follows:

12 “**§79101. Commissioners.** The Commission shall be comprised of
13 five (5) Commissioners elected at-large by the voters of Guam in a General
14 Election. To be eligible to be a Commissioner, a person must be a registered
15 voter of Guam and a minimum of twenty-five (25) years of age, and shall
16 have been a resident of Guam for at least five (5) years immediately prior to
17 the date of the Commissioner’s election.

18 A person may not simultaneously serve as a Commissioner and an
19 employee of the Guam Waterworks Authority, the Guam Power Authority,
20 the Guam Solid Waste Authority, or the Public Utilities Commission, or
21 simultaneously serve as a Commissioner and an unclassified or contracted
22 employee of the government of Guam. An adjunct instructor, adjunct
23 teacher, or adjunct professor employed by the University of Guam or the
24 Guam Community College may serve as a Commissioner.

25 Persons retired from the government of Guam may serve as
26 Commissioners. At their first official meeting, the Commissioners shall
27 elect from among the Commissioners a chairperson, who shall preside over

1 meetings of the Commission. A majority of the Commissioners holding
2 office shall constitute a quorum. The affirmative vote of the majority of
3 Commissioners holding office shall constitute the decision of the
4 Commission. The Commission may adopt rules and regulations governing
5 the conduct of its affairs.”

6 **Section 4. Transition Liaison.** Upon enactment of this Act the
7 Commission shall establish a liaison with the Receiver, Gershman, Brickner
8 & Bratton, Inc. and begin discussions preliminary to achieving the objective
9 of GovGuam’s eventual resumption of all functions, responsibilities and
10 authority for solid waste management and operations and the governance
11 thereof.

12 **Section 5. Effective Date of Governance of the Authority.**
13 Governance of the Guam Solid Waste Authority by the Commission shall
14 take effect upon determination by the United States District Court that the
15 requirements of Section XIV of the Consent Decree (Civil Case No. 02-
16 00022, United States of America, Plaintiff, v. Government of Guam,
17 Defendant) have been fulfilled, and governance of the Municipal Solid
18 Waste Management is returned to the Government of Guam.

19 **Section 6.** A new Chapter 15 is hereby added to Title 12 the Guam
20 Code Annotated, and shall read:

21 **“CHAPTER 15**

22 **GUAM SOLID WASTE AUTHORITY**

23 Article 1. General Provisions

24 Article 2. Guam Solid Waste Authority Revenue Bonds

25 Article 3. Transition to a Guam Solid Waste Authority

26 Article 4. Annual Contract for Scrap Removal

27 Article 5. Contract for Collection of Recyclable Paper

1 Article 6. Municipal Recycling Program

2 Article 7. Recycling Enterprise Zone

3 **ARTICLE 1.**

4 **General Provisions.**

5 §15001. Short Title.

6 §15002. Definitions.

7 §15003. Continuation of Existence.

8 §15004. Powers and Duties of the Authority

9 §15005. Governance of the Authority.

10 §15006. General Manager (GM).

11 §15007. Assistant GM: Operations and Technical Support.

12 §15008. Assistant GM: Administration

13 §15009. Chief Financial Officer.

14 §15010. Other Officers.

15 §15011. Employees.

16 §15012. Acquisition of Existing Systems, Employees and Debt.

17 §15013. Exemption from Taxation and In Lieu Payments.

18 §15014. General Operations.

19 §15015. Accounting and Expenditures.

20 §15016. Annual Budget.

21 §15017. Employment.

22 §15018. Solid Waste Operation Fund

23 **§15001. Short Title.** This Chapter may be cited as the **Guam Solid**
24 **Waste Authority Act.**

25 **§15002. Definitions.** As used in this Chapter, unless otherwise
26 indicated:

27 (1) *Authority* means the Guam Solid Waste Authority (GSWA).

1 (2) *General Manager* (GM) means the General Manager of GSWA.

2 (3) *Best public interest* means any activity which: lessens the demand
3 for landfill sites, conserves land resources and serves to insure proper, cost
4 effective, and environmentally sound disposal of solid waste; and, does not
5 pose health risks to human life or endanger plant and animal life.

6 (4) *Commission* means the Consolidated Commission on Utilities.

7 (5) *Business* means and includes any activity or conduct, whether
8 proprietary, partnerships, corporate or whatever form, engaged in, or caused
9 to be engaged in, with the object of gain or economic benefit, either direct or
10 indirect, but shall not include casual sales, personal service contracts,
11 fundraising activities by political candidates or the activities of non-profit
12 associations.

13 (6) *Collection* or *Collect* means the removal of solid waste from a
14 generator.

15 (7) *Collector* means any individual, governmental organization or
16 business, which has received a permit to collect and transport waste in
17 accordance with applicable laws and regulations.

18 (8) *Combustion* means to thermally break down certain types of solid
19 waste in an enclosed device using controlled temperatures.

20 (9) *Composting* means the controlled degradation of organic solid
21 waste.

22 (10) *Disposal* means the discharge, deposit, injection, dumping,
23 spilling, leaking, or placing of any solid waste or hazardous waste into or on
24 any land or water so that such solid waste or hazardous waste or any
25 constituent thereof may enter the environment or be emitted into the air or
26 discharged into any waters, including ground water.

1 (11) *Dump* means a land site where solid waste is disposed without a
2 valid permit, or a landfill that has historically been in regulatory
3 noncompliance.

4 (12) *Duplex* means a residential building containing two (2) separate
5 dwelling units either side by side or one above the other.

6 (13) *Dwelling* means a building or portion thereof designed
7 exclusively for residential occupancy by one (1) family for living and
8 sleeping purposes and not to exceed two (2) dwelling units.

9 (14) *Dwelling unit* means one (1) or more rooms and a single kitchen
10 in a dwelling, designed as a unit for occupancy by one (1) family for living
11 and sleeping purposes.

12 (15) *Financial assurance* means a financial guarantee assuring that
13 funds are available to pay for the design, construction, operation and closure
14 of a solid waste landfill facility, for rendering post-closure at a solid waste
15 landfill facility, for corrective action and to compensate third parties for
16 bodily injury and property damage caused by sudden and non-sudden
17 accidents related to the operation of a solid waste landfill facility.

18 (16) *Generator* means any person that generates or produces solid
19 waste.

20 (17) *Government* means the government of Guam, all of its agencies,
21 whether line or autonomous, and all public corporations.

22 (18) *Hardfill* shall mean a method of compaction and earth cover of
23 solid wastes other than those containing garbage or other putrescible
24 (putrescent) waste, including, but not limited to, demolition material, and
25 like materials not constituting a health or nuisance hazard, where cover need
26 not be applied on a per day used basis. No combustible materials shall be
27 deposited in a hardfill.

1 (a) *Combustible Materials* shall mean any solid or liquid that may
2 be ignited.

3 (i) *Combustible Solids*, as defined in Title 49 of the Code of
4 Federal Regulations, Chapter 1, Subtitle B, Part 173.124, are those capable
5 of igniting and burning.

6 (ii) *Combustible Liquids*, as defined in Title 29 of the Code
7 of Federal Regulations, Chapter 17, Subtitle B, Part 1910.106, shall mean
8 any materials having a flash point at or above 100 degrees Fahrenheit (37.8
9 degrees Celsius), but below 200 degrees Fahrenheit (93.3 degrees Celsius),
10 except any mixture having components with flashpoints of 200 degrees
11 Fahrenheit (93.3 degrees Celsius), or higher, the total volume of which make
12 up ninety-nine percent (99%) or more of the total volume of the mixture.

13 (19) *Hazardous Waste* means any material or substance which, by reason
14 of its composition or characteristics:

15 (a) hazardous waste as defined in the Solid Waste Disposal Act, 42
16 USC '6901, et seq., as amended, replaced or superseded and the
17 regulations implementing same,

18 (b) a hazardous substance as defined by the Comprehensive
19 Environmental Response, Compensation and Liability Act of 1980, 42
20 USC § 9601, et seq.,

21 (c) material the disposal of which is regulated by the Toxic
22 Substances Control Act, 15 USC ' 2601, et seq., as amended, replaced or
23 superseded, and the regulations implementing same,

24 (d) special nuclear or by-products material within the meaning of the
25 Atomic Energy Act of 1954,

26 (e) pathological, infectious or biological waste,

1 (f) treated as hazardous waste or as a hazardous substance under
2 applicable law,

3 (g) requires a hazardous waste or similar permit for its storage,
4 treatment, incineration or disposal,

5 (h) may cause or significantly contribute to an increase in mortality or
6 an increase in serious irreversible, or incapacitating reversible illness, or

7 (j) may pose a substantial present or potential hazard to human health
8 or the environment when improperly treated, stored, transported or disposed
9 of, or otherwise damaged.

10 (20) *Highway* means the entire width between the boundary lines of
11 every right-of-way or publicly maintained travel ways when any part thereof
12 is open to the use of the public for purposes of vehicular travel.

13 (21) *Incinerator* means an enclosed device using controlled flame
14 combustion, the primary purpose of which is to thermally break down solid
15 waste.

16 (22) *Multi-family dwelling* means a building containing three (3) or
17 more dwellings.

18 (23) *Operator* means any person who accepts solid waste from a
19 collector for transfer, storage, recycling, combustion, processing or disposal.

20 (24) *Performance bond* means a security for financial loss caused by
21 the act or default performance of a person or by uncontrollable conditions.

22 (25) *Person* means any individual, partnership, co-partnership, firm,
23 company, corporation, association, joint stock company, trust, estate, or any
24 agency, department, or instrumentality of the Federal or local government,
25 or any other legal representatives, agents or assigns.

1 (26) *Plan* means the interim or final Solid Waste Management Plan
2 ('SWMP') prepared and adopted by the GEPA in accordance with the
3 Administrative Adjudication Law.

4 (27) *Plasma torch heating technology* means converting electrical
5 energy into heat energy producing clean fuel gas and recyclable slag.

6 (28) *Plasma Remediation In-Situ Materials* ('PRISM') means a plasma
7 torch technology process that melts down and converts landfill material into
8 slag and fuel gas.

9 (29) *Pollution* means the condition caused by the presence in the
10 environment of substances of such character and in such quantities that the
11 quality of the environment is impaired or rendered offensive to life.

12 (30) *Processing* means any method, system or other treatment
13 designed to change the physical, chemical or biological character or
14 composition of any solid waste. This includes the neutralization of any
15 hazardous waste; the rendering of any hazardous waste non-hazardous, safer
16 for transport, amenable for recovery, amenable for storage or reduced in
17 volume; or any other activity or processing designed to change the physical
18 form or chemical composition of hazardous waste so as to render it non-
19 hazardous.

20 (31) *Recyclable materials* includes the following materials discarded
21 from households, businesses, commercial and industrial establishments,
22 hotels, government, agricultural, landscaping, yard maintenance and military
23 operations which may be reused or for which a market exists:

24 (a) *aluminum* means any product manufactured of aluminum or
25 aluminum alloy;

26 (b) *battery* means any lead acid battery or dry cell battery discarded
27 on Guam, independent of intended use;

1 (c) *biomass* means any large biomass source, such as trees, wood,
2 grass, hedge cuttings, jungle growth, yard waste and sewage sludge;

3 (d) *construction debris* means the materials from building
4 construction;

5 (e) *corrugated cardboard* means kraft, jute or test liner pulp which is
6 made by combining two (2) or more webs of paper and formed or shaped
7 into wrinkles or folds or into alternate ridges and grooves;

8 (f) *demolition waste* means the materials obtained from the
9 demolition or razing of buildings;

10 (g) *glass* means any product manufactured from a mixture of silicates,
11 borates or phosphates;

12 (h) *metal scrap* means any metal, in whole or in parts, from buildings,
13 equipment, machinery or vehicles;

14 (i) *newspaper* means a publication which is distributed and contains
15 news articles, opinions, features, and advertising and is printed on
16 impermanent wood pulp materials;

17 (j) *office paper* means computer paper and white and colored ledger
18 paper;

19 (k) *used oil* means any petroleum-based, mineral, or synthetic oil
20 which through use, storage or handling has become unsuitable for its
21 original purpose due to the presence of impurities or loss of original
22 properties; and

23 (l) such other materials which the Authority determines, from time to
24 time, may be recycled.

25 (32) *Recycle* or *Recycling* means the method by which recovered
26 resources are converted for use as raw material or feedstock to make new
27 products.

1 (33) *Resource recovery* means the process of recovering recyclable
2 materials or the recovery of energy from solid waste.

3 (34) *Resource Recovery Facility* ('RRF') is a facility that recovers for
4 sale or reuse of recyclable materials.

5 (35) *Reusing* means the reintroduction of a commodity in the
6 economic stream without any changes.

7 (36) *Sanitary landfill* means an approved site where solid waste and
8 ash are disposed using modern sanitary landfilling techniques in accordance
9 with Federal and local regulations.

10 (37) *Sanitary landfilling* means an engineered method of disposing of
11 solid waste on land in accordance with Federal and local regulations in a
12 manner that protects the environment by spreading the waste in thin layers,
13 compacting it to the smallest practical volume, and covering it with
14 approved material at the end of each working day.

15 (38) *Separation* means the systematic division of solid waste into
16 designated components.

17 (39) *Single Family Residence* means a detached building designed for
18 and/or occupied exclusively by one (1) family, or one (1) of two (2)
19 dwelling units on a duplex.

20 (40) *Solid waste* means any garbage, refuse or sludge from a waste
21 treatment plant, water supply treatment plant, or air pollution control facility
22 and other discarded and/or spilled materials, including solid, liquid,
23 semisolid or contained gaseous material resulting from industrial, mining,
24 commercial, and agriculture operations, and from community activities, but
25 does not include solid or dissolved material in domestic sewage, or solid or
26 dissolved materials in irrigation return flows or industrial discharges which
27 are point sources subject to permits under '402 of the Federal Water

1 Pollution Control Act, as amended (68 Stat. 880) , or source, special nuclear,
2 or by-product material as defined by the Atomic Energy Act of 1954, as
3 amended (68 Stat. 923) .

4 (41) *Solid waste management* means the purposeful, systematic
5 control of the generation, storage, collection, transportation, separation,
6 processing and disposal of solid waste.

7 (42) *Solid waste management facilities* means any facility, or any
8 machinery, equipment, vehicles, structures or any part of accessories thereof
9 installed or acquired for the primary purpose of: collection, transportation,
10 storage, recycling, processing or disposal of solid waste, and shall include
11 sanitary landfills, resource recovery facilities, or plasma torch.

12 (43) *Solid Waste Management Plan* means a comprehensive plan and
13 all amendments and revisions thereto for provisions of solid waste
14 management throughout Guam.

15 (44) *Solid waste management practices* means the actions to
16 effectuate the generation, storage, collection, transportation, processing,
17 recycling, incineration, plasma torch or resource recovery or disposal of
18 solid waste.

19 (45) *Solid Waste Management System* ('SWMS') means the entire
20 system covered in the SWMP and designated by the Director for the storage,
21 collection, generation, transportation, processing, recycling, incineration,
22 plasma torch and disposal of solid waste within Guam.

23 (46) *Source separated waste* means recyclable materials that are set
24 aside by the generator for segregated collection and transport to solid waste
25 management facilities.

26 (47) *Storage* means the interim containment of solid waste in
27 accordance with Federal and local regulations.

1 (48) *Transfer station* shall mean any intermediate waste facility in
2 which solid waste collected from any source is temporarily deposited and
3 stored while awaiting transportation to another solid waste management
4 facility.

5 **§ 15003. Continuation of Existence.** The Solid Waste Management
6 Division, a sub-entity of the Department of Public Works shall continue in
7 existence as an autonomous, public corporation now referred to as the Guam
8 Solid Waste Authority (GSWA).

9 **§ 15004. Powers and Duties of the Authority.** The Authority shall
10 have and exercise each and all of the following powers:

11 (a) Administer those powers listed under this Chapter 15, Title 12 of
12 the Guam Code Annotated.

13 (b) Acquire by grant, purchase, gift, devise or lease, or by the exercise
14 of the right of eminent domain in accordance with the provisions and subject
15 to limitations of 21 GCA Chapter 15, and hold and use any real or personal
16 property necessary or convenient or useful for the carrying on of any of the
17 powers pursuant to the provisions of this Chapter;

18 (c) Establish its internal organization and management, and adopt
19 regulations for the administration of its operations;

20 (d) Establish and modify from time to time, with approval of the Public
21 Utility Commission (PUC), reasonable rates and charges for the collection,
22 transportation, disposal, storage, recycling and processing of solid waste to
23 recover the full cost of providing such services, and collect money from
24 customers using such services. Similarly, the Authority shall establish and
25 modify from time to time, with the approval of the Public Utilities
26 Commission, reasonable rate and charges for servicing of debt obtained to
27 undertake capital improvements to solid waste management;

1 (e) Enter into contracts and execute all instruments necessary or
2 convenient in the exercise of its powers, adopt a seal and sue or be sued in
3 its own corporate name;

4 (f) At any time or from time to time, incur indebtedness pursuant to
5 Article 2 of this Chapter;

6 (g) Enter into contracts with the Government of Guam or with the
7 United States for loans or grants;

8 (h) Employ, retain or contract for the services of qualified solid waste
9 management specialists or experts, as individuals or as organizations, to
10 provide technical advice and assistance;

11 (i) Adopt such rules and regulations as may be necessary for the
12 exercise of the powers and performance of the duties conferred or imposed
13 upon the Authority or the Commission by this Act;

14 (j) Control, operate, improve, equip, maintain, repair, renew, replace,
15 reconstruct, alter and insure that the solid waste management system is
16 compliant with any applicable zoning, building, environmental and health
17 regulations of the territory of Guam; and

18 (k) Do any and all other things necessary to the full and convenient
19 exercise of the above powers;

20 (l) enter into public-private partnerships for solid waste management
21 facilities and operations, the closure and beneficial use of the Ordot Landfill
22 site, source reduction, recycling, composting, resource recovery, waste
23 reduction and transfer stations. This duty shall also address construction
24 debris or demolition waste, metallic debris, white goods, tires and green
25 waste contracts;

26 (m) organize, plan for, secure and manage resources and promote the
27 implementation of the Solid Waste Management Plan;

1 (n) evaluate and promote capital improvements and maintenance
2 programs to the solid waste management system;

3 (o) address the necessity for a facility for the shredding of tires for
4 recycling or for use as rubberized asphalt;

5 (p) address the necessity for a facility for the recycling of glass,
6 including its use as glassphalt;

7 (q) address the necessity for a facility for the recycling of scrap metals,
8 including discarded vehicles, appliances and equipment, including shredding
9 for containerization or other shipment;

10 (r) require the preparation of any necessary environmental impact
11 assessments or environmental impact reports;

12 (s) mandate the inspection and monitoring of all solid waste
13 management facilities to assure compliance with this Act, the Plan, other
14 law, rules and regulations applicable to Guam; and

15 (t) apply for all grants-in-aid requests and administer any such
16 programs or funds, except those established for recycling.

17 (u) adopt rules and regulations governing selection, compensation,
18 promotion, performance evaluation, disciplinary action and other terms and
19 conditions of employment affecting *certified technical and professional*
20 personnel, subject to the provisions of the Administrative Adjudication Act.
21 Such rules and regulations shall provide for the employment and retention of
22 persons on the basis of merit, and shall include an orderly and systematic
23 method of recruitment and the establishment of a list of qualified applicants.
24 *Certified Technical and Professional* personnel are defined as personnel
25 employed by the Guam Solid Waste Authority who are professional
26 engineers, attorneys, and other licensed professionals. Compensation for all
27 other personnel shall remain consistent with compensation plans and pay

1 scales as determined by law.

2 Nothing contained in this Section or elsewhere in this Article shall be
3 construed directly or by implication to be in any way in derogation or
4 limitation of powers conferred upon or existing in the Authority or the
5 Commission by virtue of any provisions of the Organic Act of Guam or
6 Statutes of the Territory or any other provision of this Code.

7 **§ 15005. Governance of Authority.** All powers vested in the
8 Authority, except as provided herein, shall be exercised by the Consolidated
9 Commission on Utilities, as established in Chapter 79 of Title 12 of the
10 Guam Code Annotated upon relief of the Receiver by the U.S. District
11 Court.

12 **§ 15006. General Manager.**

13 (a) The Commission shall appoint a general manager who shall be its
14 chief executive officer and shall serve at its pleasure. The general manager
15 shall, at a minimum, possess the following qualifications:

16 i). A combined minimum of six (6) years of documented
17 experience successfully managing a Solid Waste Management System of
18 similar size as the GSWA system, and

19 ii). Graduation from an accredited institution of higher education
20 with a Bachelors degree in Business Management, Engineering
21 Management, Engineering Technology or Civil Engineering, or

22 (b) The Commission shall fix the general manager's compensation,
23 notwithstanding any other provision of law. The general manager shall
24 manage the construction, maintenance, operation and administration of
25 business affairs of the Authority.

26 (c) The Commission may contract with a business entity to perform any
27 or all of the duties, and to exercise any or all of the powers of the general

1 manager as provided in this Section, and the general manager, subject to the
2 approval of the Commission, may contract with a business entity to perform
3 some of the duties or to render expert and technical assistance in the
4 operation of the Authority. The Initial Term of such a management contract
5 shall be for a period of up to three (3) years. The Authority shall also have
6 the option for two (2) Renewal Terms of five (5) years each. The contracted
7 business entity pursuant to this Section must have a minimum of ten (10)
8 years experience in management and operation of a solid waste system of
9 similar or greater scope than the Authority.

10 (d) The powers and responsibilities of the General Manager shall
11 include the following:

- 12 (i) To enforce all rules and regulation of the Authority;
- 13 (ii) To attend all meetings of the Commission and submit a
14 general report of the affairs of the Authority;
- 15 (iii) To keep the Commission advised as to the needs of the
16 Authority, to approve demands for the payment of
17 obligations of the Authority, and to approve expenditures
18 and collection of revenue within the purposes and amounts
19 authorized by the annual budget;
- 20 (iv) To prepare, or cause to be prepared, all plans and
21 specifications for the constructions of work by the Authority
22 in accordance with the annual budget;
- 23 (v) To select and appoint the employees of the Authority, except
24 as otherwise provided by this Chapter, and to plan, organize,
25 coordinate and control the services of such employees in the
26 exercise of the powers of the Authority under the general
27 direction of the Commission;

1 (vi) To cause to be published within one hundred twenty (120)
2 days from the end of each fiscal year a financial report,
3 which shall include an annual financial audit pursuant to
4 §1908 and §1909 of Chapter 19, Title 1 Guam Code
5 Annotated. This report should present the result of
6 operations for the preceding fiscal year and the financial
7 status of the Authority on the last day thereof. The
8 publication shall be made in the manner provided by the
9 Commission; and

10 (vii) To perform such other and additional duties as the
11 Commission may require.

12 **§15007. Assistant General Manager: Operations and Technical**

13 **Support.** The General Manager, with the consent of the Commission, may
14 appoint an Assistant General Manager for Operations and Technical
15 Support, who shall serve at the pleasure of the General Manager.

16 (a) The Assistant General Manager of Operations and Technical
17 Support shall be entitled to receive compensation as recommended by the
18 General Manager and approved by the Commission.

19 (b) Such Assistant General Manager shall devote his entire time to the
20 business of the Authority and shall have full charge and control, subject to
21 the direction of the General Manager, of all operations, engineering and
22 technical services pertaining to the generation, storage, collection,
23 transportation, processing, recycling, resource recovery or disposal of solid
24 waste.

25 (c) Such Assistant General Manager shall have such other duties as may
26 be designated by the General Manager.

27 **§15008. Assistant General Manager: Administration.** The General

1 Manager, with the consent of the Commission, may appoint an Assistant
2 General Manager for Administration, who shall serve at the pleasure of the
3 General Manager.

4 (a) The Assistant General Manager of Administration shall be entitled
5 to receive compensation as recommended by the General Manager and
6 approved by the Commission.

7 (b) Such Assistant General Manager shall devote his/her entire time to
8 the business of the Authority and shall have full charge and control, subject
9 to the direction of the General Manager, of all administration of the
10 Authority.

11 (c) Such Assistant General Manager shall have such other duties as may
12 be designated by the General Manager.

13 **§ 15009. Chief Financial Officer.** The Commission may appoint a
14 chief financial officer who shall be a Certified Public Accountant. The
15 Commission shall fix the chief financial officer's compensation. The chief
16 financial officer shall have full charge and control of the fiscal, business and
17 accounting operations of the Authority, subject to the supervision of the
18 Commission.

19 **§ 15010. Other Officers.**

20 (a) The Commission may also appoint a Secretary and an Attorney,
21 who all shall serve at the pleasure of the Commission and whose duties and
22 compensation shall be fixed by the Commission. The Commission may
23 appoint one or more assistants to any such office. Any of such offices may
24 be consolidated in one person.

25 (b) The Secretary shall have charge of all records and minutes of the
26 Commission.

27 (c) The Attorney, who must have been admitted to practice in Guam,

1 shall advise the Commission and the General Manager on all legal matters to
2 which the Authority is a party or in which the Authority is legally interested
3 and may represent the Authority in connection with legal matters before the
4 Legislature, boards and other agencies of the Territory. The Attorney
5 General shall represent the Authority in litigation concerning the affairs of
6 the Authority provided that he may delegate this duty to the Attorney of the
7 Authority, with respect to any such litigation.

8 **§ 15011. Employees.** All employees of the Authority shall be eligible
9 for all insurance, retirement, worker's compensation and other benefits as
10 extended to employees of the government of Guam, and shall be employees
11 of the government of Guam for the purposes of the application of all civil
12 service laws and personnel rules and regulations that apply to government of
13 Guam employees, inclusive of all scales, tables and schedules for
14 compensation. With respect to compensation, this Section shall not apply to
15 the compensation of the General Manager, Assistant General Manager:
16 Administration, Assistant General Manager: Operations and Technical
17 Support, Secretary, Attorney or the Chief Financial Officer.

18 **§ 15012. Acquisition of Existing Systems, Employees, and Debt.**
19 Ninety (90) days after the effective date of this Act the Authority shall
20 assume in writing from the Department of Public Works, Solid Waste
21 Management Division:

22 (a) all real property under the DPW Solid Waste Management Division
23 (SWMD) administration and items of property, materials and supplies which
24 the SWMD owns or controls, including construction work in progress.

25 (b) all working capital, cash, accounts payable and receivable, deposits,
26 advances payable and receivable, all books, records and maps and all other
27 rights, obligations, assets, liabilities, agreements and privileges of the

1 Authority or attributable to the Authority.

2 (c) Each Government of Guam employee assigned to the Department of
3 Public Works, Solid Waste Management Division at the date of the transfer
4 pursuant to statute shall be transferred to the Authority. All classified
5 employees shall remain classified.

6 **§ 15013. Exemption from Taxation, and In Lieu Payments.** As an
7 instrumentality of the Territory, the Authority and all property acquired by
8 or for the Commission and all revenues and income from taxation by the
9 Territory or by any political subdivision or public corporation thereof and
10 from all taxes imposed under the authority of the Legislature of the
11 Territory, or with respect to which the Legislature is authorized to grant
12 exemption.

13 **§15014. General Operations. Rates for Services.** The Authority shall
14 apply to the Public Utilities Commission (PUC) for establishment of its rates
15 for its services including, but not limited to:

16 (a) Operating Costs:

- 17 i. Layon Landfill
- 18 ii. Commercial Transfer Stations
- 19 iii. Retail Transfer Stations
- 20 iv. Residential Trash Collection
- 21 v. Bulky and Metallic Waste collection
- 22 vi. Recycling
- 23 vii. Customer Service and Education
- 24 viii. Equipment Maintenance
- 25 ix. Household Hazardous Waste
- 26 x. Administration

27 (b) Reserve Fund Costs.

- 1 i. Debt Service
- 2 ii. Equipment Replacement
- 3 iii. New Cell Development
- 4 iv. Closure of Cells
- 5 v. Post Closure Care

6 **§ 15015. Accounting and Expenditures.**

7 (a) The Commission shall adopt and maintain a system of accounting.

8 (b) The Commission shall authorize, by means of the annual budget,
9 payment of demands against the Authority resulting from the exercise of
10 its powers under this Act if:

- 11 i. the purposes and amounts of such demands are projected in the
12 budget, expressed in terms of major account groups of the Uniform
13 System of Accounts, which has been adopted by the Commission
14 after receiving recommendations from the General Manager; and
- 15 ii. the specific demands which are made are approved by the
16 Commission before payment.

17 (c) The Commission shall employ, in accordance with the appropriate
18 procurement laws and the annual budget, a firm of locally licensed,
19 independent Certified Public Accountants who shall annually examine the
20 financial status and workings of the Authority for the previous fiscal year.
21 Said firm shall submit no later than February 1st of each year, a written
22 report on the financial status and workings of the Authority during the
23 previous fiscal year to *I Magalahren Guåhan* [Governor], the General
24 Manager and *I Liheslaturan Guåhan*. *I Magalahren Guåhan* and *I*
25 *Liheslaturan Guåhan* may request special reports within thirty (30) days
26 after the end of each fiscal quarter. The financial information presented in
27 the reports required by this Section shall be in accordance with the Uniform

1 System of Accounts adopted by the Commission. Claims against the Guam
2 Solid Waste Authority shall be submitted to the Attorney General of Guam
3 in accordance with the Government Claims Act.

4 **§ 15016. Annual Budget.** For the purposes of Chapter 15 of Title 12
5 of the Guam Code Annotated, the term *annual budget* means a balanced
6 budget for expenditures of the Guam Solid Waste Authority for a fiscal year
7 to be funded by the anticipated revenues and other funds to be received and
8 expended for the same fiscal year, submitted to the Commission and
9 approved by resolution, with amendment and modification as may be desired
10 by the Commission.

11 (a) If the Authority fails to submit a budget for the next fiscal year, the
12 current fiscal year's budget shall be deemed approved for the next fiscal
13 year, subject to Commission modification.

14 **§ 15017. Employment.**

15 (a) Pursuant to the provisions of 4 GCA §§4105 and 4106, the
16 Commission shall establish rules and regulations regarding selection,
17 promotion, performance evaluation, demotion, suspension and other
18 disciplinary action for the employees of the Authority which shall be
19 transmitted to *I Liheslatura Guahån* [Legislature] to be ratified, which
20 thereafter shall supersede the provisions in §15110 of this Chapter. All
21 contracts for the hiring of off island employees shall conform to the
22 provisions of 4 GCA §§6501 and 6501.1.

23 (b) Classified employees of the Authority shall be members of the
24 government of Guam Retirement Fund. The Authority shall contribute to the
25 government of Guam Retirement Fund on the basis of annual billings as
26 determined by the Board of Trustees of the government of Guam Retirement
27 Fund, for the government share of the cost of the retirement benefits

1 applicable to the Authority's employees and their beneficiaries. The
2 Authority shall also contribute to the Worker's Compensation Fund, on the
3 basis of annual billings as determined by the Worker's Compensation
4 Commissioner, for the benefit payments made from such Fund on account of
5 the Authority's employees.

6 (c) Notwithstanding any other provisions of law, neither the General
7 Manager, Assistant General Managers, Secretary, Chief Financial Officer,
8 nor Attorney of the Authority shall be within the classified service of the
9 government of Guam but shall be hired, compensated and employed under
10 the terms and conditions fixed by, and at the pleasure of the Commission.

11 **ARTICLE 2.**

12 **Guam Solid Waste Authority Revenue Bonds.**

13 **§15200. Authorization of Indebtedness Through GEDA.**

14 **§15201. Guam Economic Development Authority as Central** 15 **Financial Manager.**

16 **§15202. Evidence of Transfers Filed at the Department of Land** 17 **Management.**

18 **§15203. Statutory Approval Required for Sale.**

19 **§15204. Acceptance of Payments, Installation Applications and** 20 **Service/Repair Requests via the Internet.**

21 **§15200. Authorization of indebtedness through GEDA.** The Guam
22 Economic Development Authority ('GEDA') may obtain funds through the
23 issuance of bonds or other obligations on behalf of the Authority.

24 (a) Bonds or Notes. Accordingly, the Authority, through GEDA, with
25 the approval of *I Magalahaen Guåhan* and *I Liheslaturan Guåhan* is
26 authorized to incur indebtedness, and to issue bonds or notes therefor,
27 secured by a pledge of all or any portion of the revenues of the Authority, to

1 establish and facilitate the Solid Waste Management Plan, and collection,
2 transportation, storage, recycling, processing or disposal of solid waste,
3 which shall include sanitary landfills and resource recover facilities.

4 (b) Subordinated Indebtedness. In addition, the Authority, acting
5 through GEDA, may incur indebtedness for any other lawful purpose of the
6 Authority, provided that such indebtedness shall have a term not exceeding
7 fifty (50) years and shall be subordinate to any contractual obligation of the
8 Authority to the holders of any indebtedness issued pursuant to subsection
9 (a) of this section.

10 (c) Short Term Borrowing. Pursuant to GEDA, the Authority may
11 incur indebtedness with the approval of the Governor for any lawful purpose
12 for a term not exceeding five (5) years; provided, that such indebtedness
13 shall be subject and subordinate to any contractual obligation of the
14 Authority to the holders of any bonds issued pursuant to paragraphs (a) or
15 (b) of this section. The principal of and interest of any such short term
16 borrowing may be repaid from revenues, or if incurred for a purpose for
17 which bonds may be issued, from revenues or from the proceeds of sale of
18 bonds.

19 (d) Character of Indebtedness. All indebtedness incurred by the
20 Authority pursuant to this Article shall be repayable solely from monies of
21 the Authority available therefor, including revenues, and shall not be
22 deemed to be public indebtedness of the Territory as that term is used in
23 Section 11 of the Organic Act.

24 (e) Waiver of Immunity. Notwithstanding any substantive or
25 procedural provision of Chapter 6, Title 5, Guam Code Annotated, the
26 Authority shall not be entitled to immunity from any suit or action in
27 contract on the indebtedness authorized by this Article.

1 **§15201. Guam Economic Development Authority as Central**
2 **Financial Manager.** Notwithstanding any other provisions of this Article,
3 the Guam Economic Development Authority shall act as the Central
4 Financial Manager and Consultant to the Authority and shall provide
5 technical assistance in obtaining funds through the issuance of bonds or
6 other obligations. The Authority must comply with all provisions under this
7 section relative to the financial requirements and needs as directed by
8 GEDA.

9 **§ 15202. Evidence of Transfers Filed at the Department of Land**
10 **Management.** Transfer of real property interests pursuant to this Act,
11 including but not limited to fee estates, easements and land use rights
12 evidenced by easements, leases and licenses, shall be filed in the form of
13 deeds or assignments signed by *I Magalahen Guåhan* in good form
14 containing specific property descriptions, lot numbers and map numbers, at
15 the Department of Land Management within 360 days of the effective date
16 of this Act. Any transfer not filed within such time frame shall lapse and be
17 of no further force and effect unless re-initiated or authorized by separate
18 statutory legislation authority. Any subsequent easements or transfers of
19 property from the Government of Guam, including the Chamorro Land Trust
20 Commission, shall be in the form of deeds or assignments in good form
21 containing specific property descriptions, lot numbers and map numbers,
22 recorded at the Department of Land Management.

23 **§ 15203. Statutory Approval Required for Sale.** Notwithstanding
24 any of the provisions of this Act, specific legislative statutory approval shall
25 be required prior to sale, transfer or lease of any real property assets or lands
26 of the Guam Solid Waste Authority. Nothing herein shall be construed as
27 such approval. In addition, notwithstanding any other provision contained

1 herein, the provisions of 1 GCA § 1800 shall be applicable to the Guam
2 Solid Waste Authority.

3 **§ 15204. Acceptance of Payments, Installation Applications and**
4 **Service/Repair Requests via the Internet.**

5 (a) Notwithstanding any other provision of law, the Guam Solid Waste
6 Authority shall provide that the following services be made available via the
7 internet:

- 8 (i) Acceptance of online payments;
- 9 (ii) Application for installation of new and additional services, and
- 10 (iii) Requests for service and repair.

11 (b) The Guam Solid Waste Authority shall provide an email address(es)
12 for inquiries regarding subsection (a) (1), (2) and (3).

13 (c) Nothing herein shall be construed as limiting the Authority's ability
14 to receive payments through online payment and/or banking services.

15 (d) The Guam Solid Waste Authority shall set, by Administrative Rule,
16 the timeframes to which email inquiries must be addressed and dispensed
17 with.

18 (e) The Guam Solid Waste Authority shall adopt appropriate security
19 measures necessary to protect its customers from fraud and identity theft.

20 **ARTICLE 3.**

21 **Transition to the Guam Solid Waste Authority**

22 **§15301. Effective Date.** The provisions of this Act shall take effect
23 upon ninety (90) days of enactment of this Act except as specified in Section
24 5 of this Act.”

25 **Section 7.** §51118 of Chapter 51, Title 10 Guam Code Annotated is
26 hereby *repealed* and *reenacted* as §15018, Chapter 15, Title 12 Guam Code
27 Annotated, and shall read:

1 **§15018. Solid Waste Operations Fund.**

2 **(a) Commercial Haulers.** For commercial, including multi-family
3 dwellings and government agencies, the charge is a disposal tipping fee and
4 does not include collection fees independently charged by commercial waste
5 haulers.

6 **(b) Commercial and Residential Tipping Fees.** All commercial and
7 residential tipping fees charged by the Authority shall be subject to the
8 review and approval of the Public Utilities Commission.

9 **(c) Business and Governmental Tipping Fees.** A tipping fee per
10 cubic yard, uncompacted, shall be established for business and government
11 generators, subject to approval by the Public Utilities Commission (PUC),
12 and shall be published in a rate order developed by the PUC.

13 **(d) Residential Tipping Fees.** A residential tipping fee, which may
14 include collection charges and a Self-Drop Fee, may be established subject
15 to the approval of the PUC.

16 **(e) PUC Rate-making.** The Public Utilities Commission of Guam
17 [‘PUC’] is hereby authorized to establish, amend and approve, in accordance
18 with Chapter 12 of Title 12, Guam Code Annotated, all commercial,
19 government and residential tipping and user fees [including without
20 limitation a self-drop fee, a variable residential tipping fee and, collectively
21 referred to as ‘tipping fees’], which when established shall replace those
22 previously created by law. Tipping fees authorized and established by PUC
23 shall be based on volume and on an analysis of operations costs, including
24 those cost components specifically listed under §15014 of this Act. PUC is
25 empowered to undertake a focused management audit of the existing
26 operations of the Guam Solid Waste Authority. In performing its duties
27 under this Section, PUC shall have the full authority and powers conferred

1 upon it by its enabling legislation, 12 GCA 12000 et. sec., including the
2 audit power conferred upon it by Public Laws 25-05:12 and 26-78:2.

3 (f) **Solid Waste Operations Fund.** All tipping, user and other fees
4 authorized under this Section and collected based on duly established rules
5 and regulations or on a PUC rate order shall be deposited in a special fund
6 designated and hereby established as the Solid Waste Operations Fund. All
7 tipping/user fees in the Fund shall be used solely for solid waste
8 management purposes and, pursuant to PUC order, for the payment of
9 regulatory costs and expenses as may be incurred by PUC in performing its
10 regulatory duties under Subsection (e).

11 **Section 8.** Article 3 of Chapter 51, Title 10 Guam Code Annotated is
12 hereby *repealed* and *reenacted* under Article 4, Chapter 15, Title 12 Guam
13 Code Annotated, and shall read:

14 **“ARTICLE 4**

15 **ANNUAL CONTRACT FOR SCRAP REMOVAL**

16 **§15401. Contract to Remove Scrap**

17 **§15402. Biennial Contract.**

18 **§15403. Environmental Impact Study**

19 **§15404. Conformity to Waste Removal Regulations**

20 **§15405. Reports**

21 **§15401. Contract to Remove Scrap.** The General Manager, after
22 duly advertising for a request for proposals for the removal of scrap metal,
23 shall enter into a contract with any interested business organization, either
24 local or off-island, to collect and remove from Guam scrap metal. The
25 successful offeror may not be charged for the scrap metal but shall post a
26 performance bond equal to 70% of contract value to assure contract
27 completion of the removal project within twenty-four (24) months from

1 receiving from the General Manager a Notice to Proceed. A “Scrap Metal”
2 for the purpose of this Article means abandoned vehicles and other
3 abandoned metal implements of which the Authority has jurisdiction and the
4 right to dispose. In so disposing of such scrap metal, the General Manager
5 shall not charge any fees to the owner of the same.

6 **§ 15402. Biennial Contract.** The General Manager shall advertise for
7 and execute such a contract every two (2) years with any qualified party on
8 the same terms as are set out in §15401 of this Article.

9 **§ 15403. Environmental Impact Study.** The Guam Solid Waste
10 Authority shall cause an environmental impact study to be undertaken by the
11 successful offeror prior to the issuance of a permit and the Notice to Proceed
12 to ensure that scrap removal project will not have potential adverse
13 ecological damage to aquifers or the environment at the temporary
14 consolidation site and source location.

15 **§ 15404. Conformity to Waste Removal Regulations.** The
16 successful offeror shall perform all work under this Article in compliance
17 with applicable rules and regulations of GEPA on the removal of scrap metal
18 and hazardous waste. As a minimum, the Authority shall ensure that all
19 successful offerors include as part of their processing, an intake system to
20 screen and remove batteries and other potentially hazardous residual
21 material including, engine oil, hydraulic fluids and coolant and freon from
22 air conditioning units.

23 **§ 15405. Reports.** Each successful bidder shall file a report on a
24 quarterly basis with I Maga’lahen Guåhan [the Governor], I Liheslaturan
25 Guåhan [the Legislature] and the Guam Solid Waste Authority outlining the
26 following:

1 (a) total type and amount of scrap metals, batteries and other
2 potentially hazardous residual material referenced in §15404;

3 (b) cost comparison of the cost of the scrap metal program versus
4 landfill disposal of scrap metals, or any less-than-conventional methods of
5 scrap metal waste reduction; and

6 (c) recommendations for permanent implementation and
7 improvements to the recycling program.”

8 **Section 9.** Article 4 of Chapter 51, Title 10 Guam Code Annotated is
9 hereby *repealed* and *reenacted* under Article 5, Chapter 15, Title 12 Guam
10 Code Annotated, and shall read:

11 **“ARTICLE 5**

12 **CONTRACT FOR COLLECTION OF RECYCLABLE PAPER.**

13 **§15501. Contract to Accept and Collect Recyclable Paper.**

14 **§15502. Biennial Contract.**

15 **§15503. Conformity to All Laws and Rules and Regulations.**

16 **§15504. Reports.**

17 **§15501. Contract to Accept and Collect Recyclable Paper.** The
18 Authority, in accordance with the applicable procurement laws, and after
19 advertising for a request for proposals (‘RFP’) for the collection of
20 recyclable paper, shall enter into a two (2) - year contract with any qualified
21 local interested business or nonprofit organization, to accept and collect
22 recyclable paper to include newsprint, office paper and magazines from the
23 public, and to implement a plan to prevent them from entering Guam’s waste
24 stream. The qualified local business or nonprofit organization shall have
25 active recycling experience and knowledge in Guam. The RFP shall include
26 the requirement that the prospective contractor accepts and pays for all
27 recyclable paper, to include newsprint, office paper and magazines offered

1 by the public. The successful offeror shall be one who bids the highest
2 amount per pound to be paid to the public for the recyclable paper for the
3 duration of the contract term. The successful offeror may not be charged for
4 the recyclable paper but shall post a performance bond equal to 70% of
5 contract value to assure contract completion of the recyclable paper
6 collection project within twenty-four (24) months from receiving from the
7 General Manager a Notice to Proceed.

8 **§ 15502. Biennial Contract.** The Authority shall advertise for and
9 execute such a contract every two (2) years with any qualified party on the
10 same terms as are set out in §15501 of this Article.

11 **§ 15503. Conformity to All Laws and Rules and Regulations.** The
12 successful offeror shall perform all work under this Article in compliance
13 with all applicable laws, including those of this Chapter, and rules and
14 regulations of GEPA as may be established. As a minimum, the Authority
15 shall ensure that all offerors include as part of their processing, a plan to
16 remove the collected paper from Guam's waste stream.

17 **§ 15504. Reports.** Each successful bidder shall file a report on a
18 quarterly basis with *I Magsa'lahen Guåhan* [the Governor], *I Liheslaturan*
19 *Guåhan* [the Legislature] and the Guam Solid Waste Authority outlining the
20 following:

21 (a) total type and amount of paper recycled;

22 (b) cost comparison of the cost of the paper-recycling program
23 versus landfill disposal of paper, or any less-than-conventional methods of
24 paper waste reduction; and

25 (c) recommendations for permanent implementation and
26 improvements to the recycling program.

- 1 (b) automobiles, buses, and trucks or any form of motorized
- 2 vehicle;
- 3 (c) tires (passenger/commercial);
- 4 (d) enameled white goods;
- 5 (e) home appliances (other small appliances that are not considered
- 6 enameled white goods);
- 7 (f) glass and plastic bottles;
- 8 (g) foam padding;
- 9 (h) lead;
- 10 (i) metals (ferrous/non-ferrous);
- 11 (j) organic material (i.e., tree trimmings, palm fronds, grass, food
- 12 waste, soiled cardboard);
- 13 (k) paper products;
- 14 (l) wood pallets and scrap wood;
- 15 (m) construction and demolition debris ('C&D');
- 16 (n) x-ray film;
- 17 (o) automobile oil and fluids;
- 18 (p) Freon and other refrigerant gases;
- 19 (q) electronic waste (i.e., computers, circuit boards, televisions, and
- 20 portable phones);
- 21 (r) heavy equipment; and
- 22 (s) other recyclable materials deemed recyclable by GEPA
- 23 pursuant to the Rules and Regulations.

24 (4) *'Recycling Company'* means any business licensed by the
25 Department of Revenue and Taxation, and issued a permit, as required in §
26 51104 of Chapter 51 of Title 10 of the Guam Code Annotated, from the
27 Guam Environmental Protection Agency to conduct business on Guam.

1 **§ 15602. Creation of Municipal Recycling Proceeds Fund for Each**
2 **Village.** There is hereby established a Municipal Recycling Proceeds Fund
3 for each municipality which shall be maintained separate and apart from any
4 other funds, including the General Fund of the government of Guam, and
5 independent records and accounts shall be maintained in connection
6 therewith. The proceeds from the sale of recyclable materials collected, in
7 accordance with the Municipal Recycling Program, from each village shall
8 be deposited in the respective Municipal Recycling Proceeds Fund. All
9 revenue deposited in each Municipal Recycling Proceeds Fund shall not be
10 commingled with General Fund monies and shall be kept in a separate bank
11 account. All proceeds from fees collected in accordance with §15703 of this
12 Article shall be deposited in the Municipal Recycling Proceeds Fund for the
13 respective village and used exclusively for the purposes authorized in
14 §15704 of this Article. The Municipal Planning Council of each
15 municipality shall administer the Municipal Recycling Proceeds Fund for its
16 municipality which shall be subject to audits by the Public Auditor.

17 **§ 15603. Creation of the Municipal Recycling Program.** There is
18 hereby created a Municipal Recycling Program within the Guam Solid
19 Waste Authority to promote recycling on the municipal level in partnership
20 with the village mayors. The program shall incorporate the following
21 components:

22 (a) Recycling Drop-Off Bins. GSWA shall solicit drop-off bins from
23 recycling companies that would be made available to each mayor
24 participating in the Municipal Recycling Program. The recycling drop-off
25 bins shall be rust-proof, and located at a suitable site within the respective
26 villages so that the residents will have a repository to which they can bring
27 recyclable materials in accordance with guidelines established by the Guam

1 Solid Waste Authority. The mayors of each village participating in the
2 program will be responsible for the security and cleaning of the bins, and the
3 supervision of their use for recycling purposes.

4 (b) Village Education Program. In coordination with the village
5 mayors, GEPA and GSWA shall create educational programs to promote
6 recycling and the use of the recycling drop-off bins within each village.

7 (c) Sale of Recyclable Materials. In partnership with the village
8 mayors, GSWA shall arrange for the sale of recyclable materials, collected
9 at the Recycling Drop-off Bins in each village, to recycling companies. The
10 proceeds from the sale of recyclable materials shall be deposited into the
11 respective Municipal Recycling Proceeds Fund of the village from which the
12 recyclable materials were collected.

13 (d) The Program shall first begin with pilot programs at three (3)
14 villages; one (1) each from northern, central, and southern Guam. The
15 selection of the three (3) villages shall be made by GSWA in concert with
16 the village mayors.

17 **§ 15604. Authorization for Municipal Planning Councils to Use**
18 **the Proceeds from the Sale of Recyclable Materials for Village Needs.**

19 The proceeds from the sale of recyclable materials from a village site shall
20 be retained for use by the municipal government of that village in its
21 Municipal Recycling Proceeds Fund. Expenditures from a village's
22 Municipal Recycling Proceeds Fund shall be exclusively for the needs of
23 that village as determined by the respective Municipal Planning Council
24 through adoption of a resolution.

25 **Section 11.** Subsection (b) of §51103, Article 7, Article 8 and Article
26 9 of Chapter 51, Title 10 Guam Code Annotated are hereby *repealed* and

1 *reenacted* under Article 7, Chapter 15, Title 12 Guam Code Annotated, and
2 shall read:

3 **“ARTICLE 7**

4 **RECYCLING ENTERPRISE ZONE**

5 **§ 15701. Definitions.**

6 **§ 15702. Establishment of Recycling Enterprise Zone.**

7 **§ 15703. Eligibility of Recycling Companies for use of the**
8 **Recycling Enterprise Zone.**

9 **§ 15701. Definitions.** For purposes of this Act, and except as
10 otherwise provided, the following words and phrases, together with all of the
11 common derivatives thereof, shall have the meaning ascribed to them as
12 follows:

13 (1) *JLGCP* shall mean the Jose D. Leon Guerrero Commercial Port.

14 (2) *Recycle* or ‘*Recycling*’ means the method by which recovered
15 resources are converted for use as raw material or feedstock to make new
16 products, as defined in § 51102 (35) of Chapter 51, Title 10 of the Guam
17 Code Annotated.

18 (3) *Recycling company* means any business licensed by the
19 Department of Revenue and Taxation, and has been issued a permit as
20 required in § 51104 of Chapter 51, Title 10 of the Guam Code Annotated by
21 the Guam Environmental Protection Agency (‘GEPA’) to conduct business
22 on Guam and that specifically commits eighty percent (80%) of its
23 operations to recycling.

24 (4) *Transshipment* shall mean to transfer for further transportation
25 from one (1) ship or conveyance to another.

1 (5) *Recyclable materials* means materials that still have useful
2 physical or chemical properties after serving a specific purpose for the same
3 or other purpose. Recyclable materials are as follows:

4 (a) batteries (i.e., lead-acid, portable computer batteries, nickel-
5 cadmium, sealed types for power backup);

6 (b) automobiles, buses, and trucks or any form of motorized
7 vehicle;

8 (c) tires (passenger/commercial);

9 (d) enameled white goods;

10 (e) home appliances (other small appliances that are not considered
11 enameled white goods);

12 (f) glass and plastic bottles;

13 (g) foam padding;

14 (h) lead;

15 (i) metals (ferrous/non-ferrous);

16 (j) organic material (i.e., tree trimmings, palm fronds, grass, food
17 waste, soiled cardboard);

18 (k) paper products;

19 (l) wood pallets and scrap wood;

20 (m) construction and demolition debris ('C&D');

21 (n) x-ray film;

22 (o) automobile oil and fluids;

23 (p) freon and other refrigerant gases;

24 (q) electronic waste (i.e., computers, circuit boards, televisions, and
25 portable phones);

26 (r) heavy equipment; and

1 (s) other recyclable materials deemed recyclable by GEPA
2 pursuant to the Rules and Regulations.

3 **§ 15702. Establishment of Recycling Enterprise Zone.** There is
4 established a “Recycling Enterprise Zone” at the Jose D. Leon Guerrero
5 Commercial Port for use by recycling companies for the processing of
6 automobiles, trucks and tires for recycling purposes, and the transshipment
7 of recyclable materials. The size of the zone and its site on the JLGCP
8 property shall be designated by the Board of Directors of the Port Authority
9 of Guam and guided by the provisions of Section 7.1.4 of the Integrated
10 Solid Waste Management Plan. Such designation shall be made within sixty
11 (60) days of the enactment hereof and the site shall be made available for
12 lease to recycling companies. The Board of Directors of the Port Authority
13 of Guam shall determine and charge a reasonable rate for the lease of said
14 property.

15 **§ 15703. Eligibility of Recycling Companies for use of the**
16 **Recycling Enterprise Zone.** Lease space in the Recycling Enterprise Zone
17 shall only be available to companies that qualify for Qualifying Certificates
18 as recycling companies under guidelines established by the Guam Economic
19 Development Authority.

20 **Section 12.** §1921 of Title 1, Chapter 19 Guam Code Annotated is
21 hereby *amended* to read as follows:

22 **“§1921. Supervision of Audits in Autonomous Agencies and**
23 **Grantees, Manpower Audits.** The Public Auditor is specifically
24 authorized to supervise audits, or at the Public Auditor’s discretion,
25 perform audits, of autonomous agencies and instrumentalities of the
26 government of Guam, inclusive of, but not limited to, the Guam
27 Visitors Bureau (‘GVB’), the Guam Economic Development &

1 Commerce Authority ('GEDCA'), the Port Authority of Guam
2 ('PAG'), the A.B. Won Pat Guam International Airport Authority
3 ('GIAA'), the University of Guam ('UOG'), the Guam Community
4 College ('GCC'), the Guam Memorial Hospital ('GMHA'), the Guam
5 Housing Corporation ('GHC'), the Guam Housing and Urban
6 Renewal Authority ('GHURA'), the Guam Power Authority ('GPA'),
7 the Guam Waterworks Authority ('GWA'), the Guam Telephone
8 Authority ('GTA'), the Government of Guam Retirement
9 Fund('GGRF'), and the Guam Solid Waste Authority ('GSWA').

10 The Public Auditor is authorized to supervise audits of all funds in
11 excess of Three Hundred Thousand Dollars (\$300,000.00) for a single
12 fiscal year from the government of Guam that are given in grant or
13 subsidy to non-profit or profit-making groups, inclusive of GVB. The
14 Public Auditor is authorized to audit the hiring practices, manpower
15 levels and staffing patterns of all departments, agencies and bureaus
16 of the Executive Branch of the government of Guam, and to determine
17 and report to *I Maga'lahañ Guåhan* [Governor], *I Liheslaturan*
18 *Guåhan* [Legislature] and the Public Utilities Commission ('PUC'),
19 as appropriate, on the necessity and applicability of employment
20 levels and categories to the department or agency's purpose and
21 function, as well as draw comparisons with similar entities located
22 elsewhere."

23 **Section 13.** §12000 of Chapter 12, Title 12 Guam Code Annotated is
24 hereby *amended* to read:

25 **"§ 12000. Definitions.** As used in this Chapter:

26 (a) *Public Utility* means the Guam Power Authority, the Jose D. Leon
27 Guerrero Commercial Port, the Guam Waterworks Authority, the Guam

1 Solid Waste Authority or any duly licensed private contractors operating:

2 (i) a facility or subsystem of the community-wide water
3 production and distribution system, or

4 (ii) a facility or subsystem of the community-wide waste water
5 disposal system, or both, or any private golf course management corporation
6 leasing public property providing preferential golf rates and reservations to
7 Guam residents, or

8 (iii) a marine terminal with facilities for loading and unloading
9 commercial cargo or passengers onto and from ocean common carriers.

10 (b) *Commission* means the Public Utilities Commission.

11 (c) *General lifeline rate* means a lower than average cost per unit
12 charge for a level of utility service necessary to fulfill the essential needs of
13 all residential customers.”

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

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

Bill No. 35-31 (Gov)

Introduced by:

T.C. Ada
R.J. RESPICIO
B.J.F. Cruz
ADOLPHO B. PALACIOS, SR.
Aline A. Yamashita, Ph.D.
V. A. Ada
C. Duenas
M.S. Taijeron
D. G. Rodriguez, Jr.

2011 JAN 18
GAM

AN ACT TO *AMEND* §12000 OF CHAPTER 12 OF TITLE 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND §1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA), AND TO *REPEAL* §51118, ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10 GCA AND *REENACT* THEM UNDER A NEW CHAPTER 15, TITLE 12 GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent.

3 *I Liheslaturan Guåhan* finds that the history of the Government of Guam's
4 (GovGuam) violation of the Clean Water Act goes back to 1986, when the United States
5 Environmental Protection Agency issued an administrative order directing the island's
6 Department of Public Works to cease the discharge of leachate from the Ordot Dump.
7 Twenty-four (24) years later, the Ordot Dump, the island's only municipal site for solid
8 waste disposal, continues to leach contaminants, posing an environmental and health
9 hazard. A Consent Decree was approved by the U.S. District Court of Guam in February
10 2004, yet compliance with its mandates has been minimal. GovGuam's commitment to
11 comply with the Consent Decree was not enough to rectify the island's solid waste crisis.
12 Consequently, on March 17, 2008, Gershman, Brickner & Bratton, Inc. (GBB), solid
13 waste management consultants, was appointed as Receiver by the District Court of Guam

1 to achieve the government's compliance with the Clean Water Act as set forth in the
2 Consent Decree. GBB has full power and authority to enforce the terms of the Consent
3 Decree to include assumption of the functions, powers and authority of the Solid Waste
4 Management Division of the Department of Public Works insofar as they affect
5 GovGuam's compliance with the Consent Decree.

6 *I Liheslaturan Guåhan* intends to prepare GovGuam for the eventual resumption
7 of all functions, responsibilities and authority for solid waste management and
8 operations, subsequent to the U.S. District Court determination that the Consent Decree
9 has been satisfied and that GovGuam would have the capability to manage, operate and
10 sustain a compliant solid waste service and landfill. *I Liheslaturan Guåhan* intends to
11 establish the Guam Solid Waste Authority (GSWA), an autonomous public corporation,
12 as successor to the Solid Waste Management Division, a sub-entity of the Department of
13 Public Works.

14 *I Liheslaturan Guåhan* intends to place the GSWA under the governance of the
15 CCU. *I Liheslaturan Guåhan* finds that the Consolidated Commission on Utilities
16 (CCU), a governing body created by P.L. 26-76 in March 2002, has successfully
17 provided effective governance to the Guam Power Authority (GPA) and the Guam
18 Waterworks Authority (GWA) using best management and business practices and that
19 the CCU has the governing experience and capacity to similarly manage the GSWA.
20 Placing the GSWA under the governance of the CCU from the outset, will better assure a
21 successful and stabilized transition.

22

23 **Section 2.** §79100 of Chapter 79 of Title 12 of the Guam Code Annotated is hereby
24 *amended* to read as follows:

25 **§79100. Creation of Commission.** There is established an elected
26 Consolidated Commission on Utilities whose purpose is to exercise powers vested in
27 them by the laws establishing the Guam Power Authority ('GPA'), the Guam Solid
28 Waste Authority ('GSWA') and the Guam Waterworks Authority ('GWA'). The
29 Consolidated Commission on Utilities, hereinafter referred to as "Commission" shall be
30 elected by registered voters of Guam.

31

1 **Section 3.** §79101 of Chapter 79 of Title 12 of the Guam Code Annotated is hereby
2 *amended* to read as follows:

3 **§79101. Commissioners.** The Commission shall be comprised of five (5)
4 Commissioners elected at-large by the voters of Guam in a General Election. To be
5 eligible to be a Commissioner, a person must be a registered voter of Guam and a
6 minimum of twenty-five (25) years of age, and shall have been a resident of Guam for at
7 least five (5) years immediately prior to the date of the Commissioner's election.

8 A person may not simultaneously serve as a Commissioner and an employee of
9 the Guam Waterworks Authority, the Guam Power Authority, the Guam Solid Waste
10 Authority, or the Public Utilities Commission, or simultaneously serve as a
11 Commissioner and an unclassified or contracted employee of the government of Guam.
12 An adjunct instructor, adjunct teacher, or adjunct professor employed by the University
13 of Guam or the Guam Community College may serve as a Commissioner.

14 Persons retired from the government of Guam may serve as Commissioners. At
15 their first official meeting, the Commissioners shall elect from among the Commissioners
16 a chairperson, who shall preside over meetings of the Commission. A majority of the
17 Commissioners holding office shall constitute a quorum. The affirmative vote of the
18 majority of Commissioners holding office shall constitute the decision of the
19 Commission. The Commission may adopt rules and regulations governing the conduct of
20 its affairs.

21

22 **Section 4. Transition Liaison.** Upon enactment of this Act the Commission shall
23 establish a liaison with the Receiver, Gershman, Brickner & Bratton, Inc. and begin
24 discussions preliminary to achieving the objective of GovGuam's eventual resumption of
25 all functions, responsibilities and authority for solid waste management and operations
26 and the governance thereof.

27

28 **Section 5. Effective Date of Governance of the Authority.** Governance of the Guam
29 Solid Waste Authority by the Commission shall take effect upon determination by the
30 United States District Court that the requirements of Section XIV of the Consent Decree
31 (Civil Case No. 02-00022, United States of America, Plaintiff, v. Government of Guam,

1 Defendant) have been fulfilled, and governance of the Municipal Solid Waste
2 Management is returned to the Government of Guam.

3 **Section 6.** A new Chapter 15 is hereby added to Title 12 the Guam Code Annotated, and
4 shall read:

5 **CHAPTER 15**

6 **GUAM SOLID WASTE AUTHORITY**

7 Article 1. General Provisions

8 Article 2. Guam Solid Waste Authority Revenue Bonds

9 Article 3. Transition to a Guam Solid Waste Authority

10 Article 4. Annual Contract for Scrap Removal

11 Article 5. Contract for Collection of Recyclable Paper

12 Article 6. Municipal Recycling Program

13 Article 7. Recycling Enterprise Zone

14 **Article 1.**

15 **General Provisions.**

16 §15001. Short Title.

17 §15002. Definitions.

18 §15003. Continuation of Existence.

19 §15004. Powers and Duties of the Authority

20 §15005. Governance of the Authority.

21 §15006. General Manager (GM).

22 §15007. Assistant GM: Operations and Technical Support.

23 §15008. Assistant GM: Administration

24 §15009. Chief Financial Officer.

25 §15010. Other Officers.

26 §15011. Employees.

27 §15012. Acquisition of Existing Systems, Employees and Debt.

28 §15013. Exemption from Taxation and In Lieu Payments.

29 §15014. General Operations.

30 §15015. Accounting and Expenditures.

31 §15016. Annual Budget.

1 §15017. Employment.

2 §15018. Solid Waste Operation Fund

3 **§15001. Short Title.**

4 This Chapter may be cited as the **Guam Solid Waste Authority Act.**

5 **§15002. Definitions.** As used in this Chapter, unless otherwise indicated:

6 (1) *Authority* means the Guam Solid Waste Authority (GSWA).

7 (2) *General Manager* (GM) means the General Manager of GSWA.

8 (3) *Best public interest* means any activity which: lessens the demand for landfill
9 sites, conserves land resources and serves to insure proper, cost effective, and
10 environmentally sound disposal of solid waste; and, does not pose health risks to human
11 life or endanger plant and animal life.

12 (4) *Commission* means the Consolidated Commission on Utilities.

13 (5) *Business* means and includes any activity or conduct, whether proprietary,
14 partnerships, corporate or whatever form, engaged in, or caused to be engaged in, with
15 the object of gain or economic benefit, either direct or indirect, but shall not include
16 casual sales, personal service contracts, fundraising activities by political candidates or
17 the activities of non-profit associations.

18 (6) *Collection* or *Collect* means the removal of solid waste from a generator.

19 (7) *Collector* means any individual, governmental organization or business, which
20 has received a permit to collect and transport waste in accordance with applicable laws
21 and regulations.

22 (8) *Combustion* means to thermally break down certain types of solid waste in an
23 enclosed device using controlled temperatures.

24 (9) *Composting* means the controlled degradation of organic solid waste.

25 (10) *Disposal* means the discharge, deposit, injection, dumping, spilling, leaking, or
26 placing of any solid waste or hazardous waste into or on any land or water so that such
27 solid waste or hazardous waste or any constituent thereof may enter the environment or
28 be emitted into the air or discharged into any waters, including ground water.

29 (11) *Dump* means a land site where solid waste is disposed without a valid permit, or a
30 landfill that has historically been in regulatory noncompliance.

- 1 (12) *Duplex* means a residential building containing two (2) separate dwelling units
2 either side by side or one above the other.
- 3 (13) *Dwelling* means a building or portion thereof designed exclusively for residential
4 occupancy by one (1) family for living and sleeping purposes and not to exceed two (2)
5 dwelling units.
- 6 (14) *Dwelling unit* means one (1) or more rooms and a single kitchen in a dwelling,
7 designed as a unit for occupancy by one (1) family for living and sleeping purposes.
- 8 (15) *Financial assurance* means a financial guarantee assuring that funds are available
9 to pay for the design, construction, operation and closure of a solid waste landfill facility,
10 for rendering post-closure at a solid waste landfill facility, for corrective action and to
11 compensate third parties for bodily injury and property damage caused by sudden and
12 non-sudden accidents related to the operation of a solid waste landfill facility.
- 13 (16) *Generator* means any person that generates or produces solid waste.
- 14 (17) *Government* means the government of Guam, all of its agencies, whether line or
15 autonomous, and all public corporations.
- 16 (18) *Hardfill* shall mean a method of compaction and earth cover of solid wastes other
17 than those containing garbage or other putrescible (putrescent) waste, including, but not
18 limited to, demolition material, and like materials not constituting a health or nuisance
19 hazard, where cover need not be applied on a per day used basis. No combustible
20 materials shall be deposited in a hardfill.
- 21 (a) *Combustible Materials* shall mean any solid or liquid that may be ignited.
- 22 (i) *Combustible Solids*, as defined in Title 49 of the Code of Federal
23 Regulations, Chapter 1, Subtitle B, Part 173.124, are those capable of igniting and
24 burning.
- 25 (ii) *Combustible Liquids*, as defined in Title 29 of the Code of Federal
26 Regulations, Chapter 17, Subtitle B, Part 1910.106, shall mean any materials having a
27 flash point at or above 100 degrees Fahrenheit (37.8 degrees Celsius), but below 200
28 degrees Fahrenheit (93.3 degrees Celsius), except any mixture having components with
29 flashpoints of 200 degrees Fahrenheit (93.3 degrees Celsius), or higher, the total volume
30 of which make up ninety-nine percent (99%) or more of the total volume of the mixture.

1 (19) *Hazardous Waste* means any material or substance which, by reason of its
2 composition or characteristics:

3 (a) hazardous waste as defined in the Solid Waste Disposal Act, 42 USC '6901, et
4 seq., as amended, replaced or superseded and the regulations implementing same,

5 (b) a hazardous substance as defined by the Comprehensive Environmental
6 Response, Compensation and Liability Act of 1980, 42 USC § 9601, et seq.,

7 (c) material the disposal of which is regulated by the Toxic Substances Control
8 Act, 15 USC ' 2601, et seq., as amended, replaced or superseded, and the regulations
9 implementing same,

10 (d) special nuclear or by-products material within the meaning of the Atomic
11 Energy Act of 1954,

12 (e) pathological, infectious or biological waste,

13 (f) treated as hazardous waste or as a hazardous substance under applicable law,

14 (g) requires a hazardous waste or similar permit for its storage, treatment,
15 incineration or disposal,

16 (h) may cause or significantly contribute to an increase in mortality or an increase
17 in serious irreversible, or incapacitating reversible illness, or

18 (j) may pose a substantial present or potential hazard to human health or the
19 environment when improperly treated, stored, transported or disposed of, or otherwise
20 damaged.

21 (20) *Highway* means the entire width between the boundary lines of every right-of-
22 way or publicly maintained travel ways when any part thereof is open to the use of the
23 public for purposes of vehicular travel.

24 (21) *Incinerator* means an enclosed device using controlled flame combustion, the
25 primary purpose of which is to thermally break down solid waste.

26 (22) *Multi-family dwelling* means a building containing three (3) or more dwellings.

27 (23) *Operator* means any person who accepts solid waste from a collector for transfer,
28 storage, recycling, combustion, processing or disposal.

29 (24) *Performance bond* means a security for financial loss caused by the act or default
30 performance of a person or by uncontrollable conditions.

1 (25) *Person* means any individual, partnership, co-partnership, firm, company,
2 corporation, association, joint stock company, trust, estate, or any agency, department, or
3 instrumentality of the Federal or local government, or any other legal representatives,
4 agents or assigns.

5 (26) *Plan* means the interim or final Solid Waste Management Plan ('SWMP')
6 prepared and adopted by the GEPA in accordance with the Administrative Adjudication
7 Law.

8 (27) *Plasma torch heating technology* means converting electrical energy into heat
9 energy producing clean fuel gas and recyclable slag.

10 (28) *Plasma Remediation In-Situ Materials* ('PRISM') means a plasma torch
11 technology process that melts down and converts landfill material into slag and fuel gas.

12 (29) *Pollution* means the condition caused by the presence in the environment of
13 substances of such character and in such quantities that the quality of the environment is
14 impaired or rendered offensive to life.

15 (30) *Processing* means any method, system or other treatment designed to change the
16 physical, chemical or biological character or composition of any solid waste. This
17 includes the neutralization of any hazardous waste; the rendering of any hazardous waste
18 non-hazardous, safer for transport, amenable for recovery, amenable for storage or
19 reduced in volume; or any other activity or processing designed to change the physical
20 form or chemical composition of hazardous waste so as to render it non-hazardous.

21 (31) *Recyclable materials* includes the following materials discarded from households,
22 businesses, commercial and industrial establishments, hotels, government, agricultural,
23 landscaping, yard maintenance and military operations which may be reused or for which
24 a market exists:

25 (a) *aluminum* means any product manufactured of aluminum or aluminum alloy;

26 (b) *battery* means any lead acid battery or dry cell battery discarded on Guam,
27 independent of intended use;

28 (c) *biomass* means any large biomass source, such as trees, wood, grass, hedge
29 cuttings, jungle growth, yard waste and sewage sludge;

30 (d) *construction debris* means the materials from building construction;

1 (e) *corrugated cardboard* means kraft, jute or test liner pulp which is made by
2 combining two (2) or more webs of paper and formed or shaped into wrinkles or folds or
3 into alternate ridges and grooves;

4 (f) *demolition waste* means the materials obtained from the demolishment or
5 razing of buildings;

6 (g) *glass* means any product manufactured from a mixture of silicates, borates or
7 phosphates;

8 (h) *metal scrap* means any metal, in whole or in parts, from buildings, equipment,
9 machinery or vehicles;

10 (i) *newspaper* means a publication which is distributed and contains news articles,
11 opinions, features, and advertising and is printed on impermanent wood pulp materials;

12 (j) *office paper* means computer paper and white and colored ledger paper;

13 (k) *used oil* means any petroleum-based, mineral, or synthetic oil which through
14 use, storage or handling has become unsuitable for its original purpose due to the
15 presence of impurities or loss of original properties; and

16 (l) such other materials which the Authority determines, from time to time, may
17 be recycled.

18 (32) *Recycle* or *Recycling* means the method by which recovered resources are
19 converted for use as raw material or feedstock to make new products.

20 (33) *Resource recovery* means the process of recovering recyclable materials or the
21 recovery of energy from solid waste.

22 (34) *Resource Recovery Facility* ('RRF') is a facility that recovers for sale or reuse of
23 recyclable materials.

24 (35) *Reusing* means the reintroduction of a commodity in the economic stream without
25 any changes.

26 (36) *Sanitary landfill* means an approved site where solid waste and ash are disposed
27 using modern sanitary landfilling techniques in accordance with Federal and local
28 regulations.

29 (37) *Sanitary landfilling* means an engineered method of disposing of solid waste on
30 land in accordance with Federal and local regulations in a manner that protects the

1 environment by spreading the waste in thin layers, compacting it to the smallest practical
2 volume, and covering it with approved material at the end of each working day.

3 (38) *Separation* means the systematic division of solid waste into designated
4 components.

5 (39) *Single Family Residence* means a detached building designed for and/or occupied
6 exclusively by one (1) family, or one (1) of two (2) dwelling units on a duplex.

7 (40) *Solid waste* means any garbage, refuse or sludge from a waste treatment plant,
8 water supply treatment plant, or air pollution control facility and other discarded and/or
9 spilled materials, including solid, liquid, semisolid or contained gaseous material
10 resulting from industrial, mining, commercial, and agriculture operations, and from
11 community activities, but does not include solid or dissolved material in domestic
12 sewage, or solid or dissolved materials in irrigation return flows or industrial discharges
13 which are point sources subject to permits under '402 of the Federal Water Pollution
14 Control Act, as amended (68 Stat. 880) , or source, special nuclear, or by-product
15 material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) .

16 (41) *Solid waste management* means the purposeful, systematic control of the
17 generation, storage, collection, transportation, separation, processing and disposal of solid
18 waste.

19 (42) *Solid waste management facilities* means any facility, or any machinery,
20 equipment, vehicles, structures or any part of accessories thereof installed or acquired for
21 the primary purpose of: collection, transportation, storage, recycling, processing or
22 disposal of solid waste, and shall include sanitary landfills, resource recovery facilities, or
23 plasma torch.

24 (43) *Solid Waste Management Plan* means a comprehensive plan and all amendments
25 and revisions thereto for provisions of solid waste management throughout Guam.

26 (44) *Solid waste management practices* means the actions to effectuate the generation,
27 storage, collection, transportation, processing, recycling, incineration, plasma torch or
28 resource recovery or disposal of solid waste.

29 (45) *Solid Waste Management System* ('SWMS') means the entire system covered in
30 the SWMP and designated by the Director for the storage, collection, generation,

1 transportation, processing, recycling, incineration, plasma torch and disposal of solid
2 waste within Guam.

3 (46) *Source separated waste* means recyclable materials that are set aside by the
4 generator for segregated collection and transport to solid waste management facilities.

5 (47) *Storage* means the interim containment of solid waste in accordance with Federal
6 and local regulations.

7 (48) *Transfer station* shall mean any intermediate waste facility in which solid waste
8 collected from any source is temporarily deposited and stored while awaiting
9 transportation to another solid waste management facility.

10 **§ 15003. Continuation of Existence.** The Solid Waste Management Division, a sub-
11 entity of the Department of Public Works shall continue in existence as an autonomous,
12 public corporation now referred to as the Guam Solid Waste Authority (GSWA).

13 **§ 15004. Powers and Duties of the Authority.** The Authority shall have and exercise
14 each and all of the following powers:

15 (a) Administer those powers listed under this Chapter 15, Title 12 of the Guam
16 Code Annotated.

17 (b) Acquire by grant, purchase, gift, devise or lease, or by the exercise of the right
18 of eminent domain in accordance with the provisions and subject to limitations of 21
19 GCA Chapter 15, and hold and use any real or personal property necessary or convenient
20 or useful for the carrying on of any of the powers pursuant to the provisions of this
21 Chapter;

22 (c) Establish its internal organization and management, and adopt regulations for
23 the administration of its operations;

24 (d) Establish and modify from time to time, with approval of the Public Utility
25 Commission (PUC), reasonable rates and charges for the collection, transportation,
26 disposal, storage, recycling and processing of solid waste to recover the full cost of
27 providing such services, and collect money from customers using such services.

28 Similarly, the Authority shall establish and modify from time to time, with the approval
29 of the Public Utilities Commission, reasonable rate and charges for servicing of debt
30 obtained to undertake capital improvements to solid waste management;

31 (e) Enter into contracts and execute all instruments necessary or convenient in the

- 1 exercise of its powers, adopt a seal and sue or be sued in its own corporate name;
- 2 (f) At any time or from time to time, incur indebtedness pursuant to Article 2 of this
3 Chapter;
- 4 (g) Enter into contracts with the Government of Guam or with the United States for
5 loans or grants;
- 6 (h) Employ, retain or contract for the services of qualified solid waste management
7 specialists or experts, as individuals or as organizations, to provide technical advice and
8 assistance;
- 9 (i) Adopt such rules and regulations as may be necessary for the exercise of the
10 powers and performance of the duties conferred or imposed upon the Authority or the
11 Board by this Act;
- 12 (j) Control, operate, improve, equip, maintain, repair, renew, replace, reconstruct,
13 alter and insure that the solid waste management system is compliant with any applicable
14 zoning, building, environmental and health regulations of the territory of Guam; and
- 15 (k) Do any and all other things necessary to the full and convenient exercise of the
16 above powers;
- 17 (l) enter into public-private partnerships for solid waste management facilities and
18 operations, the closure and beneficial use of the Ordot Landfill site, source reduction,
19 recycling, composting, resource recovery, waste reduction and transfer stations. This
20 duty shall also address construction debris or demolition waste, metallic debris, white
21 goods, tires and green waste contracts;
- 22 (m) organize, plan for, secure and manage resources and promote the
23 implementation of the Solid Waste Management Plan;
- 24 (n) evaluate and promote capital improvements and maintenance programs to the
25 solid waste management system;
- 26 (o) address the necessity for a facility for the shredding of tires for recycling or for
27 use as rubberized asphalt;
- 28 (p) address the necessity for a facility for the recycling of glass, including its use as
29 glassphalt;
- 30 (q) address the necessity for a facility for the recycling of scrap metals, including
31 discarded vehicles, appliances and equipment, including shredding for containerization or

1 other shipment;

2 (r) require the preparation of any necessary environmental impact assessments or
3 environmental impact reports;

4 (s) mandate the inspection and monitoring of all solid waste management facilities
5 to assure compliance with this Act, the Plan, other law, rules and regulations applicable
6 to Guam; and

7 (t) apply for all grants-in-aid requests and administer any such programs or funds,
8 except those established for recycling.

9 Nothing contained in this Section or elsewhere in this Article shall be construed directly
10 or by implication to be in any way in derogation or limitation of powers conferred upon
11 or existing in the Authority or the Board by virtue of any provisions of the Organic Act of
12 Guam or Statutes of the Territory or any other provision of this Code.

13 **§ 15005. Governance of Authority.** All powers vested in the Authority, except as
14 provided herein, shall be exercised by the Board of Directors upon relief of the Receiver
15 by the U.S. District Court..

16 **§ 15006. General Manager.**

17 (a) The Board shall appoint a general manager who shall be its chief executive
18 officer and shall serve at its pleasure. The general manager shall, at a minimum, possess
19 the following qualifications:

20 i). A combined minimum of six (6) years of documented experience
21 successfully managing a Solid Waste Management System of similar size as the GSWA
22 system, and

23 ii). Graduation from an accredited institution of higher education with a
24 Bachelors degree in Business Management, Engineering Management, Engineering
25 Technology or Civil Engineering, or

26 (b) The Board shall fix the general manager's compensation, notwithstanding any
27 other provision of law. The general manager shall manage the construction,
28 maintenance, operation and administration of business affairs of the Authority.

29 (c) The Board may contract with a business entity to perform any or all of the
30 duties, and to exercise any or all of the powers of the general manager as provided in this
31 Section, and the general manager, subject to the approval of the Board, may contract with

1 a business entity to perform some of the duties or to render expert and technical
2 assistance in the operation of the Authority. The Initial Term of such a management
3 contract shall be for a period of up to three (3) years. The Authority shall also have the
4 option for two (2) Renewal Terms of five (5) years each. The contracted business entity
5 pursuant to this Section must have a minimum of ten (10) years experience in
6 management and operation of a solid waste system of similar or greater scope than the
7 Authority.

8 (d) The powers and responsibilities of the General Manager shall include the
9 following:

- 10 (i) To enforce all rules and regulation of the Authority;
- 11 (ii) To attend all meetings of the Board and submit a general report of the
12 affairs of the Authority;
- 13 (iii) To keep the Board advised as to the needs of the Authority, to approve
14 demands for the payment of obligations of the Authority, and to
15 approve expenditures and collection of revenue within the purposes
16 and amounts authorized by the annual budget;
- 17 (iv) To prepare, or cause to be prepared, all plans and specifications for the
18 constructions of work by the Authority in accordance with the annual
19 budget;
- 20 (v) To select and appoint the employees of the Authority, except as
21 otherwise provided by this Chapter, and to plan, organize, coordinate
22 and control the services of such employees in the exercise of the
23 powers of the Authority under the general direction of the Board;
- 24 (vi) To cause to be published within one hundred twenty (120) days from
25 the end of each fiscal year a financial report, which shall include an
26 annual financial audit pursuant to §1908 and §1909 of Chapter 19,
27 Title 1 Guam Code Annotated. This report should present the result
28 of operations for the preceding fiscal year and the financial status of
29 the Authority on the last day thereof. The publication shall be made in
30 the manner provided by the Board; and
- 31 (vii) To perform such other and additional duties as the Board may require.

1 **§15007. Assistant General Manager: Operations and Technical Support.**

2 The General Manager, with the consent of the Board, may appoint an Assistant
3 General Manager for Operations and Technical Support, who shall serve at the pleasure
4 of the General Manager.

5 (a) The Assistant General Manager of Operations and Technical Support shall be
6 entitled to receive compensation as recommended by the General Manager and approved
7 by the Board.

8 (b) Such Assistant General Manager shall devote his entire time to the business of
9 the Authority and shall have full charge and control, subject to the direction of the
10 General Manager, of all operations, engineering and technical services pertaining to the
11 generation, storage, collection, transportation, processing, recycling, resource recovery or
12 disposal of solid waste.

13 (c) Such Assistant General Manager shall have such other duties as may be
14 designated by the General Manager.

15 **§15008. Assistant General Manager: Administration.**

16 The General Manager, with the consent of the Board, may appoint an Assistant
17 General Manager for Administration, who shall serve at the pleasure of the General
18 Manager.

19 (a) The Assistant General Manager of Administration shall be entitled to receive
20 compensation as recommended by the General Manager and approved by the Board.

21 (b) Such Assistant General Manager shall devote his/her entire time to the business
22 of the Authority and shall have full charge and control, subject to the direction of the
23 General Manager, of all administration of the Authority.

24 (c) Such Assistant General Manager shall have such other duties as may be
25 designated by the General Manager.

26 **§ 15009. Chief Financial Officer.** The Board may appoint a chief financial officer who
27 shall be a Certified Public Accountant. The Board shall fix the chief financial officer's
28 compensation. The chief financial officer shall have full charge and control of the fiscal,
29 business and accounting operations of the Authority, subject to the supervision of the
30 Board.

31 **§ 15010. Other Officers.**

1 (a) The Board may also appoint a Secretary and an Attorney, who all shall serve at
2 the pleasure of the Board and whose duties and compensation shall be fixed by the Board.
3 The Board may appoint one or more assistants to any such office. Any of such offices
4 may be consolidated in one person.

5 (b) The Secretary shall have charge of all records and minutes of the Board.

6 (c) The Attorney, who must have been admitted to practice in Guam, shall advise
7 the Board and the General Manager on all legal matters to which the Authority is a party
8 or in which the Authority is legally interested and may represent the Authority in
9 connection with legal matters before the Legislature, boards and other agencies of the
10 Territory. The Attorney General shall represent the Authority in litigation concerning the
11 affairs of the Authority provided that he may delegate this duty to the Attorney of the
12 Authority, with respect to any such litigation.

13 **§ 15011. Employees.** All employees of the Authority shall be eligible for all insurance,
14 retirement, worker's compensation and other benefits as extended to employees of the
15 government of Guam, and shall be employees of the government of Guam for the
16 purposes of the application of all civil service laws and personnel rules and regulations
17 that apply to government of Guam employees, inclusive of all scales, tables and
18 schedules for compensation. With respect to compensation, this Section shall not apply to
19 the compensation of the General Manager, Assistant General Manager: Administration,
20 Assistant General Manager: Operations and Technical Support, Secretary, Attorney or the
21 Chief Financial Officer.

22 **§ 15012. Acquisition of Existing Systems, Employees, and Debt.** Ninety (90) days
23 after the effective date of this Act the Authority shall assume in writing from the
24 Department of Public Works, Solid Waste Management Division:

25 (a) all real property under the DPW Solid Waste Management Division (SWMD)
26 administration and items of property, materials and supplies which the SWMD owns or
27 controls, including construction work in progress.

28 (b) all working capital, cash, accounts payable and receivable, deposits, advances
29 payable and receivable, all books, records and maps and all other rights, obligations,
30 assets, liabilities, agreements and privileges of the Authority or attributable to the
31 Authority.

1 (c) Each Government of Guam employee assigned to the Department of Public
2 Works, Solid Waste Management Division at the date of the transfer pursuant to statute
3 shall be transferred to the Authority. All classified employees shall remain classified.

4 **§ 15013. Exemption from Taxation, and In Lieu Payments.** As an instrumentality of
5 the Territory, the Authority and all property acquired by or for the Board and all revenues
6 and income from taxation by the Territory or by any political subdivision or public
7 corporation thereof and from all taxes imposed under the authority of the Legislature of
8 the Territory, or with respect to which the Legislature is authorized to grant exemption.

9 **§15014. General Operations.** Rates for Services. The Authority shall apply to the
10 Public Utilities Commission (PUC) for establishment of its rates for its services
11 including, but not limited to:

12 (a) Operating Costs:

- 13 i. Layon Landfill
- 14 ii. Commercial Transfer Stations
- 15 iii. Retail Transfer Stations
- 16 iv. Residential Trash Collection
- 17 v. Bulky and Metallic Waste collection
- 18 vi. Recycling
- 19 vii. Customer Service and Education
- 20 viii. Equipment Maintenance
- 21 ix. Household Hazardous Waste
- 22 x. Administration

23 (b) Reserve Fund Costs.

- 24 i. Debt Service
- 25 ii. Equipment Replacement
- 26 iii. New Cell Development
- 27 iv. Closure of Cells
- 28 v. Post Closure Care

29 **§ 15015. Accounting and Expenditures.**

30 (a) The Board shall adopt and maintain a system of accounting.

31 (b) The Board shall authorize, by means of the annual budget, payment of demands

1 against the Authority resulting from the exercise of its powers under this Act if:

- 2 i. the purposes and amounts of such demands are projected in the budget,
3 expressed in terms of major account groups of the Uniform System of
4 Accounts, which has been adopted by the Board after receiving
5 recommendations from the General Manager; and
6 ii. the specific demands which are made are approved by the Board before
7 payment.

8 (c) The Board shall employ, in accordance with the appropriate procurement laws
9 and the annual budget, a firm of locally licensed, independent Certified Public
10 Accountants who shall annually examine the financial status and workings of the
11 Authority for the previous fiscal year. Said firm shall submit no later than February 1st
12 of each year, a written report on the financial status and workings of the Authority during
13 the previous fiscal year to *I Magalahren Guåhan* [Governor], the General Manager and *I*
14 *Liheslaturan Guåhan*. *I Magalahren Guåhan* and *I Liheslaturan Guåhan* may request
15 special reports within thirty (30) days after the end of each fiscal quarter. The financial
16 information presented in the reports required by this Section shall be in accordance with
17 the Uniform System of Accounts adopted by the Board. Claims against the Guam Solid
18 Waste Authority shall be submitted to the Attorney General of Guam in accordance with
19 the Government Claims Act.

20 **§ 15016. Annual Budget.** For the purposes of Chapter 15 of Title 12 of the Guam Code
21 Annotated, the term *annual budget* means a balanced budget for expenditures of the
22 Guam Solid Waste Authority for a fiscal year to be funded by the anticipated revenues
23 and other funds to be received and expended for the same fiscal year, submitted to the
24 Board and approved by resolution, with amendment and modification as may be desired
25 by the Board.

26 (a) If the Authority fails to submit a budget for the next fiscal year, the current
27 fiscal year's budget shall be deemed approved for the next fiscal year, subject to Board
28 modification.

29 **§ 15017. Employment.**

30 (a) Pursuant to the provisions of 4 GCA §§4105 and 4106, the Board shall establish
31 rules and regulations regarding selection, promotion, performance evaluation, demotion,

1 suspension and other disciplinary action for the employees of the Authority which shall
2 be transmitted to *I Liheslatura Guahån* [Legislature] to be ratified, which thereafter shall
3 supersede the provisions in §15110 of this Chapter. All contracts for the hiring of off
4 island employees shall conform to the provisions of 4 GCA §§6501 and 6501.1.

5 (b) Classified employees of the Authority shall be members of the government of
6 Guam Retirement Fund. The Authority shall contribute to the government of Guam
7 Retirement Fund on the basis of annual billings as determined by the Board of Trustees
8 of the government of Guam Retirement Fund, for the government share of the cost of the
9 retirement benefits applicable to the Authority's employees and their beneficiaries. The
10 Authority shall also contribute to the Worker's Compensation Fund, on the basis of
11 annual billings as determined by the Worker's Compensation Commissioner, for the
12 benefit payments made from such Fund on account of the Authority's employees.

13 (c) Notwithstanding any other provisions of law, neither the General
14 Manager, Assistant General Managers, Secretary, Chief Financial Officer, nor Attorney
15 of the Authority shall be within the classified service of the government of Guam but
16 shall be hired, compensated and employed under the terms and conditions fixed by, and
17 at the pleasure of the Board.

18 **Article 2. Guam Solid Waste Authority Revenue Bonds.**

19 **§15200. Authorization of Indebtedness Through GEDA.**

20 **§15201. Guam Economic Development Authority as Central** 21 **Financial Manager.**

22 **§15202. Evidence of Transfers Filed at the Department of Land Management.**

23 **§15203. Statutory Approval Required for Sale.**

24 **§15204. Acceptance of Payments, Installation Applications and** 25 **Service/Repair Requests via the Internet.**

26 **§15200. Authorization of indebtedness through GEDA.** The Guam Economic
27 Development Authority ('GEDA') may obtain funds through the issuance of bonds or
28 other obligations on behalf of the Authority.

29 (a) Bonds or Notes. Accordingly, the Authority, through GEDA, with the approval
30 of *I Magalahen Guåhan* and *I Liheslaturan Guåhan* is authorized to incur indebtedness,
31 and to issue bonds or notes therefor, secured by a pledge of all or any portion of the

1 revenues of the Authority, to establish and facilitate the Solid Waste Management Plan,
2 and collection, transportation, storage, recycling, processing or disposal of solid waste,
3 which shall include sanitary landfills and resource recover facilities.

4 (b) Subordinated Indebtedness. In addition, the Authority, acting through GEDA,
5 may incur indebtedness for any other lawful purpose of the Authority, provided that such
6 indebtedness shall have a term not exceeding fifty (50) years and shall be subordinate to
7 any contractual obligation of the Authority to the holders of any indebtedness issued
8 pursuant to subsection (a) of this section.

9 (c) Short Term Borrowing. Pursuant to GEDA, the Authority may incur
10 indebtedness with the approval of the Governor for any lawful purpose for a term not
11 exceeding five (5) years; provided, that such indebtedness shall be subject and
12 subordinate to any contractual obligation of the Authority to the holders of any bonds
13 issued pursuant to paragraphs (a) or (b) of this section. The principal of and interest of
14 any such short term borrowing may be repaid from revenues, or if incurred for a purpose
15 for which bonds may be issued, from revenues or from the proceeds of sale of bonds.

16 (d) Character of Indebtedness. All indebtedness incurred by the Authority pursuant
17 to this Article shall be repayable solely from monies of the Authority available therefor,
18 including revenues, and shall not be deemed to be public indebtedness of the Territory as
19 that term is used in Section 11 of the Organic Act.

20 (e) Waiver of Immunity. Notwithstanding any substantive or procedural provision
21 of Chapter 6, Title 5, Guam Code Annotated, the Authority shall not be entitled to
22 immunity from any suit or action in contract on the indebtedness authorized by this
23 Article.

24 **§15201. Guam Economic Development Authority as Central Financial Manager.**

25 Notwithstanding any other provisions of this Article, the Guam Economic Development
26 Authority shall act as the Central Financial Manager and Consultant to the Authority and
27 shall provide technical assistance in obtaining funds through the issuance of bonds or
28 other obligations. The Authority must comply with all provisions under this section
29 relative to the financial requirements and needs as directed by GEDA.

30 **§ 15202. Evidence of Transfers Filed at the Department of Land Management.**

31 Transfer of real property interests pursuant to this Act, including but not limited to fee

1 estates, easements and land use rights evidenced by easements, leases and licenses, shall
2 be filed in the form of deeds or assignments signed by *I Magalahen Guåhan* in good form
3 containing specific property descriptions, lot numbers and map numbers, at the
4 Department of Land Management within 360 days of the effective date of this Act. Any
5 transfer not filed within such time frame shall lapse and be of no further force and effect
6 unless re-initiated or authorized by separate statutory legislation authority. Any
7 subsequent easements or transfers of property from the Government of Guam, including
8 the Chamorro Land Trust Commission, shall be in the form of deeds or assignments in
9 good form containing specific property descriptions, lot numbers and map numbers,
10 recorded at the Department of Land Management.

11 **§ 15203. Statutory Approval Required for Sale.** Notwithstanding any of the provisions
12 of this Act, specific legislative statutory approval shall be required prior to sale, transfer
13 or lease of any real property assets or lands of the Guam Solid Waste Authority. Nothing
14 herein shall be construed as such approval. In addition, notwithstanding any other
15 provision contained herein, the provisions of 1 GCA § 1800 shall be applicable to the
16 Guam Solid Waste Authority.

17 **§ 15204. Acceptance of Payments, Installation Applications and Service/Repair**
18 **Requests via the Internet.**

19 (a) Notwithstanding any other provision of law, the Guam Solid Waste Authority
20 shall provide that the following services be made available via the internet:

- 21 (i) Acceptance of online payments;
- 22 (ii) Application for installation of new and additional services, and
- 23 (iii) Requests for service and repair.

24 (b) The Guam Solid Waste Authority shall provide an email address(es) for
25 inquiries regarding subsection (a) (1), (2) and (3).

26 (c) Nothing herein shall be construed as limiting the Authority's ability to receive
27 payments through online payment and/or banking services.

28 (d) The Guam Solid Waste Authority shall set, by Administrative Rule, the
29 timeframes to which email inquiries must be addressed and dispensed with.

30 (e) The Guam Solid Waste Authority shall adopt appropriate security measures
31 necessary to protect its customers from fraud and identity theft.

1 **Article 3. Transition to the Guam Solid Waste Authority**

2 **§15301. Effective Date.**

3 **§15301. Effective Date.** The provisions of this Act shall take effect upon ninety (90)
4 days of enactment of this Act except as specified in Section 5 of this Act.

5
6 **Section 7.** §51118 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed* and
7 *reenacted* as §15018, Chapter 15, Title 12 Guam Code Annotated, and shall read:

8 **§15018. Solid Waste Operations Fund.**

9 (a) **Commercial Haulers.** For commercial, including multi-family dwellings
10 and government agencies, the charge is a disposal tipping fee and does not include
11 collection fees independently charged by commercial waste haulers.

12 (b) **Commercial and Residential Tipping Fees.** All commercial and
13 residential tipping fees charged by the Authority shall be subject to the review and
14 approval of the Public Utilities Commission.

15 (c) **Business and Governmental Tipping Fees.** A tipping fee per cubic yard,
16 uncompacted, shall be established for business and government generators, subject to
17 approval by the Public Utilities Commission (PUC), and shall be published in a rate order
18 developed by the PUC.

19 (d) **Residential Tipping Fees.** A residential tipping fee, which may include
20 collection charges and a Self-Drop Fee, may be established subject to the approval of the
21 PUC.

22 (e) **PUC Rate-making.** The Public Utilities Commission of Guam [‘PUC’] is
23 hereby authorized to establish, amend and approve, in accordance with Chapter 12 of
24 Title 12, Guam Code Annotated, all commercial, government and residential tipping and
25 user fees [including without limitation a self-drop fee, a variable residential tipping fee
26 and, collectively referred to as ‘tipping fees’], which when established shall replace those
27 previously created by law. Tipping fees authorized and established by PUC shall be based
28 on volume and on an analysis of operations costs, including those cost components
29 specifically listed under §15014 of this Act. PUC is empowered to undertake a focused
30 management audit of the existing operations of the Guam Solid Waste Authority. In
31 performing its duties under this Section, PUC shall have the full authority and powers

1 conferred upon it by its enabling legislation, 12 GCA 12000 et. sec., including the audit
2 power conferred upon it by Public Laws 25-05:12 and 26-78:2.

3 (f) **Solid Waste Operations Fund.** All tipping, user and other fees authorized
4 under this Section and collected based on duly established rules and regulations or on a
5 PUC rate order shall be deposited in a special fund designated and hereby established as
6 the Solid Waste Operations Fund. All tipping/user fees in the Fund shall be used solely
7 for solid waste management purposes and, pursuant to PUC order, for the payment of
8 regulatory costs and expenses as may be incurred by PUC in performing its regulatory
9 duties under Subsection (e).

10
11 **Section 8.** Article 3 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed*
12 and *reenacted* under Article 4, Chapter 15, Title 12 Guam Code Annotated, and shall
13 read:

14 **ARTICLE 4**

15 **ANNUAL CONTRACT FOR SCRAP REMOVAL**

16 **§15401. Contract to Remove Scrap**

17 **§15402. Biennial Contract.**

18 **§15403. Environmental Impact Study**

19 **§15404. Conformity to Waste Removal Regulations**

20 **§15405. Reports**

21 **§15401. Contract to Remove Scrap**

22 The General Manager, after duly advertising for a request for proposals for the removal
23 of scrap metal, shall enter into a contract with any interested business organization, either
24 local or off-island, to collect and remove from Guam scrap metal. The successful offeror
25 may not be charged for the scrap metal but shall post a performance bond equal to 70%
26 of contract value to assure contract completion of the removal project within twenty-four
27 (24) months from receiving from the General Manager a Notice to Proceed. A “Scrap
28 Metal” for the purpose of this Article means abandoned vehicles and other abandoned
29 metal implements of which the Authority has jurisdiction and the right to dispose. In so
30 disposing of such scrap metal, the General Manager shall not charge any fees to the
31 owner of the same.

1 **§ 15402. Biennial Contract.**

2 The General Manager shall advertise for and execute such a contract every two (2) years
3 with any qualified party on the same terms as are set out in §15401 of this Article.

4 **§ 15403. Environmental Impact Study.**

5 The Guam Solid Waste Authority shall cause an environmental impact study to be
6 undertaken by the successful offeror prior to the issuance of a permit and the Notice to
7 Proceed to ensure that scrap removal project will not have potential adverse ecological
8 damage to aquifers or the environment at the temporary consolidation site and source
9 location.

10 **§ 15404. Conformity to Waste Removal Regulations.**

11 The successful offeror shall perform all work under this Article in compliance with
12 applicable rules and regulations of GEPA on the removal of scrap metal and hazardous
13 waste. As a minimum, the Authority shall ensure that all successful offerors include as
14 part of their processing, an intake system to screen and remove batteries and other
15 potentially hazardous residual material including, engine oil, hydraulic fluids and coolant
16 and freon from air conditioning units.

17 **§ 15405. Reports.**

18 Each successful bidder shall file a report on a quarterly basis with I Maga'lahaen Guåhan
19 [the Governor], I Liheslaturan Guåhan [the Legislature] and the Guam Solid Waste
20 Authority outlining the following:

21 (a) total type and amount of scrap metals, batteries and other potentially
22 hazardous residual material referenced in §15404;

23 (b) cost comparison of the cost of the scrap metal program versus landfill
24 disposal of scrap metals, or any less-than-conventional methods of scrap metal waste
25 reduction; and

26 (c) recommendations for permanent implementation and improvements to the
27 recycling program.

28

29 **Section 9.** Article 4 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed*
30 and *reenacted* under Article 5, Chapter 15, Title 12 Guam Code Annotated, and shall
31 read:

1 Each successful bidder shall file a report on a quarterly basis with I Maga'lahañ Guåhan
2 [the Governor], I Liheslaturan Guåhan [the Legislature] and the Guam Solid Waste
3 Authority outlining the following:

- 4 (a) total type and amount of paper recycled;
- 5 (b) cost comparison of the cost of the paper-recycling program versus landfill
6 disposal of paper, or any less-than-conventional methods of paper waste reduction; and
- 7 (c) recommendations for permanent implementation and improvements to the
8 recycling program.

9
10 **Section 10.** Article 6 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed*
11 and *reenacted* under Article 6, Chapter 15, Title 12 Guam Code Annotated, and shall
12 read:

13 **ARTICLE 6**

14 **MUNICIPAL RECYCLING PROGRAM**

15 **§15601. Definitions.**

16 **§15602. Creation of Municipal Recycling Proceeds Fund for each** 17 **village.**

18 **§15603. Creation of the Municipal Recycling Program.**

19 **§15604. Authorization for Municipal Planning Councils to Use the Proceeds** 20 **from the Sale of Recyclable Materials for Village Needs.**

21 **§ 15601. Definitions.**

22 For purposes of this Article, except as otherwise provided, the following words and
23 phrases, together with all of the common derivatives thereof, shall have the meaning
24 ascribed to them as follows:

- 25 (1) 'GEPA' shall mean the Guam Environmental Protection Agency.
- 26 (2) 'Recycling' means the process by which recovered resources are transformed into
27 new products in such a manner that products lose their initial identity, as defined in §
28 51102 (18) of Chapter 51 of Title 10 of the Guam Code Annotated.
- 29 (3) 'Recyclable materials' means materials which still have useful physical or
30 chemical properties after serving a specific purpose for the same or other purpose.
31 Recyclable materials are as follows:

- 1 (a) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium,
2 sealed types for power backup);
- 3 (b) automobiles, buses, and trucks or any form of motorized vehicle;
- 4 (c) tires (passenger/commercial);
- 5 (d) enameled white goods;
- 6 (e) home appliances (other small appliances that are not considered enameled
7 white goods);
- 8 (f) glass and plastic bottles;
- 9 (g) foam padding;
- 10 (h) lead;
- 11 (i) metals (ferrous/non-ferrous);
- 12 (j) organic material (i.e., tree trimmings, palm fronds, grass, food waste,
13 soiled cardboard);
- 14 (k) paper products;
- 15 (l) wood pallets and scrap wood;
- 16 (m) construction and demolition debris ('C&D');
- 17 (n) x-ray film;
- 18 (o) automobile oil and fluids;
- 19 (p) Freon and other refrigerant gases;
- 20 (q) electronic waste (i.e., computers, circuit boards, televisions, and portable
21 phones);
- 22 (r) heavy equipment; and
- 23 (s) other recyclable materials deemed recyclable by GEPA pursuant to the
24 Rules and Regulations.

25 (4) '*Recycling Company*' means any business licensed by the Department of Revenue
26 and Taxation, and issued a permit, as required in § 51104 of Chapter 51 of Title 10 of the
27 Guam Code Annotated, from the Guam Environmental Protection Agency to conduct
28 business on Guam.

29 **§ 15602. Creation of Municipal Recycling Proceeds Fund for Each Village.**

30 There is hereby established a Municipal Recycling Proceeds Fund for each municipality
31 which shall be maintained separate and apart from any other funds, including the General

1 Fund of the government of Guam, and independent records and accounts shall be
2 maintained in connection therewith. The proceeds from the sale of recyclable materials
3 collected, in accordance with the Municipal Recycling Program, from each village shall
4 be deposited in the respective Municipal Recycling Proceeds Fund. All revenue deposited
5 in each Municipal Recycling Proceeds Fund shall not be commingled with General Fund
6 monies and shall be kept in a separate bank account. All proceeds from fees collected in
7 accordance with §15703 of this Article shall be deposited in the Municipal Recycling
8 Proceeds Fund for the respective village and used exclusively for the purposes authorized
9 in §15704 of this Article. The Municipal Planning Council of each municipality shall
10 administer the Municipal Recycling Proceeds Fund for its municipality which shall be
11 subject to audits by the Public Auditor.

12 **§ 15603. Creation of the Municipal Recycling Program.**

13 There is hereby created a Municipal Recycling Program within the Guam Solid Waste
14 Authority to promote recycling on the municipal level in partnership with the village
15 mayors. The program shall incorporate the following components:

16 (a) Recycling Drop-Off Bins. GSWA shall solicit drop-off bins from
17 recycling companies that would be made available to each mayor participating in the
18 Municipal Recycling Program. The recycling drop-off bins shall be rust-proof, and
19 located at a suitable site within the respective villages so that the residents will have a
20 repository to which they can bring recyclable materials in accordance with guidelines
21 established by the Guam Solid Waste Authority. The mayors of each village participating
22 in the program will be responsible for the security and cleaning of the bins, and the
23 supervision of their use for recycling purposes.

24 (b) Village Education Program. In coordination with the village mayors,
25 GEPA and GSWA shall create educational programs to promote recycling and the use of
26 the recycling drop-off bins within each village.

27 (c) Sale of Recyclable Materials. In partnership with the village mayors,
28 GSWA shall arrange for the sale of recyclable materials, collected at the Recycling Drop-
29 off Bins in each village, to recycling companies. The proceeds from the sale of recyclable
30 materials shall be deposited into the respective Municipal Recycling Proceeds Fund of
31 the village from which the recyclable materials were collected.

1 (d) The Program shall first begin with pilot programs at three (3) villages; one
2 (1) each from northern, central, and southern Guam. The selection of the three (3)
3 villages shall be made by GSWA in concert with the village mayors.

4 **§ 15604. Authorization for Municipal Planning Councils to Use the Proceeds from**
5 **the Sale of Recyclable Materials for Village Needs.**

6 The proceeds from the sale of recyclable materials from a village site shall be retained for
7 use by the municipal government of that village in its Municipal Recycling Proceeds
8 Fund. Expenditures from a village's Municipal Recycling Proceeds Fund shall be
9 exclusively for the needs of that village as determined by the respective Municipal
10 Planning Council through adoption of a resolution.

11
12 **Section 11.** Article 7, Article 8 and Article 9 of Chapter 51, Title 10 Guam Code
13 Annotated are hereby *repealed* and *reenacted* under Article 7, Chapter 15, Title 12 Guam
14 Code Annotated, and shall read:

15 **ARTICLE 7**

16 **RECYCLING ENTERPRISE ZONE**

17 **§ 15701. Definitions.**

18 **§ 15702. Establishment of Recycling Enterprise Zone.**

19 **§ 15703. Eligibility of Recycling Companies for use of the Recycling Enterprise**
20 **Zone.**

21 **§ 15701. Definitions.**

22 For purposes of this Act, and except as otherwise provided, the following words and
23 phrases, together with all of the common derivatives thereof, shall have the meaning
24 ascribed to them as follows:

25 (1) *JLGCP* shall mean the Jose D. Leon Guerrero Commercial Port.

26 (2) *Recycle* or '*Recycling*' means the method by which recovered resources are converted
27 for use as raw material or feedstock to make new products, as defined in § 51102 (35) of
28 Chapter 51, Title 10 of the Guam Code Annotated.

29 (3) *Recycling company* means any business licensed by the Department of Revenue
30 and Taxation, and has been issued a permit as required in § 51104 of Chapter 51, Title 10
31 of the Guam Code Annotated by the Guam Environmental Protection Agency ('GEPA')

1 to conduct business on Guam and that specifically commits eighty percent (80%) of its
2 operations to recycling.

3 (4) *Transshipment* shall mean to transfer for further transportation from one (1) ship or
4 conveyance to another.

5 (4) *Recyclable materials* means materials that still have useful physical or chemical
6 properties after serving a specific purpose for the same or other purpose. Recyclable
7 materials are as follows:

8 (a) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium,
9 sealed types for power backup);

10 (b) automobiles, buses, and trucks or any form of motorized vehicle;

11 (c) tires (passenger/commercial);

12 (d) enameled white goods;

13 (e) home appliances (other small appliances that are not considered enameled
14 white goods);

15 (f) glass and plastic bottles;

16 (g) foam padding;

17 (h) lead;

18 (i) metals (ferrous/non-ferrous);

19 (j) organic material (i.e., tree trimmings, palm fronds, grass, food waste,
20 soiled cardboard);

21 (k) paper products;

22 (l) wood pallets and scrap wood;

23 (m) construction and demolition debris ('C&D');

24 (n) x-ray film;

25 (o) automobile oil and fluids;

26 (p) freon and other refrigerant gases;

27 (q) electronic waste (i.e., computers, circuit boards, televisions, and portable
28 phones);

29 (r) heavy equipment; and

30 (s) other recyclable materials deemed recyclable by GEPA pursuant to the
31 Rules and Regulations.

1 **§ 15702. Establishment of Recycling Enterprise Zone.**

2 There is established a “Recycling Enterprise Zone” at the Jose D. Leon Guerrero
3 Commercial Port for use by recycling companies for the processing of automobiles,
4 trucks and tires for recycling purposes, and the transshipment of recyclable materials. The
5 size of the zone and its site on the JLGCP property shall be designated by the Board of
6 Directors of the Port Authority of Guam and guided by the provisions of Section 7.1.4 of
7 the Integrated Solid Waste Management Plan. Such designation shall be made within
8 sixty (60) days of the enactment hereof and the site shall be made available for lease to
9 recycling companies. The Board of Directors of the Port Authority of Guam shall
10 determine and charge a reasonable rate for the lease of said property.

11 **§ 15703. Eligibility of Recycling Companies for use of the Recycling Enterprise**
12 **Zone.**

13 Lease space in the Recycling Enterprise Zone shall only be available to companies that
14 qualify for Qualifying Certificates as recycling companies under guidelines established
15 by the Guam Economic Development Authority.

16
17 **Section 12.** §1921 of Title 1, Chapter 19 Guam Code Annotated is hereby *amended* to
18 read as follows:

19 §1921. Supervision of Audits in Autonomous Agencies and Grantees, Manpower Audits.

20 The Public Auditor is specifically authorized to supervise audits, or at the Public
21 Auditor’s discretion, perform audits, of autonomous agencies and instrumentalities of the
22 government of Guam, inclusive of, but not limited to, the Guam Visitors Bureau
23 (‘GVB’), the Guam Economic Development & Commerce Authority (‘GEDCA’), the
24 Port Authority of Guam (‘PAG’), the A.B. Won Pat Guam International Airport
25 Authority (‘GIAA’), the University of Guam (‘UOG’), the Guam Community College
26 (‘GCC’), the Guam Memorial Hospital (‘GMHA’), the Guam Housing Corporation
27 (‘GHC’), the Guam Housing and Urban Renewal Authority (‘GHURA’), the Guam
28 Power Authority (‘GPA’), the Guam Waterworks Authority (‘GWA’), the Guam
29 Telephone Authority (‘GTA’), the Government of Guam Retirement Fund(‘GGRF’), and
30 the Guam Solid Waste Authority (‘GSWA’).

31 The Public Auditor is authorized to supervise audits of all funds in excess of Three

1 Hundred Thousand Dollars (\$300,000.00) for a single fiscal year from the government of
2 Guam that are given in grant or subsidy to non-profit or profit-making groups, inclusive
3 of GVB. The Public Auditor is authorized to audit the hiring practices, manpower levels
4 and staffing patterns of all departments, agencies and bureaus of the Executive Branch of
5 the government of Guam, and to determine and report to *I Maga'lahañ Guåhan*
6 [Governor], *I Liheslaturan Guåhan* [Legislature] and the Public Utilities Commission
7 ('PUC'), as appropriate, on the necessity and applicability of employment levels and
8 categories to the department or agency's purpose and function, as well as draw
9 comparisons with similar entities located elsewhere.

10
11 **Section 13.** §12000 of Chapter 12, Title 12 Guam Code Annotated is hereby amended to
12 read:

13 **§ 12000. Definitions.**

14 As used in this Chapter:

15 (a) *Public Utility* means the Guam Power Authority, the Jose D. Leon Guerrero
16 Commercial Port, the Guam Waterworks Authority, the Guam Solid Waste Authority or
17 any duly licensed private contractors operating:

18 (i) a facility or subsystem of the community-wide water production and
19 distribution system, or

20 (ii) a facility or subsystem of the community-wide waste water disposal
21 system, or both, or any private golf course management corporation leasing public
22 property providing preferential golf rates and reservations to Guam residents, or

23 (iii) a marine terminal with facilities for loading and unloading commercial
24 cargo or passengers onto and from ocean common carriers.

25 (b) *Commission* means the Public Utilities Commission.

26 (c) *General lifeline rate* means a lower than average cost per unit charge for a level
27 of utility service necessary to fulfill the essential needs of all residential customers.

28
29 **Section 14. Severability.** If any provision of this law or its application to any person
30 or circumstance is found to be invalid or contrary to law, such invalidity shall not affect

- 1 other provisions or applications of this law which can be given effect without the invalid
- 2 provisions or application, and to this end the provisions of this law are severable.

**TESTIMONY OF
IVAN C. QUINATA
ACTING ADMINISTRATOR, GUAM ENVIRONMENTAL PROTECTION
AGENCY
BEFORE THE COMMITTEE ON YOUTH, CULTURAL AFFAIRS,
PROCUREMENT, GENERAL GOVERNMENT OPERATIONS, AND
PUBLIC BROADCASTING**

**HEARING ON BILL 35-31(COR): AN ACT TO AMEND §12000 OF
CHAPTER 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND
§1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA),
AND TO REPEAL §51118, ARTICLE 3, ARTICLE 4, ARTICLE 6,
ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10
GCA AND REENACT THEM UNDER A NEW CHAPTER 15, TITLE 12
GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS,
PUBLIC CORPORATION.**

March 10, 2011

Mr. Chairman, the Guam Environmental Protection Agency (Guam EPA) appreciates this opportunity to offer its testimony on Bill 35-31 for your consideration. This Agency supports the intent of Bill 35-31 in its foresight and vision to initiate the process in preparing for the future operations of solid waste. However, please note Guam EPA does not support placing management of the Guam Solid Waste Authority under the purview of the Consolidated Commission on Utilities.

Since July 2010, original discussions on this subject began with Bill 426-30, which Guam EPA participated in roundtable discussions organized by Senator Tom Ada, who was the primary sponsor of that Bill. Since then, modifications on the original content of Bill 426-30 have been made to ensure that Guam EPA's authority and primacy in solid waste and hazardous waste are not compromised.

There was a recommendation in the *1999 Integrated Solid Waste Management Plan* (ISWMP) developed by Dueñas and Associates. As part of the "Management Options Analysis", the creation of a Solid Waste Management Authority was recommended to

improve the effectiveness of solid waste management in light of the environmental, political and social challenges in implementing the laws and the ISWMP at that time. Although the 1999 ISWMP adopted the public utility as the organizational option and listed the advantages for this option to include long-term debt management, regulation by the public utilities commission, focused mission, privatization and stability, Guam EPA will recommend other options.

In 2006, the ISWMP was updated to reflect the status of solid waste management operations at that time, inclusive of significant events such as the 2004 Consent Decree. Based on the conditions then, the recommendation for the establishment of a Guam Solid Waste Authority was maintained. Moreover, the 2006 ISWMP referenced findings from PUC's Audit Report, which recommended that the Department of Public Works (DPW) Solid Waste Division and activities be transferred to a public corporation. In this light, Guam EPA now recommends that the Guam Solid Waste Authority be under the purview of a Board of Directors, whose members will be appointed by the Governor, and confirmed by the Legislature.

While Guam EPA supports the intent of Bill 35-31 to establish the Guam Solid Waste Authority as an autonomous public corporation, this Agency offers the following recommendations for your consideration:

1. All references relating to the "Consolidated Commission on Utilities" or "CCU" in the language of Bill 35-31 should be removed and replaced with references to a Board of Directors whose members shall be appointed by the Governor, and confirmed by the Legislature. This change will allow initial oversight of this fledgling autonomous public corporation by the Legislative and Executive Branches.
2. Repeal 10 GCA Chapter 51, Section 51103(b) in its entirety. To provide additional clarity on the transfer of responsibilities from the Department of Public Works Solid Waste Management Division to the Guam Solid Waste Authority, Guam EPA recommends that the *powers and duties of the Department* be removed from this Chapter.
3. Amend language in Bill 35-3 to *add* a provision for Guam EPA to receive at least 5% of the tipping fees to augment our current funding in implementing the Solid Waste Management Program within this Agency, including continued compliance inspection of the operations of the Layon Landfill, Ordot Closure and Post Closure, Solid Waste Transfer Stations, etc. The 5% tipping fees should be deposited to the Solid Waste Management fund.¹ GEPA will use the funds to provide administrative and operating expenses related to the regulatory oversight of the Guam Solid Waste Authority.

¹ 10 GCA 51 §51117 (PL 23-62) created the *Solid Waste Management Fund*. "All fees, reimbursements, assessments, fines, bail forfeitures and other funds collected or received pursuant to this Article shall be deposited in this Fund and used for the administration and implementation of this Article, including purchase of equipment and payment of personnel costs of the Agency.

Guam receives no federal funding to implement its solid waste program. Funds received from permit fees and fines cannot sustain the implementation of the program. Aside from GEPA's recycling program staff of 1, who is 100% funded by the *Recycling Revolving Fund*, Guam EPA can only support one other full-time employee dedicated to solid waste permitting, inspection, and compliance. In light of our mandated responsibilities and the increase in workload associated with the buildup, a sustainable funding source is needed to maintain this Agency's mandated responsibilities on solid waste. Thanks to the foresight of Senator Ben Pangelinan and the legislature in allocating some funding for the GEPA solid waste program in FY 2011, GEPA can now outsource technical assistance, albeit for a limited time period.

Considering Guam EPA's islandwide role in solid waste management, compliance, and enforcement, we believe that the use of the tipping fees towards the support of this Agency's Solid Waste Management Program is relevant, appropriate, and beneficial to the people of Guam.

This concludes my Testimony on Bill 35-31. Thank you.



IVAN C. QUINATA
Acting Administrator

John M. Weisenberger
Attorney General



Phillip J. Tydingco
Chief Deputy Attorney General

Office of the Attorney General

October 6, 2010

The Honorable Benjamin J. F. Cruz
Vice-Speaker, Thirtieth Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

CONFIRMATION

Re: Government of Guam Employees Group Health Insurance
Contracts with Selectcare for FY2011 (AG Ref: 10-0966)

Dear Senator Cruz:

I am in receipt of your letter dated October 4, 2010 regarding the matter referenced above. We have also received copies of letters you sent to Ms. Bertha Duenas, Director of the Bureau of Budget and Management Research, and to Ms. Lourdes Perez, Director of the Department of Administration, regarding the same matter and raising the same issues.

We will be reviewing the concerns you brought up in all three letters and will respond to you as soon as our review is completed. Thank you.

Sincerely,


JOHN M. WEISENBERGER
Attorney General of Guam

cc: Ms. Bertha Duenas, Director of BBMR
Ms. Lourdes Perez, Director of DOA



COMMITTEE ON RULES

I Mina'trentai Unu na Libeslaturan Guahan • 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

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

MAJORITY
MEMBERS:

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Judith T. Won Pat

Vice Speaker
Benjamin J. F. Cruz

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Senator
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Senator
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Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY
MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

February 24, 2011

Memorandum

To: Pat C. Santos
Clerk of the Legislature

From: Senator Rory J. Respicio
Chairperson, Committee on Rules

Subject: Fiscal Notes

Hafa Adai!

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

Bill Nos.:	30-31 (COR)	65-31 (COR)
	31-31 (COR)	66-31 (COR)
	35-31 (COR)	68-31 (COR)
	49-31 (COR)	69-31 (COR)
	50-31 (COR)	71-31 (COR)
	56-31 (COR)	72-31 (COR)
	58-31 (COR)	74-31 (COR)
	59-31 (COR)	

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'ãse'!

2011 FEB 24 PM 2:21
EAM

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932EDDIE BAZA CALVO
GOVERNORRAY TENORIO
LIEUTENANT GOVERNORBENITA A. MANGLONA
ACTING DIRECTOR

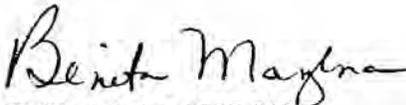
FEB 22 2011

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hester Place
Hagåtña, Guam 96910

Hafa Adai Senator Respicio:

Transmitted herewith are Fiscal Notes on the following Bill Nos.: 35-31(COR), 49-31(COR), 50-31(COR), 74-31(COR); and Fiscal Note Waivers on Bill Nos.: 31-31(COR), 69-31(COR), 58-31(COR), 59-31(COR) and 56-31(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.


BENITA A. MANGLONA
Acting Director

Enclosures

cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 35-31 (COR)**

AN ACT TO AMEND §12000 OF CHAPTER 12 OF TITLE 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND §1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA), AND TO REPEAL §51118, ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10 GCA AND REENACT THEM UNDER A NEW CHAPTER 15, TITLE 12 GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

Department/Agency Appropriation Information	
Dept./Agency Affected: Public Works	Dept./Agency Head: Joanne M.S. Brown
Department's General Fund (GF) appropriation(s) to date:	8,781,513
Dept's Other Fund (Specify) appropriation(s) to date: DPW Building & Design Fund \$562,012; Solid Waste Operations Fund \$6,446,626; Territorial Highway Fund \$8,564,123	<u>15,572,761</u>
Total Department/Agency Appropriation(s) to date:	\$24,354,274

Fund Source Information of Proposed Appropriation			
	General Fund:	Solid Waste Operations Fund:	Total:
FY 2010 Unreserved Fund Balance ¹		\$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
Solid Waste Operations Fund	1/	1/	1/	1/	1/	1/
Total	1/	1/	1/	1/	1/	1/

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

Analyst: [Signature] Date: 2/11/11 Director: [Signature] Date: 2/21/11
Benita A. Mangiona, Acting Director

Footnotes:

1. The Bill has a potential for additional funding impact in terms of its transition into and continuation as an autonomous, public corporation to include the hiring of certain administrative positions, and the establishment of physical locations as may be required to implement certain programs specified in the bill language. However in its present form that impact cannot be determined at this time.

Bureau of Budget & Management Research
Attachment to Fiscal Note No. 35-31 (COR)
(for revenue generating provisions)

Projected Multi-Year Revenues					
	Year 1	Year 2	Year 3	Year 4	Year 5
General Fund	\$0	\$0	\$0	\$0	\$0
Other Fund: 1/	1/	1/	1/	1/	1/
Total	1/	1/	1/	1/	1/

Comments:

1/ Subject to approval of the Public Utility Commission (PUC), the proposed legislation includes revenue-generating provisions through rates and charges for the collection, transportation, disposal, storage, recycling and processing of solid waste; and additionally, through rates and charges for the servicing of debt obtained to undertake capital improvements to solid waste management.



COMMITTEE ON RULES

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155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
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

MAJORITY MEMBERS:

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Senator
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Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

January 19, 2011

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Chairperson, Committee on Rules

Subject: Referral of Bill Nos. 32-31 (COR) through 35-31 (COR)

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 32-31 (COR) through 35-31 (COR).

Please ensure that the subject bills are referred, in my name, to the respective committees, as shown on the attachment. I also request that the same be forwarded to all Senators 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!

(3) Attachments

2011 JAN 19 PM 2:48
EDM

I Mina'trentai Unu Na Liheslaturan Gu àhan

Bill Log Sheet

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee/Office Referred
35-31 (COR)	T.C. Ada, R.J. Respicio, B.J.F. Cruz, A.B. Palacios, Sr., A.A. Yamashita, Ph.D., V.A. Ada, C.M. Duenas, M.S. Tajeron, D.G.Rodriguez, Jr.	An act to amend §12000 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to repeal §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and reenact them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation.	1/18/11 3:39 p.m.	1/19/2011		Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting.



March 3, 2011

MEMORANDUM

TO: All Members/All Senators

FROM: Vice Speaker Benjamin J.F.Cruz

RE: First Notice of Public Hearing -March 10, 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 **Thursday, March 10, 2011**, beginning at **2:30 p.m.**, in the Legislature's Public Hearing Room for the following items:

- Confirmation Hearing for **Cathy Gogue** as the General Manager of PBS Guam.
- **Bill No. 35-31 (COR)** - T.C. Ada / R.J. Respicio / B.J.F. Cruz / A.B. Palacios, Sr. / A.A. Yamashita / V.A. Ada / C. Duenas / M.S. Taijeron / D.G. Rodriguez, Jr. - An act to amend §12000 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to *repeal* §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and *reenact* them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation.
- **Bill No. 81-31 (COR)** - D.G. Rodriguez, Jr. - An act relative to equitably implementing the certification pay differential salary adjustments for licensed practical nurses of the government of Guam as mandated by law, by amending §6229.6 of Chapter 6, Title 4, Guam Code Annotated.
- **Bill No. 90-31 (COR)** - J.T. Won Pat, Ed.D. - An act to amend §8113, Chapter 8 of Title 5 Guam Code Annotated relative to the minutes of every meeting of each public agency being posted on the public agency's website.

If written testimonies are to be presented at the hearing, we request that you provide copies for distribution, or they may be submitted one day prior 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 accommodations please contact Garrett Duenas at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at garrett.duenas@senatorbjcruz.com.

Chris Carillo

From: Chris Carillo [chris.carillo@senatorbjcruz.com]
Sent: Thursday, March 03, 2011 3:46 PM
To: 'speaker@judiwonpat.com'; 'senator@senatorbjcruz.com'; 'Tom@SenatorAda.org'; 'senatorTonyada@guamlegislature.org'; 'frank.blasjr@gmail.com'; 'duenasenator@gmail.com'; 'senatorjudiguthertz@gmail.com'; 'senatorsam@senatormabini.com'; 'tinamunabarnes@gmail.com'; 'senabpalacios@gmail.com'; 'senbenp@guam.net'; 'roryforguam@gmail.com'; 'senatordrodriguez@gmail.com'; 'manasilva@hotmail.com'; 'Aline4families@gmail.com'
Cc: 'tterlaje@guam.net'; 'yong@guamlegislature.org'; 'mis@guamlegislature.org'; 'clerksoffice@guamlegislature.org'; 'sem@guamlegislature.org'; 'vparriola@teleguam.net'; 'director@gec.guam.gov'; 'jamespcastro@gmail.com'; 'mark sayama'; 'fbtorres@yahoo.com'; 'phillipsguam@gmail.com'; 'etajalle@guamlegislature.org'; 'Lisa Cipollone'; 'sonedera-salas@guamlegislature.org'; 'chris.budasi@guamlegislature.org'; 'jcamacho@senatorada.org'; 'Doreen Garcia'; 'Cyrus@SenatorAda.org'; 'Nicole Santos'; 'jennifer.lj.dulla@gmail.com'; 'josecruzjr17@yahoo.com'; 'mike.lidia9@gmail.com'; 'carlospguam@yahoo.com'; 'Chris Carillo'; 'peterlg@gmail.com'; 'jonatwork2010@gmail.com'; 'richie ruw'; 'Cmunabrecht@guamlegislature.org'; 'anaaleah@yahoo.com'; 'jeff manibusan'; 'Leslie Gatan'; 'oliviampalacios@gmail.com'; 'garrett.duenas@senatorbjcruz.com'; 'hottips@kuam.com'; 'Ray Gibson'; 'therese.hart.writer@gmail.com'; 'thebigshow@k57.com'; 'Janela'; 'Sabrina Salas'; 'mindy@kuam.com'; 'Joshua Tenorio'; 'egthompson@guampdn.com'; 'editor@mvguam.com'; 'dcrisost@guampdn.com'; 'bmkelman@guampdn.com'; 'kevin@spbguam.com'; 'clynt@spbguam.com'; 'dtamondong@guampdn.com'; 'dmgeorge@guampdn.com'; 'sgtarms@guamlegislature.org'
Subject: Public Hearing 1st Notice 03/10/2011
Attachments: FestPacPHNotice031011.pdf; BJCRUZ PublicHearing031011.pdf

Hafa Adai,

Please see the attached notices.

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 Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, 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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Chris Carillo

From: Chris Carillo [chris.carillo@senatorbjcruz.com]
Sent: Tuesday, March 08, 2011 10:38 AM
To: 'speaker@judiwonpat.com'; 'senator@senatorbjcruz.com'; 'Tom@SenatorAda.org'; 'senatortonyada@guamlegislature.org'; 'frank.blasjr@gmail.com'; 'duenasenator@gmail.com'; 'senatorjudiguthertz@gmail.com'; 'senatormabini@gmail.com'; 'tinamunabarnes@gmail.com'; 'senabpalacios@gmail.com'; 'senbenp@guam.net'; 'roryforguam@gmail.com'; 'senatorrodriguez@gmail.com'; 'manasilva@hotmail.com'; 'Aline4families@gmail.com'; 'tterlaje@guam.net'
Cc: 'rtaitague@guamlegislature.org'; 'clerksoffice@guamlegislature.org'; 'sem@guamlegislature.org'; 'vparriola@teleguam.net'; 'director@gec.guam.gov'; 'jamespcastro@gmail.com'; 'mark sayama'; 'fbtorres@yahoo.com'; 'phillipsguam@gmail.com'; 'etajalle@guamlegislature.org'; 'Lisa Cipollone'; 'sonedera-salas@guamlegislature.org'; 'chris.budasi@guamlegislature.org'; 'jcamacho@senatorada.org'; 'Doreen Garcia'; 'Cyrus@SenatorAda.org'; 'Nicole Santos'; 'jennifer.lj.dulla@gmail.com'; 'josecruzjr17@yahoo.com'; 'mike.lidia9@gmail.com'; 'carlos.pangelinan@senatorbjcruz.com'; 'carlospguam@yahoo.com'; 'Chris Carillo'; 'peterlg@gmail.com'; 'jonatwork2010@gmail.com'; 'richie ruw'; 'Cmunabrecht@guamlegislature.org'; 'anaaleah@yahoo.com'; 'jeff manibusan'; 'Leslie Gatan'; 'oliviampalacios@gmail.com'; 'psantos@guamlegislature.org'; 'Ray Gibson'; 'hottips@kuam.com'; 'egthompson@guampdn.com'; 'dtamondong@guampdn.com'; 'dmgeorge@guampdn.com'; 'therese.hart.writer@gmail.com'; 'Janela'; 'thebigshow@k57.com'; 'parroyo@k57.com'; 'kevin@spbguam.com'; 'clynt@spbguam.com'; 'mindy@kuam.com'; 'Sabrina Salas'; 'managingeditor@glimpsesofguam.com'; 'Mar-Vic'; 'sgtarms@guamlegislature.org'; 'mis@guamlegislature.org'; 'Clerks Office'; 'sem@guamlegislature.org'
Subject: 2nd Public Hearing Notice
Attachments: BJCRUZ PublicHearing0310112ndnotice.pdf; FESTPAC COMMISSION.pdf

Hafa Adai All,

Attached are the Corrected Notices.....

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 Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, 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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March 8, 2011

MEMORANDUM

TO: All Members/All Senators
FROM: Vice Speaker Benjamin J.F. Cruz
RE: Second Notice Notice of Public Hearing -March 10, 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 **Thursday, March 10, 2011**, beginning at **2:30 P.M.**, in the Legislature's Public Hearing Room for the following items:

- Confirmation Hearing for **Cathy Gogue** as the General Manager of PBS Guam.
- **Bill No. 35-31 (COR)** - T.C. Ada / R.J. Respicio / B.J.F. Cruz / A.B. Palacios, Sr. / A.A. Yamashita / V.A. Ada / C. Duenas / M.S. Taijeron / D.G. Rodriguez, Jr. - An act to *amend* §12000 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to *repeal* §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and *reenact* them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation.
- **Bill No. 81-31 (COR)** - D.G. Rodriguez, Jr. - An act relative to equitably implementing the certification pay differential salary adjustments for licensed practical nurses of the government of Guam as mandated by law, by amending §6229.6 of Chapter 6, Title 4, Guam Code Annotated.
- **Bill No. 90-31 (COR)** - J.T. Won Pat, Ed.D. - An act to amend §8113, Chapter 8 of Title 5 Guam Code Annotated relative to the minutes of every meeting of each public agency being posted on the public agency's website.

If written testimonies are to be presented at the hearing, we request that you provide copies for distribution, or they may be submitted one day prior 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 accommodations please contact Garrett Duenas at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at garrett.duenas@senatorbjcruz.com .

cc: Clerk of the Legislature
Protocol
Audio/Visual
All Media



Thursday, March 10, 2011- 2:30 PM

***I Liheslatura* • Public Hearing Room • Hagatña, Guam**

AGENDA

- Confirmation Hearing for **Cathy Gogue** as the General Manager of PBS Guam.

- **Bill No. 35-31 (COR) - T.C. Ada / R.J. Respicio / B.J.F. Cruz / A.B. Palacios, Sr. / A.A. Yamashita / V.A. Ada / C. Duenas / M.S. Taijeron / D.G. Rodriguez, Jr.** - An act to *amend* §12000 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to *repeal* §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and *reenact* them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation.

- **Bill No. 81-31 (COR) - D.G. Rodriguez, Jr.** - An act relative to equitably implementing the certification pay differential salary adjustments for licensed practical nurses of the government of Guam as mandated by law, by amending §6229.6 of Chapter 6, Title 4, Guam Code Annotated.

- **Bill No. 90-31 (COR) - J.T. Won Pat, Ed.D.** - An act to amend §8113, Chapter 8 of Title 5 Guam Code Annotated relative to the minutes of every meeting of each public agency being posted on the public agency's website.



COMMITTEE ON RULES

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155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@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

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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. Duenas

March 18, 2011

MEMORANDUM

To: Patricia C. Santos
Clerk of the Legislature

From: Senator Judith P. Guthertz, DPA
Acting Chairperson, Committee on Rules

Subject: Written Testimonies -Bill No. 35-31 (COR) as
Substituted

Hafa Adai!

Please attach the enclosed Written Testimonies for Bill No. 35-31 (COR) as Substituted to the Committee Report on Bill No. 35-31 (COR) as Substituted.

Please make the appropriate indication in your records; and forward to MIS for posting on our website.

Si Yu'os ma'åse'!

2011 MAR 21 AM 9:27

**TESTIMONY OF
IVAN C. QUINATA
ACTING ADMINISTRATOR, GUAM ENVIRONMENTAL PROTECTION
AGENCY
BEFORE THE COMMITTEE ON YOUTH, CULTURAL AFFAIRS,
PROCUREMENT, GENERAL GOVERNMENT OPERATIONS, AND
PUBLIC BROADCASTING**

**HEARING ON BILL 35-31(COR): AN ACT TO AMEND §12000 OF
CHAPTER 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND
§1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA),
AND TO REPEAL §51118, ARTICLE 3, ARTICLE 4, ARTICLE 6,
ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10
GCA AND REENACT THEM UNDER A NEW CHAPTER 15, TITLE 12
GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS,
PUBLIC CORPORATION.**

March 10, 2011

Mr. Chairman, the Guam Environmental Protection Agency (Guam EPA) appreciates this opportunity to offer its testimony on Bill 35-31 for your consideration. This Agency supports the intent of Bill 35-31 in its foresight and vision to initiate the process in preparing for the future operations of solid waste. However, please note Guam EPA does not support placing management of the Guam Solid Waste Authority under the purview of the Consolidated Commission on Utilities.

Since July 2010, original discussions on this subject began with Bill 426-30, which Guam EPA participated in roundtable discussions organized by Senator Tom Ada, who was the primary sponsor of that Bill. Since then, modifications on the original content of Bill 426-30 have been made to ensure that Guam EPA's authority and primacy in solid waste and hazardous waste are not compromised.

There was a recommendation in the *1999 Integrated Solid Waste Management Plan* (ISWMP) developed by Dueñas and Associates. As part of the "Management Options Analysis", the creation of a Solid Waste Management Authority was recommended to

improve the effectiveness of solid waste management in light of the environmental, political and social challenges in implementing the laws and the ISWMP at that time. Although the 1999 ISWMP adopted the public utility as the organizational option and listed the advantages for this option to include long-term debt management, regulation by the public utilities commission, focused mission, privatization and stability, Guam EPA will recommend other options.

In 2006, the ISWMP was updated to reflect the status of solid waste management operations at that time, inclusive of significant events such as the 2004 Consent Decree. Based on the conditions then, the recommendation for the establishment of a Guam Solid Waste Authority was maintained. Moreover, the 2006 ISWMP referenced findings from PUC's Audit Report, which recommended that the Department of Public Works (DPW) Solid Waste Division and activities be transferred to a public corporation. In this light, Guam EPA now recommends that the Guam Solid Waste Authority be under the purview of a Board of Directors, whose members will be appointed by the Governor, and confirmed by the Legislature.

While Guam EPA supports the intent of Bill 35-31 to establish the Guam Solid Waste Authority as an autonomous public corporation, this Agency offers the following recommendations for your consideration:

1. All references relating to the "Consolidated Commission on Utilities" or "CCU" in the language of Bill 35-31 should be removed and replaced with references to a Board of Directors whose members shall be appointed by the Governor, and confirmed by the Legislature. This change will allow initial oversight of this fledgling autonomous public corporation by the Legislative and Executive Branches.
2. Repeal 10 GCA Chapter 51, Section 51103(b) in its entirety. To provide additional clarity on the transfer of responsibilities from the Department of Public Works Solid Waste Management Division to the Guam Solid Waste Authority, Guam EPA recommends that the *powers and duties of the Department* be removed from this Chapter.
3. Amend language in Bill 35-3 to *add* a provision for Guam EPA to receive at least 5% of the tipping fees to augment our current funding in implementing the Solid Waste Management Program within this Agency, including continued compliance inspection of the operations of the Layon Landfill, Ordot Closure and Post Closure, Solid Waste Transfer Stations, etc. The 5% tipping fees should be deposited to the Solid Waste Management fund.¹ GEPA will use the funds to provide administrative and operating expenses related to the regulatory oversight of the Guam Solid Waste Authority.

¹ 10 GCA 51 §51117 (PL 23-62) created the *Solid Waste Management Fund*. "All fees, reimbursements, assessments, fines, bail forfeitures and other funds collected or received pursuant to this Article shall be deposited in this Fund and used for the administration and implementation of this Article, including purchase of equipment and payment of personnel costs of the Agency.

Guam receives no federal funding to implement its solid waste program. Funds received from permit fees and fines cannot sustain the implementation of the program. Aside from GEPA's recycling program staff of 1, who is 100% funded by the *Recycling Revolving Fund*, Guam EPA can only support one other full-time employee dedicated to solid waste permitting, inspection, and compliance. In light of our mandated responsibilities and the increase in workload associated with the buildup, a sustainable funding source is needed to maintain this Agency's mandated responsibilities on solid waste. Thanks to the foresight of Senator Ben Pangelinan and the legislature in allocating some funding for the GEPA solid waste program in FY 2011, GEPA can now outsource technical assistance, albeit for a limited time period.

Considering Guam EPA's islandwide role in solid waste management, compliance, and enforcement, we believe that the use of the tipping fees towards the support of this Agency's Solid Waste Management Program is relevant, appropriate, and beneficial to the people of Guam.

This concludes my Testimony on Bill 35-31. Thank you.



IVAN C. QUINATA
Acting Administrator

John M. Weisenberger
Attorney General



Phillip J. Tydingco
Chief Deputy Attorney General

Office of the Attorney General

October 6, 2010

The Honorable Benjamin J. F. Cruz
Vice-Speaker, Thirtieth Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

CONFIRMATION

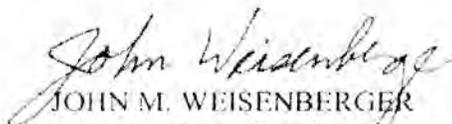
Re: Government of Guam Employees Group Health Insurance
Contracts with Selectcare for FY2011 (AG Ref: 10-0966)

Dear Senator Cruz:

I am in receipt of your letter dated October 4, 2010 regarding the matter referenced above. We have also received copies of letters you sent to Ms. Bertha Duenas, Director of the Bureau of Budget and Management Research, and to Ms. Lourdes Perez, Director of the Department of Administration, regarding the same matter and raising the same issues.

We will be reviewing the concerns you brought up in all three letters and will respond to you as soon as our review is completed. Thank you.

Sincerely,


JOHN M. WEISENBERGER
Attorney General of Guam

cc: Ms. Bertha Duenas, Director of BBMR
Ms. Lourdes Perez, Director of DOA

SENATOR BENJAMIN J.F. CRUZ, VICESPEAKER

Chairman, Committee on Youth, Cultural Affairs, Procurement,
General Government Operations, and Public Broadcasting.
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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

March 18, 2011

The Honorable Rory J. Respicio
Chairperson, Committee of Rules
I Mina'Trentai Unu Na Liheslatuaran Guahan
155 Hesler Place
Hagatna, Guam 96910

Dear Senator Respicio,

Please allow the following testimony to be appended to the Committee Report for Substitute Bill 35-81. The Public Hearing was on March 10 2011 and is well within the 10 day limit. I appreciate it.

Sincerely,

A handwritten signature in black ink, appearing to read "Benjamin J.F. Cruz".

Benjamin J.F. Cruz



COMMITTEE ON RULES

I Mina'trentai Unu na Libeslaturan 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

2011 MAR 23
M 8:33
[Handwritten signature]

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. Duenas

March 22, 2011

MEMORANDUM

To: Patricia C. Santos
Clerk of the Legislature

From: Senator Judith P. Guthertz, DPA
Acting Chairperson, Committee on Rules

[Handwritten initials]

Subject: Written Testimonies -Bill No. 35-31 (COR) as Substituted

Hafa Adai!

Please attach the enclosed Written Testimonies for Bill No. 35-31 (COR) as Substituted to the Committee Report on Bill No. 35-31 (COR) as Substituted.

Please make the appropriate indication in your records; and forward to MIS for posting on our website.

Si Yu'os ma'åse'!

Leonardo M. Rapadas
Attorney General



Phillip J. Tydingco
Chief Deputy Attorney General

OFFICE OF THE ATTORNEY GENERAL

March 14, 2011

Honorable Thomas C. Ada
Chairman
Committee on Utilities, Transportation, Public Works and Veterans Affairs
Senator, Thirty-First Guam Legislature
Suite 207, Ada Plaza Center
173 Aspinall Ave.
Hagatna, Guam 96910

Subject: **Bill 35-31 re: Guam Solid Waste Authority**

Dear Chairman Ada,

Buenas yan Håfa Adai! The Office of the Attorney General respectfully submits this written testimony on Bill 35-31 with regard to two issues.

We first observed that the proposed new Chapter 15 of Title 12 G.C.A. (that creates the Guam Solid Waste Authority) does not appear to include any provisions that address the statutory authority that Mayors' Offices have "to dump for free trash or debris at the Ordot dump, the Agat transfer station and any other permitted dump site operated by the Department of Public Works (DPW)." See 5 G.C.A. §40113(d). Although it is certainly a policy call to leave that matter alone for another day, we anticipate there may be a future dispute over whether the new Guam Solid Waste Authority as contemplated by Bill 35-31 can charge the Mayors' Offices' statutory authority to dump trash and debris that they have collected. The Guam Legislature may want to make certain that there is no inconsistency or ambiguity between these two laws.

The second issue concerns the hiring and compensation of the Guam Solid Waste Authority's attorney. On page 19 of Bill 35-31, subsection (c) of §15017 of Title 12 G.C.A. reads as follows:

(c) Notwithstanding any other provisions of law, neither the General Manager, Assistant General Managers, Secretary, Chief Financial Officer, nor Attorney of the Authority shall be within the classified service of the government of Guam but shall be hired, compensated under the terms and conditions fixed by, and at the pleasure of the Board.

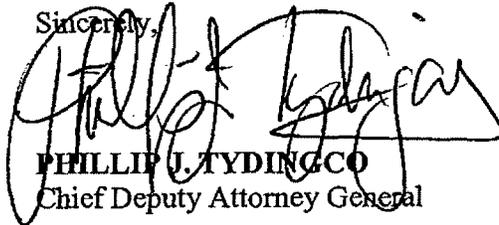
(emphasis added). This subsection of the bill indicates that the attorney for the Authority is not within the classified service. This raises the same issue that was before the court in *Haesuer v. Department of Law*, 97 F.3d 1152 (9th Cir. 1996). The *Haesuer* case provides that the Organic Act requires that government attorneys must be included within the merit system unless it is “impracticable” to do so.¹

[A]lthough we do not micromanage Guam's civil service system, we must ensure that the legislature had a reasonable basis for concluding that it was impracticable to include assistant attorneys general within the classified system. Our inquiry is somewhat like rational basis review, (citation omitted) but stricter and more focused. The government cannot exempt a position from the merit system simply for some legitimate governmental purpose, (citation omitted), but only if it is “impracticable” to include the position within the merit system. If it is “practicable” to include the position within the merit system, the position must be included in the merit system. (citation omitted) Moreover, the government cannot rely on mere assertions as to the impracticability of including the position within the merit system. Rather, it must demonstrate-either in the legislative record or in the record before the court-that it is not practicable to include assistant attorneys general within the merit system. (citation omitted).

Haesuer at *1157 (internal quotation marks for citing cases omitted). Hence, if it is “practicable,” attorneys – not procured or hired under a contract – who are hired as regular government employees, must receive the same government benefits, including being subject to the same pay scale, as all government attorneys and must receive the same classified employee rights as all other government attorneys.

It is the recommendation of the Office of the Attorney General that the Legislature take into consideration the *Haesuer* case when considering this bill

Should you have any questions do not hesitate to contact me. *Dangkolo na Agradesimiento!*

Sincerely,

PHILLIP J. TYDINGCO
Chief Deputy Attorney General

cc: Hon. Leonardo M. Rapadas
Attorney General of Guam
Patrick Mason
Deputy Attorney General (Civil/Solicitors Division)

¹ This would not include attorneys who are under contract with the government and receive full payment for invoices submitted to the government, which invoices are based upon an hourly rate established by contract, and who receive no government benefits.



The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor



JOANNE M.S. BROWN
Acting Director

CARL V. DOMINGUEZ
Deputy Director

March 17, 2011

The Honorable Thomas C. Ada, Chairperson
Committee on Utilities, Transportation, Public Works and Veterans Affairs
I Mina'trentai Unu Na Liheslaturan Guåhan
Suite 207, Ada Plaza Center
Hagåtña, Guam 96910

Re: Bill No. 35-31

Buenas yan Hafa Adai Senator Ada!

AT 03/18/11
RECEIVED by the
Office of Senator
Thomas C. Ada

Thank you for permitting the Department of Public Works (DPW) an opportunity to present the following views and written testimony on the above referenced Bill.

For several decades the DPW has had the responsibility for collecting and disposing of residential trash and operating the island's only municipal solid waste disposal facility, the Ordot Dump. This responsibility was removed from the DPW in March, 2008, when the U.S. District Court of Guam appointed a solid waste management consultant, Gershman, Brickner & Bratton, Inc. (GBB), as Receiver to insure the government of Guam's compliance with the 2004 Consent Decree to close the Ordot Dump and open a new sanitized landfill. GBB occupies a two story building and a portion of DPW's compound in upper Tumon and has administrative oversight of approximately sixty-five DPW employees for its operations. Monthly payments for residential trash pick-up and tipping fees for disposal at the Ordot Dump are used by GBB to finance current solid waste disposal operations.

In response to Bill No. 35-31, DPW supports the creation of a Guam Solid Waste Authority (GSWA). We agree that to insure the future success for solid waste management on Guam would be best served with the existence of the Solid Waste Authority. This issue has been discussed for a number of years and was originally proposed in the Solid Waste Management Plan that was developed by Guam EPA to address the best alternatives for waste management.

We are in agreement with the most components of Bill No. 35-31, however, DPW recommends the governing of structure of the GSWA be placed under a Board of Directors appointed by the Governor of Guam, with confirmation of the members by *I Liheslaturan Guahan*, similar to the boards of directors of the Guam International Airport Authority (GIAA) and the Port Authority of Guam (PAG). This arrangement would be beneficial and preferable than governance by the Consolidated Commission on Utilities (CCU) as the CCU is already burdened with the important responsibility of two large utilities, the Guam Power Authority (GPA) and the Guam Waterworks Authority (GWA). DPW is of the

position that the operation of the new Layon landfill, closure of the Ordot Dump which is anticipated to take two years or more, the continued collection of residential trash, improved recycling programs and the impact to solid waste disposal due to the impending military buildup will require the utmost and full attention of a dedicated Board of Directors.

The DPW appreciates your forth sidedness and vision in introducing legislation that will address the transition process from the Solid Waste Receivership to returning the oversight of solid waste management to the governance of the people of Guam. We appreciate the opportunity to provide comment.

Si Yu'os Ma'ase',



JOANNE M. S. BROWN

cc: Speaker J.T. Won Pat
Vice Speaker B.J. Cruz
Senator Tina Muna-Barnes
Senator Rory J. Respicio
Senator Judith P. Guthertz
Senator Vicente C. Pangelinan
Senator Thomas C. Ada
Senator Adolpho B. Palacios, Sr.
Senator Dennis G. Rodriguez, Jr.
Senator Frank F. Blas, Jr.
Senator Aline A. Yamashita
Senator V. Anthony Ada
Senator Christopher M. Duenas
Senator Sam Mabini
Senator Mana Silva Taijeron
Chrono

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

Bill No. 35-31 (*cov*)

Introduced by:

T.C. Ada
R.J. RESPICIO
B.J.F. Cruz
ADOLPHO B. PALACIOS, SR.
Aline A. Yamashita, Ph.D.
V. A. Ada
C. Duenas
M.S. Taijeron
D. G. Rodriguez, Jr.

2011 JUN 18
Guam

AN ACT TO *AMEND* §12000 OF CHAPTER 12 OF TITLE 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND §1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA), AND TO *REPEAL* §51118, ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10 GCA AND *REENACT* THEM UNDER A NEW CHAPTER 15, TITLE 12 GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent.

3 *I Liheslaturan Guåhan* finds that the history of the Government of Guam's
4 (GovGuam) violation of the Clean Water Act goes back to 1986, when the United States
5 Environmental Protection Agency issued an administrative order directing the island's
6 Department of Public Works to cease the discharge of leachate from the Ordot Dump.
7 Twenty-four (24) years later, the Ordot Dump, the island's only municipal site for solid
8 waste disposal, continues to leach contaminants, posing an environmental and health
9 hazard. A Consent Decree was approved by the U.S. District Court of Guam in February
10 2004, yet compliance with its mandates has been minimal. GovGuam's commitment to
11 comply with the Consent Decree was not enough to rectify the island's solid waste crisis.
12 Consequently, on March 17, 2008, Gershman, Brickner & Bratton, Inc. (GBB), solid
13 waste management consultants, was appointed as Receiver by the District Court of Guam

1 to achieve the government’s compliance with the Clean Water Act as set forth in the
2 Consent Decree. GBB has full power and authority to enforce the terms of the Consent
3 Decree to include assumption of the functions, powers and authority of the Solid Waste
4 Management Division of the Department of Public Works insofar as they affect
5 GovGuam’s compliance with the Consent Decree.

6 *I Liheslaturan Guåhan* intends to prepare GovGuam for the eventual resumption
7 of all functions, responsibilities and authority for solid waste management and
8 operations, subsequent to the U.S. District Court determination that the Consent Decree
9 has been satisfied and that GovGuam would have the capability to manage, operate and
10 sustain a compliant solid waste service and landfill. *I Liheslaturan Guåhan* intends to
11 establish the Guam Solid Waste Authority (GSWA), an autonomous public corporation,
12 as successor to the Solid Waste Management Division, a sub-entity of the Department of
13 Public Works.

14 *I Liheslaturan Guåhan* intends to place the GSWA under the governance of the
15 CCU. *I Liheslaturan Guåhan* finds that the Consolidated Commission on Utilities
16 (CCU), a governing body created by P.L. 26-76 in March 2002, has successfully
17 provided effective governance to the Guam Power Authority (GPA) and the Guam
18 Waterworks Authority (GWA) using best management and business practices and that
19 the CCU has the governing experience and capacity to similarly manage the GSWA.
20 Placing the GSWA under the governance of the CCU from the outset, will better assure a
21 successful and stabilized transition.

22

23 **Section 2.** §79100 of Chapter 79 of Title 12 of the Guam Code Annotated is hereby
24 *amended* to read as follows:

25 **§79100. Creation of Commission.** There is established an elected
26 Consolidated Commission on Utilities whose purpose is to exercise powers vested in
27 them by the laws establishing the Guam Power Authority (‘GPA’), the Guam Solid
28 Waste Authority (‘GSWA’) and the Guam Waterworks Authority (‘GWA’). The
29 Consolidated Commission on Utilities, hereinafter referred to as “Commission” shall be
30 elected by registered voters of Guam.

31

1 **Section 3.** §79101 of Chapter 79 of Title 12 of the Guam Code Annotated is hereby
2 *amended* to read as follows:

3 **§79101. Commissioners.** The Commission shall be comprised of five (5)
4 Commissioners elected at-large by the voters of Guam in a General Election. To be
5 eligible to be a Commissioner, a person must be a registered voter of Guam and a
6 minimum of twenty-five (25) years of age, and shall have been a resident of Guam for at
7 least five (5) years immediately prior to the date of the Commissioner’s election.

8 A person may not simultaneously serve as a Commissioner and an employee of
9 the Guam Waterworks Authority, the Guam Power Authority, the Guam Solid Waste
10 Authority, or the Public Utilities Commission, or simultaneously serve as a
11 Commissioner and an unclassified or contracted employee of the government of Guam.
12 An adjunct instructor, adjunct teacher, or adjunct professor employed by the University
13 of Guam or the Guam Community College may serve as a Commissioner.

14 Persons retired from the government of Guam may serve as Commissioners. At
15 their first official meeting, the Commissioners shall elect from among the Commissioners
16 a chairperson, who shall preside over meetings of the Commission. A majority of the
17 Commissioners holding office shall constitute a quorum. The affirmative vote of the
18 majority of Commissioners holding office shall constitute the decision of the
19 Commission. The Commission may adopt rules and regulations governing the conduct of
20 its affairs.

21

22 **Section 4. Transition Liaison.** Upon enactment of this Act the Commission shall
23 establish a liaison with the Receiver, Gershman, Brickner & Bratton, Inc. and begin
24 discussions preliminary to achieving the objective of GovGuam’s eventual resumption of
25 all functions, responsibilities and authority for solid waste management and operations
26 and the governance thereof.

27

28 **Section 5. Effective Date of Governance of the Authority.** Governance of the Guam
29 Solid Waste Authority by the Commission shall take effect upon determination by the
30 United States District Court that the requirements of Section XIV of the Consent Decree
31 (Civil Case No. 02-00022, United States of America, Plaintiff, v. Government of Guam,

1 Defendant) have been fulfilled, and governance of the Municipal Solid Waste
2 Management is returned to the Government of Guam.

3 **Section 6.** A new Chapter 15 is hereby added to Title 12 the Guam Code Annotated, and
4 shall read:

5 **CHAPTER 15**

6 **GUAM SOLID WASTE AUTHORITY**

7 Article 1. General Provisions

8 Article 2. Guam Solid Waste Authority Revenue Bonds

9 Article 3. Transition to a Guam Solid Waste Authority

10 Article 4. Annual Contract for Scrap Removal

11 Article 5. Contract for Collection of Recyclable Paper

12 Article 6. Municipal Recycling Program

13 Article 7. Recycling Enterprise Zone

14 **Article 1.**

15 **General Provisions.**

16 §15001. Short Title.

17 §15002. Definitions.

18 §15003. Continuation of Existence.

19 §15004. Powers and Duties of the Authority

20 §15005. Governance of the Authority.

21 §15006. General Manager (GM).

22 §15007. Assistant GM: Operations and Technical Support.

23 §15008. Assistant GM: Administration

24 §15009. Chief Financial Officer.

25 §15010. Other Officers.

26 §15011. Employees.

27 §15012. Acquisition of Existing Systems, Employees and Debt.

28 §15013. Exemption from Taxation and In Lieu Payments.

29 §15014. General Operations.

30 §15015. Accounting and Expenditures.

31 §15016. Annual Budget.

1 §15017. Employment.

2 §15018. Solid Waste Operation Fund

3 **§15001. Short Title.**

4 This Chapter may be cited as the **Guam Solid Waste Authority Act.**

5 **§15002. Definitions.** As used in this Chapter, unless otherwise indicated:

6 (1) *Authority* means the Guam Solid Waste Authority (GSWA).

7 (2) *General Manager (GM)* means the General Manager of GSWA.

8 (3) *Best public interest* means any activity which: lessens the demand for landfill
9 sites, conserves land resources and serves to insure proper, cost effective, and
10 environmentally sound disposal of solid waste; and, does not pose health risks to human
11 life or endanger plant and animal life.

12 (4) *Commission* means the Consolidated Commission on Utilities.

13 (5) *Business* means and includes any activity or conduct, whether proprietary,
14 partnerships, corporate or whatever form, engaged in, or caused to be engaged in, with
15 the object of gain or economic benefit, either direct or indirect, but shall not include
16 casual sales, personal service contracts, fundraising activities by political candidates or
17 the activities of non-profit associations.

18 (6) *Collection* or *Collect* means the removal of solid waste from a generator.

19 (7) *Collector* means any individual, governmental organization or business, which
20 has received a permit to collect and transport waste in accordance with applicable laws
21 and regulations.

22 (8) *Combustion* means to thermally break down certain types of solid waste in an
23 enclosed device using controlled temperatures.

24 (9) *Composting* means the controlled degradation of organic solid waste.

25 (10) *Disposal* means the discharge, deposit, injection, dumping, spilling, leaking, or
26 placing of any solid waste or hazardous waste into or on any land or water so that such
27 solid waste or hazardous waste or any constituent thereof may enter the environment or
28 be emitted into the air or discharged into any waters, including ground water.

29 (11) *Dump* means a land site where solid waste is disposed without a valid permit, or a
30 landfill that has historically been in regulatory noncompliance.

1 (12) *Duplex* means a residential building containing two (2) separate dwelling units
2 either side by side or one above the other.

3 (13) *Dwelling* means a building or portion thereof designed exclusively for residential
4 occupancy by one (1) family for living and sleeping purposes and not to exceed two (2)
5 dwelling units.

6 (14) *Dwelling unit* means one (1) or more rooms and a single kitchen in a dwelling,
7 designed as a unit for occupancy by one (1) family for living and sleeping purposes.

8 (15) *Financial assurance* means a financial guarantee assuring that funds are available
9 to pay for the design, construction, operation and closure of a solid waste landfill facility,
10 for rendering post-closure at a solid waste landfill facility, for corrective action and to
11 compensate third parties for bodily injury and property damage caused by sudden and
12 non-sudden accidents related to the operation of a solid waste landfill facility.

13 (16) *Generator* means any person that generates or produces solid waste.

14 (17) *Government* means the government of Guam, all of its agencies, whether line or
15 autonomous, and all public corporations.

16 (18) *Hardfill* shall mean a method of compaction and earth cover of solid wastes other
17 than those containing garbage or other putrescible (putrescent) waste, including, but not
18 limited to, demolition material, and like materials not constituting a health or nuisance
19 hazard, where cover need not be applied on a per day used basis. No combustible
20 materials shall be deposited in a hardfill.

21 (a) *Combustible Materials* shall mean any solid or liquid that may be ignited.

22 (i) *Combustible Solids*, as defined in Title 49 of the Code of Federal
23 Regulations, Chapter 1, Subtitle B, Part 173.124, are those capable of igniting and
24 burning.

25 (ii) *Combustible Liquids*, as defined in Title 29 of the Code of Federal
26 Regulations, Chapter 17, Subtitle B, Part 1910.106, shall mean any materials having a
27 flash point at or above 100 degrees Fahrenheit (37.8 degrees Celsius), but below 200
28 degrees Fahrenheit (93.3 degrees Celsius), except any mixture having components with
29 flashpoints of 200 degrees Fahrenheit (93.3 degrees Celsius), or higher, the total volume
30 of which make up ninety-nine percent (99%) or more of the total volume of the mixture.

- 1 (19) *Hazardous Waste* means any material or substance which, by reason of its
2 composition or characteristics:
- 3 (a) hazardous waste as defined in the Solid Waste Disposal Act, 42 USC '6901, et
4 seq., as amended, replaced or superseded and the regulations implementing same,
 - 5 (b) a hazardous substance as defined by the Comprehensive Environmental
6 Response, Compensation and Liability Act of 1980, 42 USC § 9601, et seq.,
 - 7 (c) material the disposal of which is regulated by the Toxic Substances Control
8 Act, 15 USC ' 2601, et seq., as amended, replaced or superseded, and the regulations
9 implementing same,
 - 10 (d) special nuclear or by-products material within the meaning of the Atomic
11 Energy Act of 1954,
 - 12 (e) pathological, infectious or biological waste,
 - 13 (f) treated as hazardous waste or as a hazardous substance under applicable law,
 - 14 (g) requires a hazardous waste or similar permit for its storage, treatment,
15 incineration or disposal,
 - 16 (h) may cause or significantly contribute to an increase in mortality or an increase
17 in serious irreversible, or incapacitating reversible illness, or
 - 18 (j) may pose a substantial present or potential hazard to human health or the
19 environment when improperly treated, stored, transported or disposed of, or otherwise
20 damaged.
- 21 (20) *Highway* means the entire width between the boundary lines of every right-of-
22 way or publicly maintained travel ways when any part thereof is open to the use of the
23 public for purposes of vehicular travel.
- 24 (21) *Incinerator* means an enclosed device using controlled flame combustion, the
25 primary purpose of which is to thermally break down solid waste.
- 26 (22) *Multi-family dwelling* means a building containing three (3) or more dwellings.
- 27 (23) *Operator* means any person who accepts solid waste from a collector for transfer,
28 storage, recycling, combustion, processing or disposal.
- 29 (24) *Performance bond* means a security for financial loss caused by the act or default
30 performance of a person or by uncontrollable conditions.

- 1 (25) *Person* means any individual, partnership, co-partnership, firm, company,
2 corporation, association, joint stock company, trust, estate, or any agency, department, or
3 instrumentality of the Federal or local government, or any other legal representatives,
4 agents or assigns.
- 5 (26) *Plan* means the interim or final Solid Waste Management Plan ('SWMP')
6 prepared and adopted by the GEPA in accordance with the Administrative Adjudication
7 Law.
- 8 (27) *Plasma torch heating technology* means converting electrical energy into heat
9 energy producing clean fuel gas and recyclable slag.
- 10 (28) *Plasma Remediation In-Situ Materials* ('PRISM') means a plasma torch
11 technology process that melts down and converts landfill material into slag and fuel gas.
- 12 (29) *Pollution* means the condition caused by the presence in the environment of
13 substances of such character and in such quantities that the quality of the environment is
14 impaired or rendered offensive to life.
- 15 (30) *Processing* means any method, system or other treatment designed to change the
16 physical, chemical or biological character or composition of any solid waste. This
17 includes the neutralization of any hazardous waste; the rendering of any hazardous waste
18 non-hazardous, safer for transport, amenable for recovery, amenable for storage or
19 reduced in volume; or any other activity or processing designed to change the physical
20 form or chemical composition of hazardous waste so as to render it non-hazardous.
- 21 (31) *Recyclable materials* includes the following materials discarded from households,
22 businesses, commercial and industrial establishments, hotels, government, agricultural,
23 landscaping, yard maintenance and military operations which may be reused or for which
24 a market exists:
- 25 (a) *aluminum* means any product manufactured of aluminum or aluminum alloy;
- 26 (b) *battery* means any lead acid battery or dry cell battery discarded on Guam,
27 independent of intended use;
- 28 (c) *biomass* means any large biomass source, such as trees, wood, grass, hedge
29 cuttings, jungle growth, yard waste and sewage sludge;
- 30 (d) *construction debris* means the materials from building construction;

1 (e) *corrugated cardboard* means kraft, jute or test liner pulp which is made by
2 combining two (2) or more webs of paper and formed or shaped into wrinkles or folds or
3 into alternate ridges and grooves;

4 (f) *demolition waste* means the materials obtained from the demolition or
5 razing of buildings;

6 (g) *glass* means any product manufactured from a mixture of silicates, borates or
7 phosphates;

8 (h) *metal scrap* means any metal, in whole or in parts, from buildings, equipment,
9 machinery or vehicles;

10 (i) *newspaper* means a publication which is distributed and contains news articles,
11 opinions, features, and advertising and is printed on impermanent wood pulp materials;

12 (j) *office paper* means computer paper and white and colored ledger paper;

13 (k) *used oil* means any petroleum-based, mineral, or synthetic oil which through
14 use, storage or handling has become unsuitable for its original purpose due to the
15 presence of impurities or loss of original properties; and

16 (l) such other materials which the Authority determines, from time to time, may
17 be recycled.

18 (32) *Recycle* or *Recycling* means the method by which recovered resources are
19 converted for use as raw material or feedstock to make new products.

20 (33) *Resource recovery* means the process of recovering recyclable materials or the
21 recovery of energy from solid waste.

22 (34) *Resource Recovery Facility* ('RRF') is a facility that recovers for sale or reuse of
23 recyclable materials.

24 (35) *Reusing* means the reintroduction of a commodity in the economic stream without
25 any changes.

26 (36) *Sanitary landfill* means an approved site where solid waste and ash are disposed
27 using modern sanitary landfilling techniques in accordance with Federal and local
28 regulations.

29 (37) *Sanitary landfilling* means an engineered method of disposing of solid waste on
30 land in accordance with Federal and local regulations in a manner that protects the

1 environment by spreading the waste in thin layers, compacting it to the smallest practical
2 volume, and covering it with approved material at the end of each working day.

3 (38) *Separation* means the systematic division of solid waste into designated
4 components.

5 (39) *Single Family Residence* means a detached building designed for and/or occupied
6 exclusively by one (1) family, or one (1) of two (2) dwelling units on a duplex.

7 (40) *Solid waste* means any garbage, refuse or sludge from a waste treatment plant,
8 water supply treatment plant, or air pollution control facility and other discarded and/or
9 spilled materials, including solid, liquid, semisolid or contained gaseous material
10 resulting from industrial, mining, commercial, and agriculture operations, and from
11 community activities, but does not include solid or dissolved material in domestic
12 sewage, or solid or dissolved materials in irrigation return flows or industrial discharges
13 which are point sources subject to permits under '402 of the Federal Water Pollution
14 Control Act, as amended (68 Stat. 880) , or source, special nuclear, or by-product
15 material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) .

16 (41) *Solid waste management* means the purposeful, systematic control of the
17 generation, storage, collection, transportation, separation, processing and disposal of solid
18 waste.

19 (42) *Solid waste management facilities* means any facility, or any machinery,
20 equipment, vehicles, structures or any part of accessories thereof installed or acquired for
21 the primary purpose of: collection, transportation, storage, recycling, processing or
22 disposal of solid waste, and shall include sanitary landfills, resource recovery facilities, or
23 plasma torch.

24 (43) *Solid Waste Management Plan* means a comprehensive plan and all amendments
25 and revisions thereto for provisions of solid waste management throughout Guam.

26 (44) *Solid waste management practices* means the actions to effectuate the generation,
27 storage, collection, transportation, processing, recycling, incineration, plasma torch or
28 resource recovery or disposal of solid waste.

29 (45) *Solid Waste Management System* ('SWMS') means the entire system covered in
30 the SWMP and designated by the Director for the storage, collection, generation,

1 transportation, processing, recycling, incineration, plasma torch and disposal of solid
2 waste within Guam.

3 (46) *Source separated waste* means recyclable materials that are set aside by the
4 generator for segregated collection and transport to solid waste management facilities.

5 (47) *Storage* means the interim containment of solid waste in accordance with Federal
6 and local regulations.

7 (48) *Transfer station* shall mean any intermediate waste facility in which solid waste
8 collected from any source is temporarily deposited and stored while awaiting
9 transportation to another solid waste management facility.

10 **§ 15003. Continuation of Existence.** The Solid Waste Management Division, a sub-
11 entity of the Department of Public Works shall continue in existence as an autonomous,
12 public corporation now referred to as the Guam Solid Waste Authority (GSWA).

13 **§ 15004. Powers and Duties of the Authority.** The Authority shall have and exercise
14 each and all of the following powers:

15 (a) Administer those powers listed under this Chapter 15, Title 12 of the Guam
16 Code Annotated.

17 (b) Acquire by grant, purchase, gift, devise or lease, or by the exercise of the right
18 of eminent domain in accordance with the provisions and subject to limitations of 21
19 GCA Chapter 15, and hold and use any real or personal property necessary or convenient
20 or useful for the carrying on of any of the powers pursuant to the provisions of this
21 Chapter;

22 (c) Establish its internal organization and management, and adopt regulations for
23 the administration of its operations;

24 (d) Establish and modify from time to time, with approval of the Public Utility
25 Commission (PUC), reasonable rates and charges for the collection, transportation,
26 disposal, storage, recycling and processing of solid waste to recover the full cost of
27 providing such services, and collect money from customers using such services.

28 Similarly, the Authority shall establish and modify from time to time, with the approval
29 of the Public Utilities Commission, reasonable rate and charges for servicing of debt
30 obtained to undertake capital improvements to solid waste management;

31 (e) Enter into contracts and execute all instruments necessary or convenient in the

1 exercise of its powers, adopt a seal and sue or be sued in its own corporate name;

2 (f) At any time or from time to time, incur indebtedness pursuant to Article 2 of this
3 Chapter;

4 (g) Enter into contracts with the Government of Guam or with the United States for
5 loans or grants;

6 (h) Employ, retain or contract for the services of qualified solid waste management
7 specialists or experts, as individuals or as organizations, to provide technical advice and
8 assistance;

9 (i) Adopt such rules and regulations as may be necessary for the exercise of the
10 powers and performance of the duties conferred or imposed upon the Authority or the
11 Board by this Act;

12 (j) Control, operate, improve, equip, maintain, repair, renew, replace, reconstruct,
13 alter and insure that the solid waste management system is compliant with any applicable
14 zoning, building, environmental and health regulations of the territory of Guam; and

15 (k) Do any and all other things necessary to the full and convenient exercise of the
16 above powers;

17 (l) enter into public-private partnerships for solid waste management facilities and
18 operations, the closure and beneficial use of the Ordot Landfill site, source reduction,
19 recycling, composting, resource recovery, waste reduction and transfer stations. This
20 duty shall also address construction debris or demolition waste, metallic debris, white
21 goods, tires and green waste contracts;

22 (m) organize, plan for, secure and manage resources and promote the
23 implementation of the Solid Waste Management Plan;

24 (n) evaluate and promote capital improvements and maintenance programs to the
25 solid waste management system;

26 (o) address the necessity for a facility for the shredding of tires for recycling or for
27 use as rubberized asphalt;

28 (p) address the necessity for a facility for the recycling of glass, including its use as
29 glassphalt;

30 (q) address the necessity for a facility for the recycling of scrap metals, including
31 discarded vehicles, appliances and equipment, including shredding for containerization or

1 other shipment;

2 (r) require the preparation of any necessary environmental impact assessments or
3 environmental impact reports;

4 (s) mandate the inspection and monitoring of all solid waste management facilities
5 to assure compliance with this Act, the Plan, other law, rules and regulations applicable
6 to Guam; and

7 (t) apply for all grants-in-aid requests and administer any such programs or funds,
8 except those established for recycling.

9 Nothing contained in this Section or elsewhere in this Article shall be construed directly
10 or by implication to be in any way in derogation or limitation of powers conferred upon
11 or existing in the Authority or the Board by virtue of any provisions of the Organic Act of
12 Guam or Statutes of the Territory or any other provision of this Code.

13 **§ 15005. Governance of Authority.** All powers vested in the Authority, except as
14 provided herein, shall be exercised by the Board of Directors upon relief of the Receiver
15 by the U.S. District Court..

16 **§ 15006. General Manager.**

17 (a) The Board shall appoint a general manager who shall be its chief executive
18 officer and shall serve at its pleasure. The general manager shall, at a minimum, possess
19 the following qualifications:

20 i). A combined minimum of six (6) years of documented experience
21 successfully managing a Solid Waste Management System of similar size as the GSWA
22 system, and

23 ii). Graduation from an accredited institution of higher education with a
24 Bachelors degree in Business Management, Engineering Management, Engineering
25 Technology or Civil Engineering, or

26 (b) The Board shall fix the general manager's compensation, notwithstanding any
27 other provision of law. The general manager shall manage the construction,
28 maintenance, operation and administration of business affairs of the Authority.

29 (c) The Board may contract with a business entity to perform any or all of the
30 duties, and to exercise any or all of the powers of the general manager as provided in this
31 Section, and the general manager, subject to the approval of the Board, may contract with

1 a business entity to perform some of the duties or to render expert and technical
2 assistance in the operation of the Authority. The Initial Term of such a management
3 contract shall be for a period of up to three (3) years. The Authority shall also have the
4 option for two (2) Renewal Terms of five (5) years each. The contracted business entity
5 pursuant to this Section must have a minimum of ten (10) years experience in
6 management and operation of a solid waste system of similar or greater scope than the
7 Authority.

8 (d) The powers and responsibilities of the General Manager shall include the
9 following:

- 10 (i) To enforce all rules and regulation of the Authority;
- 11 (ii) To attend all meetings of the Board and submit a general report of the
12 affairs of the Authority;
- 13 (iii) To keep the Board advised as to the needs of the Authority, to approve
14 demands for the payment of obligations of the Authority, and to
15 approve expenditures and collection of revenue within the purposes
16 and amounts authorized by the annual budget;
- 17 (iv) To prepare, or cause to be prepared, all plans and specifications for the
18 constructions of work by the Authority in accordance with the annual
19 budget;
- 20 (v) To select and appoint the employees of the Authority, except as
21 otherwise provided by this Chapter, and to plan, organize, coordinate
22 and control the services of such employees in the exercise of the
23 powers of the Authority under the general direction of the Board;
- 24 (vi) To cause to be published within one hundred twenty (120) days from
25 the end of each fiscal year a financial report, which shall include an
26 annual financial audit pursuant to §1908 and §1909 of Chapter 19,
27 Title 1 Guam Code Annotated. This report should present the result
28 of operations for the preceding fiscal year and the financial status of
29 the Authority on the last day thereof. The publication shall be made in
30 the manner provided by the Board; and
- 31 (vii) To perform such other and additional duties as the Board may require.

1 **§15007. Assistant General Manager: Operations and Technical Support.**

2 The General Manager, with the consent of the Board, may appoint an Assistant
3 General Manager for Operations and Technical Support, who shall serve at the pleasure
4 of the General Manager.

5 (a) The Assistant General Manager of Operations and Technical Support shall be
6 entitled to receive compensation as recommended by the General Manager and approved
7 by the Board.

8 (b) Such Assistant General Manager shall devote his entire time to the business of
9 the Authority and shall have full charge and control, subject to the direction of the
10 General Manager, of all operations, engineering and technical services pertaining to the
11 generation, storage, collection, transportation, processing, recycling, resource recovery or
12 disposal of solid waste.

13 (c) Such Assistant General Manager shall have such other duties as may be
14 designated by the General Manager.

15 **§15008. Assistant General Manager: Administration.**

16 The General Manager, with the consent of the Board, may appoint an Assistant
17 General Manager for Administration, who shall serve at the pleasure of the General
18 Manager.

19 (a) The Assistant General Manager of Administration shall be entitled to receive
20 compensation as recommended by the General Manager and approved by the Board.

21 (b) Such Assistant General Manager shall devote his/her entire time to the business
22 of the Authority and shall have full charge and control, subject to the direction of the
23 General Manager, of all administration of the Authority.

24 (c) Such Assistant General Manager shall have such other duties as may be
25 designated by the General Manager.

26 **§ 15009. Chief Financial Officer.** The Board may appoint a chief financial officer who
27 shall be a Certified Public Accountant. The Board shall fix the chief financial officer's
28 compensation. The chief financial officer shall have full charge and control of the fiscal,
29 business and accounting operations of the Authority, subject to the supervision of the
30 Board.

31 **§ 15010. Other Officers.**

1 (a) The Board may also appoint a Secretary and an Attorney, who all shall serve at
2 the pleasure of the Board and whose duties and compensation shall be fixed by the Board.
3 The Board may appoint one or more assistants to any such office. Any of such offices
4 may be consolidated in one person.

5 (b) The Secretary shall have charge of all records and minutes of the Board.

6 (c) The Attorney, who must have been admitted to practice in Guam, shall advise
7 the Board and the General Manager on all legal matters to which the Authority is a party
8 or in which the Authority is legally interested and may represent the Authority in
9 connection with legal matters before the Legislature, boards and other agencies of the
10 Territory. The Attorney General shall represent the Authority in litigation concerning the
11 affairs of the Authority provided that he may delegate this duty to the Attorney of the
12 Authority, with respect to any such litigation.

13 **§ 15011. Employees.** All employees of the Authority shall be eligible for all insurance,
14 retirement, worker's compensation and other benefits as extended to employees of the
15 government of Guam, and shall be employees of the government of Guam for the
16 purposes of the application of all civil service laws and personnel rules and regulations
17 that apply to government of Guam employees, inclusive of all scales, tables and
18 schedules for compensation. With respect to compensation, this Section shall not apply to
19 the compensation of the General Manager, Assistant General Manager: Administration,
20 Assistant General Manager: Operations and Technical Support, Secretary, Attorney or the
21 Chief Financial Officer.

22 **§ 15012. Acquisition of Existing Systems, Employees, and Debt.** Ninety (90) days
23 after the effective date of this Act the Authority shall assume in writing from the
24 Department of Public Works, Solid Waste Management Division:

25 (a) all real property under the DPW Solid Waste Management Division (SWMD)
26 administration and items of property, materials and supplies which the SWMD owns or
27 controls, including construction work in progress.

28 (b) all working capital, cash, accounts payable and receivable, deposits, advances
29 payable and receivable, all books, records and maps and all other rights, obligations,
30 assets, liabilities, agreements and privileges of the Authority or attributable to the
31 Authority.

1 (c) Each Government of Guam employee assigned to the Department of Public
2 Works, Solid Waste Management Division at the date of the transfer pursuant to statute
3 shall be transferred to the Authority. All classified employees shall remain classified.

4 **§ 15013. Exemption from Taxation, and In Lieu Payments.** As an instrumentality of
5 the Territory, the Authority and all property acquired by or for the Board and all revenues
6 and income from taxation by the Territory or by any political subdivision or public
7 corporation thereof and from all taxes imposed under the authority of the Legislature of
8 the Territory, or with respect to which the Legislature is authorized to grant exemption.

9 **§15014. General Operations.** Rates for Services. The Authority shall apply to the
10 Public Utilities Commission (PUC) for establishment of its rates for its services
11 including, but not limited to:

12 (a) Operating Costs:

- 13 i. Layon Landfill
- 14 ii. Commercial Transfer Stations
- 15 iii. Retail Transfer Stations
- 16 iv. Residential Trash Collection
- 17 v. Bulky and Metallic Waste collection
- 18 vi. Recycling
- 19 vii. Customer Service and Education
- 20 viii. Equipment Maintenance
- 21 ix. Household Hazardous Waste
- 22 x. Administration

23 (b) Reserve Fund Costs.

- 24 i. Debt Service
- 25 ii. Equipment Replacement
- 26 iii. New Cell Development
- 27 iv. Closure of Cells
- 28 v. Post Closure Care

29 **§ 15015. Accounting and Expenditures.**

30 (a) The Board shall adopt and maintain a system of accounting.

31 (b) The Board shall authorize, by means of the annual budget, payment of demands

1 against the Authority resulting from the exercise of its powers under this Act if:

- 2 i. the purposes and amounts of such demands are projected in the budget,
3 expressed in terms of major account groups of the Uniform System of
4 Accounts, which has been adopted by the Board after receiving
5 recommendations from the General Manager; and
6 ii. the specific demands which are made are approved by the Board before
7 payment.

8 (c) The Board shall employ, in accordance with the appropriate procurement laws
9 and the annual budget, a firm of locally licensed, independent Certified Public
10 Accountants who shall annually examine the financial status and workings of the
11 Authority for the previous fiscal year. Said firm shall submit no later than February 1st
12 of each year, a written report on the financial status and workings of the Authority during
13 the previous fiscal year to *I Magalahren Guåhan* [Governor], the General Manager and *I*
14 *Liheslaturan Guåhan*. *I Magalahren Guåhan* and *I Liheslaturan Guåhan* may request
15 special reports within thirty (30) days after the end of each fiscal quarter. The financial
16 information presented in the reports required by this Section shall be in accordance with
17 the Uniform System of Accounts adopted by the Board. Claims against the Guam Solid
18 Waste Authority shall be submitted to the Attorney General of Guam in accordance with
19 the Government Claims Act.

20 **§ 15016. Annual Budget.** For the purposes of Chapter 15 of Title 12 of the Guam Code
21 Annotated, the term *annual budget* means a balanced budget for expenditures of the
22 Guam Solid Waste Authority for a fiscal year to be funded by the anticipated revenues
23 and other funds to be received and expended for the same fiscal year, submitted to the
24 Board and approved by resolution, with amendment and modification as may be desired
25 by the Board.

26 (a) If the Authority fails to submit a budget for the next fiscal year, the current
27 fiscal year's budget shall be deemed approved for the next fiscal year, subject to Board
28 modification.

29 **§ 15017. Employment.**

30 (a) Pursuant to the provisions of 4 GCA §§4105 and 4106, the Board shall establish
31 rules and regulations regarding selection, promotion, performance evaluation, demotion,

1 suspension and other disciplinary action for the employees of the Authority which shall
2 be transmitted to *I Liheslatura Guahân* [Legislature] to be ratified, which thereafter shall
3 supersede the provisions in §15110 of this Chapter. All contracts for the hiring of off
4 island employees shall conform to the provisions of 4 GCA §§6501 and 6501.1.

5 (b) Classified employees of the Authority shall be members of the government of
6 Guam Retirement Fund. The Authority shall contribute to the government of Guam
7 Retirement Fund on the basis of annual billings as determined by the Board of Trustees
8 of the government of Guam Retirement Fund, for the government share of the cost of the
9 retirement benefits applicable to the Authority's employees and their beneficiaries. The
10 Authority shall also contribute to the Worker's Compensation Fund, on the basis of
11 annual billings as determined by the Worker's Compensation Commissioner, for the
12 benefit payments made from such Fund on account of the Authority's employees.

13 (c) Notwithstanding any other provisions of law, neither the General
14 Manager, Assistant General Managers, Secretary, Chief Financial Officer, nor Attorney
15 of the Authority shall be within the classified service of the government of Guam but
16 shall be hired, compensated and employed under the terms and conditions fixed by, and
17 at the pleasure of the Board.

18 **Article 2. Guam Solid Waste Authority Revenue Bonds.**

19 **§15200. Authorization of Indebtedness Through GEDA.**

20 **§15201. Guam Economic Development Authority as Central**
21 **Financial Manager.**

22 **§15202. Evidence of Transfers Filed at the Department of Land Management.**

23 **§15203. Statutory Approval Required for Sale.**

24 **§15204. Acceptance of Payments, Installation Applications and**
25 **Service/Repair Requests via the Internet.**

26 **§15200. Authorization of indebtedness through GEDA.** The Guam Economic
27 Development Authority ('GEDA') may obtain funds through the issuance of bonds or
28 other obligations on behalf of the Authority.

29 (a) Bonds or Notes. Accordingly, the Authority, through GEDA, with the approval
30 of *I Magalahen Guâhan* and *I Liheslaturan Guâhan* is authorized to incur indebtedness,
31 and to issue bonds or notes therefor, secured by a pledge of all or any portion of the

1 revenues of the Authority, to establish and facilitate the Solid Waste Management Plan,
2 and collection, transportation, storage, recycling, processing or disposal of solid waste,
3 which shall include sanitary landfills and resource recover facilities.

4 (b) Subordinated Indebtedness. In addition, the Authority, acting through GEDA,
5 may incur indebtedness for any other lawful purpose of the Authority, provided that such
6 indebtedness shall have a term not exceeding fifty (50) years and shall be subordinate to
7 any contractual obligation of the Authority to the holders of any indebtedness issued
8 pursuant to subsection (a) of this section.

9 (c) Short Term Borrowing. Pursuant to GEDA, the Authority may incur
10 indebtedness with the approval of the Governor for any lawful purpose for a term not
11 exceeding five (5) years; provided, that such indebtedness shall be subject and
12 subordinate to any contractual obligation of the Authority to the holders of any bonds
13 issued pursuant to paragraphs (a) or (b) of this section. The principal of and interest of
14 any such short term borrowing may be repaid from revenues, or if incurred for a purpose
15 for which bonds may be issued, from revenues or from the proceeds of sale of bonds.

16 (d) Character of Indebtedness. All indebtedness incurred by the Authority pursuant
17 to this Article shall be repayable solely from monies of the Authority available therefor,
18 including revenues, and shall not be deemed to be public indebtedness of the Territory as
19 that term is used in Section 11 of the Organic Act.

20 (e) Waiver of Immunity. Notwithstanding any substantive or procedural provision
21 of Chapter 6, Title 5, Guam Code Annotated, the Authority shall not be entitled to
22 immunity from any suit or action in contract on the indebtedness authorized by this
23 Article.

24 **§15201. Guam Economic Development Authority as Central Financial Manager.**

25 Notwithstanding any other provisions of this Article, the Guam Economic Development
26 Authority shall act as the Central Financial Manager and Consultant to the Authority and
27 shall provide technical assistance in obtaining funds through the issuance of bonds or
28 other obligations. The Authority must comply with all provisions under this section
29 relative to the financial requirements and needs as directed by GEDA.

30 **§ 15202. Evidence of Transfers Filed at the Department of Land Management.**

31 Transfer of real property interests pursuant to this Act, including but not limited to fee

1 estates, easements and land use rights evidenced by easements, leases and licenses, shall
2 be filed in the form of deeds or assignments signed by *I Magalahaen Guåhan* in good form
3 containing specific property descriptions, lot numbers and map numbers, at the
4 Department of Land Management within 360 days of the effective date of this Act. Any
5 transfer not filed within such time frame shall lapse and be of no further force and effect
6 unless re-initiated or authorized by separate statutory legislation authority. Any
7 subsequent easements or transfers of property from the Government of Guam, including
8 the Chamorro Land Trust Commission, shall be in the form of deeds or assignments in
9 good form containing specific property descriptions, lot numbers and map numbers,
10 recorded at the Department of Land Management.

11 **§ 15203. Statutory Approval Required for Sale.** Notwithstanding any of the provisions
12 of this Act, specific legislative statutory approval shall be required prior to sale, transfer
13 or lease of any real property assets or lands of the Guam Solid Waste Authority. Nothing
14 herein shall be construed as such approval. In addition, notwithstanding any other
15 provision contained herein, the provisions of 1 GCA § 1800 shall be applicable to the
16 Guam Solid Waste Authority.

17 **§ 15204. Acceptance of Payments, Installation Applications and Service/Repair**
18 **Requests via the Internet.**

19 (a) Notwithstanding any other provision of law, the Guam Solid Waste Authority
20 shall provide that the following services be made available via the internet:

- 21 (i) Acceptance of online payments;
- 22 (ii) Application for installation of new and additional services, and
- 23 (iii) Requests for service and repair.

24 (b) The Guam Solid Waste Authority shall provide an email address(es) for
25 inquiries regarding subsection (a) (1), (2) and (3).

26 (c) Nothing herein shall be construed as limiting the Authority's ability to receive
27 payments through online payment and/or banking services.

28 (d) The Guam Solid Waste Authority shall set, by Administrative Rule, the
29 timeframes to which email inquiries must be addressed and dispensed with.

30 (e) The Guam Solid Waste Authority shall adopt appropriate security measures
31 necessary to protect its customers from fraud and identity theft.

1 **Article 3. Transition to the Guam Solid Waste Authority**

2 **§15301. Effective Date.**

3 **§15301. Effective Date.** The provisions of this Act shall take effect upon ninety (90)
4 days of enactment of this Act except as specified in Section 5 of this Act.

5
6 **Section 7.** §51118 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed* and
7 *reenacted* as §15018, Chapter 15, Title 12 Guam Code Annotated, and shall read:

8 **§15018. Solid Waste Operations Fund.**

9 (a) **Commercial Haulers.** For commercial, including multi-family dwellings
10 and government agencies, the charge is a disposal tipping fee and does not include
11 collection fees independently charged by commercial waste haulers.

12 (b) **Commercial and Residential Tipping Fees.** All commercial and
13 residential tipping fees charged by the Authority shall be subject to the review and
14 approval of the Public Utilities Commission.

15 (c) **Business and Governmental Tipping Fees.** A tipping fee per cubic yard,
16 uncompacted, shall be established for business and government generators, subject to
17 approval by the Public Utilities Commission (PUC), and shall be published in a rate order
18 developed by the PUC.

19 (d) **Residential Tipping Fees.** A residential tipping fee, which may include
20 collection charges and a Self-Drop Fee, may be established subject to the approval of the
21 PUC.

22 (e) **PUC Rate-making.** The Public Utilities Commission of Guam [‘PUC’] is
23 hereby authorized to establish, amend and approve, in accordance with Chapter 12 of
24 Title 12, Guam Code Annotated, all commercial, government and residential tipping and
25 user fees [including without limitation a self-drop fee, a variable residential tipping fee
26 and, collectively referred to as ‘tipping fees’], which when established shall replace those
27 previously created by law. Tipping fees authorized and established by PUC shall be based
28 on volume and on an analysis of operations costs, including those cost components
29 specifically listed under §15014 of this Act. PUC is empowered to undertake a focused
30 management audit of the existing operations of the Guam Solid Waste Authority. In
31 performing its duties under this Section, PUC shall have the full authority and powers

1 conferred upon it by its enabling legislation, 12 GCA 12000 et. sec., including the audit
2 power conferred upon it by Public Laws 25-05:12 and 26-78:2.

3 (f) **Solid Waste Operations Fund.** All tipping, user and other fees authorized
4 under this Section and collected based on duly established rules and regulations or on a
5 PUC rate order shall be deposited in a special fund designated and hereby established as
6 the Solid Waste Operations Fund. All tipping/user fees in the Fund shall be used solely
7 for solid waste management purposes and, pursuant to PUC order, for the payment of
8 regulatory costs and expenses as may be incurred by PUC in performing its regulatory
9 duties under Subsection (e).

10
11 **Section 8.** Article 3 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed*
12 and *reenacted* under Article 4, Chapter 15, Title 12 Guam Code Annotated, and shall
13 read:

14 **ARTICLE 4**

15 **ANNUAL CONTRACT FOR SCRAP REMOVAL**

16 **§15401. Contract to Remove Scrap**

17 **§15402. Biennial Contract.**

18 **§15403. Environmental Impact Study**

19 **§15404. Conformity to Waste Removal Regulations**

20 **§15405. Reports**

21 **§15401. Contract to Remove Scrap**

22 The General Manager, after duly advertising for a request for proposals for the removal
23 of scrap metal, shall enter into a contract with any interested business organization, either
24 local or off-island, to collect and remove from Guam scrap metal. The successful offeror
25 may not be charged for the scrap metal but shall post a performance bond equal to 70%
26 of contract value to assure contract completion of the removal project within twenty-four
27 (24) months from receiving from the General Manager a Notice to Proceed. A “Scrap
28 Metal” for the purpose of this Article means abandoned vehicles and other abandoned
29 metal implements of which the Authority has jurisdiction and the right to dispose. In so
30 disposing of such scrap metal, the General Manager shall not charge any fees to the
31 owner of the same.

1 **§ 15402. Biennial Contract.**

2 The General Manager shall advertise for and execute such a contract every two (2) years
3 with any qualified party on the same terms as are set out in §15401 of this Article.

4 **§ 15403. Environmental Impact Study.**

5 The Guam Solid Waste Authority shall cause an environmental impact study to be
6 undertaken by the successful offeror prior to the issuance of a permit and the Notice to
7 Proceed to ensure that scrap removal project will not have potential adverse ecological
8 damage to aquifers or the environment at the temporary consolidation site and source
9 location.

10 **§ 15404. Conformity to Waste Removal Regulations.**

11 The successful offeror shall perform all work under this Article in compliance with
12 applicable rules and regulations of GEPA on the removal of scrap metal and hazardous
13 waste. As a minimum, the Authority shall ensure that all successful offerors include as
14 part of their processing, an intake system to screen and remove batteries and other
15 potentially hazardous residual material including, engine oil, hydraulic fluids and coolant
16 and freon from air conditioning units.

17 **§ 15405. Reports.**

18 Each successful bidder shall file a report on a quarterly basis with I Maga'lahaen Guåhan
19 [the Governor], I Liheslaturan Guåhan [the Legislature] and the Guam Solid Waste
20 Authority outlining the following:

21 (a) total type and amount of scrap metals, batteries and other potentially
22 hazardous residual material referenced in §15404;

23 (b) cost comparison of the cost of the scrap metal program versus landfill
24 disposal of scrap metals, or any less-than-conventional methods of scrap metal waste
25 reduction; and

26 (c) recommendations for permanent implementation and improvements to the
27 recycling program.

28

29 **Section 9.** Article 4 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed*
30 and *reenacted* under Article 5, Chapter 15, Title 12 Guam Code Annotated, and shall
31 read:

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ARTICLE 5

CONTRACT FOR COLLECTION OF RECYCLABLE PAPER.

§15501. Contract to Accept and Collect Recyclable Paper.

§15502. Biennial Contract.

§15503. Conformity to All Laws and Rules and Regulations.

§15504. Reports.

§15501. Contract to Accept and Collect Recyclable Paper.

The Authority, in accordance with the applicable procurement laws, and after advertising for a request for proposals ('RFP') for the collection of recyclable paper, shall enter into a two (2) - year contract with any qualified local interested business or nonprofit organization, to accept and collect recyclable paper to include newsprint, office paper and magazines from the public, and to implement a plan to prevent them from entering Guam's waste stream. The qualified local business or nonprofit organization shall have active recycling experience and knowledge in Guam. The RFP shall include the requirement that the prospective contractor accepts and pays for all recyclable paper, to include newsprint, office paper and magazines offered by the public. The successful offeror shall be one who bids the highest amount per pound to be paid to the public for the recyclable paper for the duration of the contract term. The successful offeror may not be charged for the recyclable paper but shall post a performance bond equal to 70% of contract value to assure contract completion of the recyclable paper collection project within twenty-four (24) months from receiving from the General Manager a Notice to Proceed.

§ 15502. Biennial Contract.

The Authority shall advertise for and execute such a contract every two (2) years with any qualified party on the same terms as are set out in §15501 of this Article.

§ 15503. Conformity to All Laws and Rules and Regulations.

The successful offeror shall perform all work under this Article in compliance with all applicable laws, including those of this Chapter, and rules and regulations of GEPA as may be established. As a minimum, the Authority shall ensure that all offerors include as part of their processing, a plan to remove the collected paper from Guam's waste stream.

§ 15504. Reports.

1 Each successful bidder shall file a report on a quarterly basis with I Maga'lahaen Guåhan
2 [the Governor], I Liheslaturan Guåhan [the Legislature] and the Guam Solid Waste
3 Authority outlining the following:

- 4 (a) total type and amount of paper recycled;
- 5 (b) cost comparison of the cost of the paper-recycling program versus landfill
6 disposal of paper, or any less-than-conventional methods of paper waste reduction; and
- 7 (c) recommendations for permanent implementation and improvements to the
8 recycling program.

9
10 **Section 10.** Article 6 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed*
11 and *reenacted* under Article 6, Chapter 15, Title 12 Guam Code Annotated, and shall
12 read:

13 **ARTICLE 6**

14 **MUNICIPAL RECYCLING PROGRAM**

15 **§15601. Definitions.**

16 **§15602. Creation of Municipal Recycling Proceeds Fund for each** 17 **village.**

18 **§15603. Creation of the Municipal Recycling Program.**

19 **§15604. Authorization for Municipal Planning Councils to Use the Proceeds** 20 **from the Sale of Recyclable Materials for Village Needs.**

21 **§ 15601. Definitions.**

22 For purposes of this Article, except as otherwise provided, the following words and
23 phrases, together with all of the common derivatives thereof, shall have the meaning
24 ascribed to them as follows:

25 (1) 'GEPA' shall mean the Guam Environmental Protection Agency.

26 (2) 'Recycling' means the process by which recovered resources are transformed into
27 new products in such a manner that products lose their initial identity, as defined in §
28 51102 (18) of Chapter 51 of Title 10 of the Guam Code Annotated.

29 (3) 'Recyclable materials' means materials which still have useful physical or
30 chemical properties after serving a specific purpose for the same or other purpose.

31 Recyclable materials are as follows:

- 1 (a) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium,
2 sealed types for power backup);
- 3 (b) automobiles, buses, and trucks or any form of motorized vehicle;
- 4 (c) tires (passenger/commercial);
- 5 (d) enameled white goods;
- 6 (e) home appliances (other small appliances that are not considered enameled
7 white goods);
- 8 (f) glass and plastic bottles;
- 9 (g) foam padding;
- 10 (h) lead;
- 11 (i) metals (ferrous/non-ferrous);
- 12 (j) organic material (i.e., tree trimmings, palm fronds, grass, food waste,
13 soiled cardboard);
- 14 (k) paper products;
- 15 (l) wood pallets and scrap wood;
- 16 (m) construction and demolition debris ('C&D');
- 17 (n) x-ray film;
- 18 (o) automobile oil and fluids;
- 19 (p) Freon and other refrigerant gases;
- 20 (q) electronic waste (i.e., computers, circuit boards, televisions, and portable
21 phones);
- 22 (r) heavy equipment; and
- 23 (s) other recyclable materials deemed recyclable by GEPA pursuant to the
24 Rules and Regulations.

25 (4) '*Recycling Company*' means any business licensed by the Department of Revenue
26 and Taxation, and issued a permit, as required in § 51104 of Chapter 51 of Title 10 of the
27 Guam Code Annotated, from the Guam Environmental Protection Agency to conduct
28 business on Guam.

29 **§ 15602. Creation of Municipal Recycling Proceeds Fund for Each Village.**

30 There is hereby established a Municipal Recycling Proceeds Fund for each municipality
31 which shall be maintained separate and apart from any other funds, including the General

1 Fund of the government of Guam, and independent records and accounts shall be
2 maintained in connection therewith. The proceeds from the sale of recyclable materials
3 collected, in accordance with the Municipal Recycling Program, from each village shall
4 be deposited in the respective Municipal Recycling Proceeds Fund. All revenue deposited
5 in each Municipal Recycling Proceeds Fund shall not be commingled with General Fund
6 monies and shall be kept in a separate bank account. All proceeds from fees collected in
7 accordance with §15703 of this Article shall be deposited in the Municipal Recycling
8 Proceeds Fund for the respective village and used exclusively for the purposes authorized
9 in §15704 of this Article. The Municipal Planning Council of each municipality shall
10 administer the Municipal Recycling Proceeds Fund for its municipality which shall be
11 subject to audits by the Public Auditor.

12 **§ 15603. Creation of the Municipal Recycling Program.**

13 There is hereby created a Municipal Recycling Program within the Guam Solid Waste
14 Authority to promote recycling on the municipal level in partnership with the village
15 mayors. The program shall incorporate the following components:

16 (a) Recycling Drop-Off Bins. GSWA shall solicit drop-off bins from
17 recycling companies that would be made available to each mayor participating in the
18 Municipal Recycling Program. The recycling drop-off bins shall be rust-proof, and
19 located at a suitable site within the respective villages so that the residents will have a
20 repository to which they can bring recyclable materials in accordance with guidelines
21 established by the Guam Solid Waste Authority. The mayors of each village participating
22 in the program will be responsible for the security and cleaning of the bins, and the
23 supervision of their use for recycling purposes.

24 (b) Village Education Program. In coordination with the village mayors,
25 GEPA and GSWA shall create educational programs to promote recycling and the use of
26 the recycling drop-off bins within each village.

27 (c) Sale of Recyclable Materials. In partnership with the village mayors,
28 GSWA shall arrange for the sale of recyclable materials, collected at the Recycling Drop-
29 off Bins in each village, to recycling companies. The proceeds from the sale of recyclable
30 materials shall be deposited into the respective Municipal Recycling Proceeds Fund of
31 the village from which the recyclable materials were collected.

1 (d) The Program shall first begin with pilot programs at three (3) villages; one
2 (1) each from northern, central, and southern Guam. The selection of the three (3)
3 villages shall be made by GSWA in concert with the village mayors.

4 **§ 15604. Authorization for Municipal Planning Councils to Use the Proceeds from**
5 **the Sale of Recyclable Materials for Village Needs.**

6 The proceeds from the sale of recyclable materials from a village site shall be retained for
7 use by the municipal government of that village in its Municipal Recycling Proceeds
8 Fund. Expenditures from a village's Municipal Recycling Proceeds Fund shall be
9 exclusively for the needs of that village as determined by the respective Municipal
10 Planning Council through adoption of a resolution.

11
12 **Section 11.** Article 7, Article 8 and Article 9 of Chapter 51, Title 10 Guam Code
13 Annotated are hereby *repealed* and *reenacted* under Article 7, Chapter 15, Title 12 Guam
14 Code Annotated, and shall read:

15 **ARTICLE 7**

16 **RECYCLING ENTERPRISE ZONE**

17 **§ 15701. Definitions.**

18 **§ 15702. Establishment of Recycling Enterprise Zone.**

19 **§ 15703. Eligibility of Recycling Companies for use of the Recycling Enterprise**
20 **Zone.**

21 **§ 15701. Definitions.**

22 For purposes of this Act, and except as otherwise provided, the following words and
23 phrases, together with all of the common derivatives thereof, shall have the meaning
24 ascribed to them as follows:

25 (1) *JLGCP* shall mean the Jose D. Leon Guerrero Commercial Port.

26 (2) *Recycle* or '*Recycling*' means the method by which recovered resources are converted
27 for use as raw material or feedstock to make new products, as defined in § 51102 (35) of
28 Chapter 51, Title 10 of the Guam Code Annotated.

29 (3) *Recycling company* means any business licensed by the Department of Revenue
30 and Taxation, and has been issued a permit as required in § 51104 of Chapter 51, Title 10
31 of the Guam Code Annotated by the Guam Environmental Protection Agency ('GEPA')

1 to conduct business on Guam and that specifically commits eighty percent (80%) of its
2 operations to recycling.

3 (4) *Transshipment* shall mean to transfer for further transportation from one (1) ship or
4 conveyance to another.

5 (4) *Recyclable materials* means materials that still have useful physical or chemical
6 properties after serving a specific purpose for the same or other purpose. Recyclable
7 materials are as follows:

8 (a) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium,
9 sealed types for power backup);

10 (b) automobiles, buses, and trucks or any form of motorized vehicle;

11 (c) tires (passenger/commercial);

12 (d) enameled white goods;

13 (e) home appliances (other small appliances that are not considered enameled
14 white goods);

15 (f) glass and plastic bottles;

16 (g) foam padding;

17 (h) lead;

18 (i) metals (ferrous/non-ferrous);

19 (j) organic material (i.e., tree trimmings, palm fronds, grass, food waste,
20 soiled cardboard);

21 (k) paper products;

22 (l) wood pallets and scrap wood;

23 (m) construction and demolition debris ('C&D');

24 (n) x-ray film;

25 (o) automobile oil and fluids;

26 (p) freon and other refrigerant gases;

27 (q) electronic waste (i.e., computers, circuit boards, televisions, and portable
28 phones);

29 (r) heavy equipment; and

30 (s) other recyclable materials deemed recyclable by GEPA pursuant to the
31 Rules and Regulations.

1 **§ 15702. Establishment of Recycling Enterprise Zone.**

2 There is established a “Recycling Enterprise Zone” at the Jose D. Leon Guerrero
3 Commercial Port for use by recycling companies for the processing of automobiles,
4 trucks and tires for recycling purposes, and the transshipment of recyclable materials. The
5 size of the zone and its site on the JLGCP property shall be designated by the Board of
6 Directors of the Port Authority of Guam and guided by the provisions of Section 7.1.4 of
7 the Integrated Solid Waste Management Plan. Such designation shall be made within
8 sixty (60) days of the enactment hereof and the site shall be made available for lease to
9 recycling companies. The Board of Directors of the Port Authority of Guam shall
10 determine and charge a reasonable rate for the lease of said property.

11 **§ 15703. Eligibility of Recycling Companies for use of the Recycling Enterprise**
12 **Zone.**

13 Lease space in the Recycling Enterprise Zone shall only be available to companies that
14 qualify for Qualifying Certificates as recycling companies under guidelines established
15 by the Guam Economic Development Authority.

16
17 **Section 12.** §1921 of Title 1, Chapter 19 Guam Code Annotated is hereby *amended* to
18 read as follows:

19 §1921. Supervision of Audits in Autonomous Agencies and Grantees, Manpower Audits.

20 The Public Auditor is specifically authorized to supervise audits, or at the Public
21 Auditor’s discretion, perform audits, of autonomous agencies and instrumentalities of the
22 government of Guam, inclusive of, but not limited to, the Guam Visitors Bureau
23 (‘GVB’), the Guam Economic Development & Commerce Authority (‘GEDCA’), the
24 Port Authority of Guam (‘PAG’), the A.B. Won Pat Guam International Airport
25 Authority (‘GIAA’), the University of Guam (‘UOG’), the Guam Community College
26 (‘GCC’), the Guam Memorial Hospital (‘GMHA’), the Guam Housing Corporation
27 (‘GHC’), the Guam Housing and Urban Renewal Authority (‘GHURA’), the Guam
28 Power Authority (‘GPA’), the Guam Waterworks Authority (‘GWA’), the Guam
29 Telephone Authority (‘GTA’), the Government of Guam Retirement Fund(‘GGRF’), and
30 the Guam Solid Waste Authority (‘GSWA’).

31 The Public Auditor is authorized to supervise audits of all funds in excess of Three

1 Hundred Thousand Dollars (\$300,000.00) for a single fiscal year from the government of
2 Guam that are given in grant or subsidy to non-profit or profit-making groups, inclusive
3 of GVB. The Public Auditor is authorized to audit the hiring practices, manpower levels
4 and staffing patterns of all departments, agencies and bureaus of the Executive Branch of
5 the government of Guam, and to determine and report to *I Maga'lahaen Guåhan*
6 [Governor], *I Liheslaturan Guåhan* [Legislature] and the Public Utilities Commission
7 ("PUC"), as appropriate, on the necessity and applicability of employment levels and
8 categories to the department or agency's purpose and function, as well as draw
9 comparisons with similar entities located elsewhere.

10
11 **Section 13.** §12000 of Chapter 12, Title 12 Guam Code Annotated is hereby amended to
12 read:

13 **§ 12000. Definitions.**

14 As used in this Chapter:

15 (a) *Public Utility* means the Guam Power Authority, the Jose D. Leon Guerrero
16 Commercial Port, the Guam Waterworks Authority, the Guam Solid Waste Authority or
17 any duly licensed private contractors operating:

18 (i) a facility or subsystem of the community-wide water production and
19 distribution system, or

20 (ii) a facility or subsystem of the community-wide waste water disposal
21 system, or both, or any private golf course management corporation leasing public
22 property providing preferential golf rates and reservations to Guam residents, or

23 (iii) a marine terminal with facilities for loading and unloading commercial
24 cargo or passengers onto and from ocean common carriers.

25 (b) *Commission* means the Public Utilities Commission.

26 (c) *General lifeline rate* means a lower than average cost per unit charge for a level
27 of utility service necessary to fulfill the essential needs of all residential customers.

28
29 **Section 14. Severability.** If any provision of this law or its application to any person
30 or circumstance is found to be invalid or contrary to law, such invalidity shall not affect

- 1 other provisions or applications of this law which can be given effect without the invalid
- 2 provisions or application, and to this end the provisions of this law are severable.