



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

October 4, 2011

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

31-11-929
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 10/4/11
Time 4:00 PM
Received by [Signature]

Dear Madame Speaker:

Transmitted herewith is Substitute Bill No. 62-31 (COR) "AN ACT TO AMEND §53105 OF CHAPTER 53, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ENSURING THE ADEQUATE REPAIR AND RESTORATION OF GUAM'S PUBLIC ROADS AND HIGHWAYS BY CONTRACTORS WHO OPEN AND EXCAVATE THESE ROADS", which was signed into law on September 30, 2011 as **Public Law 31-83**.

Senseramente,

EDDIE BAZA CALVO

2011 OCT -5 AM 8:07
[Signature]

Attachment: copy of Bill

929

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. 62-31 (COR), "AN ACT TO AMEND §53105 OF CHAPTER 53, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ENSURING THE ADEQUATE REPAIR AND RESTORATION OF GUAM'S PUBLIC ROADS AND HIGHWAYS BY CONTRACTORS WHO OPEN AND EXCAVATE THESE ROADS,"** was on the 19th day of September, 2011, duly and regularly passed.



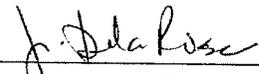
Judith T. Won Pat, Ed.D.
Speaker

Attested:



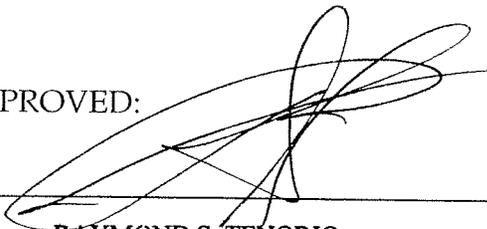
Tina Rose Muña Barnes
Legislative Secretary

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



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



RAYMOND S. TENORIO
Acting Governor of Guam

Date: _____

SEP 30 2011

Public Law No. 31-83

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

Bill No. 62-31 (COR)

As substituted by the Committee on Utilities,
Transportation, Public Works and Veterans Affairs,
and amended on the Floor.

Introduced by:

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

**AN ACT TO *AMEND* §53105 OF CHAPTER 53, TITLE 5,
GUAM CODE ANNOTATED, RELATIVE TO
ENSURING THE ADEQUATE REPAIR AND
RESTORATION OF GUAM'S PUBLIC ROADS AND
HIGHWAYS BY CONTRACTORS WHO OPEN AND
EXCAVATE THESE ROADS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that many of Guam's residents have expressed concerns about the opening or
4 excavating of public roads or highways by contractors, who eventually repair the

1 road following the completion of their work; but at times such repairs are
2 inadequate. The roads and highways that are *not* properly restored to their original
3 condition as a result of temporary excavations or openings eventually become a
4 safety hazard to Guam's drivers and further cause damage to vehicles. Thus, it is
5 essential that the government of Guam have a system in place whereby these
6 private contractors are required to place a deposit fee, and are penalized if the
7 repair work *does not* restore the road or highway back to its original condition.
8 The dangerous road condition these situations present can be minimized or
9 prevented if the government of Guam works collectively with these contractors to
10 ensure repairs are completed, and if an appropriate system is established which
11 would further encourage proper compliance.

12 Therefore, it is the intent of *I Liheslaturan Guåhan* to require that private
13 contractors who must encroach into Guam's roads or highways for their respective
14 projects provide an initial deposit, which will be returned upon the complete repair
15 and restoration of the road or highway to Department of Public Works standards;
16 or if such repair is inadequate, the deposit fee *shall* then serve as a penalty, in
17 addition to the requirement to re-do the repair work on the designated site.

18 **Section 2. Requirement for Deposit Fee and Bond Insurance for**
19 **Repair of Highways and Roadways by Public or Private Contractors.**

20 §53105 of Chapter 53, Title 5, Guam Code Annotated, relative to bond and
21 deposit fee requirements for care and protection of highways, is hereby *amended* to
22 read as follows:

23 **“§ 53105. Condition for Deposit Fees and/or Bond.**

24 All applications for excavation of a roadway *shall* have a schedule of
25 work that sets the timeline and maximum time before the road is restored to
26 original condition or better. The contractor *shall* be required to close the

1 opening and restore the roadway upon expiration of time as specified by the
2 permit or the DPW Chief Engineer.

3 In addition to the permit application fee, any project by a public or
4 private contractor or public agency which would require an opening or
5 excavation for any purpose in a highway or public roadway *shall* be required
6 to provide a deposit fee of *no less than* Five Hundred Dollars (\$500) or *no*
7 *less than* five percent (5%) of the total cost of the project impacting the
8 roadway, whichever is greater. *No* permit shall be granted to a contractor or
9 public agency *unless* the deposit fee is paid in full. The prerequisite for a
10 deposit fee *shall not* be applicable to government-funded projects that
11 necessitate bond insurance coverage as a stipulation of the project. This
12 requirement for a deposit fee *shall not* preclude the Department's condition
13 for a bond, as may be imposed herein.

14 The deposit fee highlighted herein *shall* be retained by the Department
15 for one (1) year from the completion of the road repair, and until such time
16 that the Department conducts a site inspection of the road or highway project
17 area in which the opening or excavation had occurred, and can ascertain that
18 the repairs were conducted and completed properly in accordance with
19 applicable Federal Highway Administration and/or Department of Public
20 Works standards. *If* the road or highway area is identified to be
21 insufficiently repaired, then the deposit fee *shall* be assessed as a penalty,
22 exclusive of the requirement for the contractor or public agency to return
23 and ensure that proper repair is conducted. Should the area repaired meet
24 the Department's standards set forth for the repair of the road or highway,
25 the Department *shall* return the deposit fee in full, *however*, the permit
26 application fee *shall not* be returned. Inspection of the road or highway

1 project area *shall* be performed by DPW within the one (1) year period
2 following completion of the road repair.

3 All proceeds from the deposit fee established by this Section *shall* be
4 deposited into the Territorial Highway Fund, and interest derived therefrom
5 *shall* remain in the Fund. Sufficient funds *shall* be reserved for the refund of
6 deposits, pursuant to this Section.

7 Emergency Excavations. An emergency excavation may be made
8 without prior permit or deposit if the reason for the excavation is to prevent
9 loss of life or damage to property that appears to be imminent if the
10 excavation is delayed. In such emergency situations the contractor or public
11 agency responsible *shall* contact the Department on the first working day
12 following the excavation and complete and secure a formal permit. The
13 contractor or public agency responsible *shall* provide justification for the
14 emergency excavation. In the event the Department deems that the
15 excavation was *not* an emergency, the applicant *shall* be penalized Five
16 Hundred Dollars (\$500) for failure to properly secure a permit prior to
17 excavating and will still be required to pay the appropriate fees and deposits.
18 *Except* for the prior permit requirement, none of the application fee, deposit,
19 bond, or penalty provisions of this Section shall be waived for emergency
20 situations.

21 Before granting a permit under any provision of this Chapter, the
22 Department may require the applicant to file with the Department a
23 satisfactory bond, payable to the government of Guam in such amount and
24 term as the Department deems sufficient, conditioned on the proper
25 compliance by the permittee with the provisions of this Chapter. In the
26 event of forfeiture of the bond, the proceeds *shall* go to the affected agency.”

27 **Section 3. Effective Date and Public Notification.**

1 The provisions contained in this Act *shall* be effective thirty (30) days
2 following the date of enactment. The Department of Public Works, upon
3 enactment, *shall* provide immediate notification to the general public and the
4 Guam Contractors Association on the implementation and effective date of the
5 provisions contained in this Act.

6

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2011 (FIRST) Regular Session

Date: Sept. 19, 2011

VOTING SHEET

SBill No. 62-31(COR)

Resolution No. _____

Question: _____

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

TOTAL

15 0 0 0 0

CERTIFIED TRUE AND CORRECT.


 Clerk of the Legislature

* 3 Passes = No vote
 EA = Excused Absence



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
31st Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

July 19, 2011

The Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina'trentai Unu Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

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

RE: Committee Report on Bill No. 62-31 (COR) As Substituted

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 62-31 (COR) – An act relative to further ensuring the safety of Guam's public roads and highways through requiring that contractors, who open and excavate these roads, adequately repair and restore them to their original condition, by providing for a deposit fee prior to being granted a permit, and assessing a penalty for insufficient repair of such roadways; through amending §53105 of Chapter 53, Title 5, Guam Code Annotated – As Substituted by the Committee on Public Works, Transportation, Utilities and Veterans Affairs.

Committee votes are as follows:

- 6 TO DO PASS
 0 TO NOT PASS
 0 TO REPORT OUT ONLY
 0 TO ABSTAIN
 0 TO PLACE IN INACTIVE FILE

Si Yu'os ma'åse',


Thomas C. Ada



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
31st Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

**COMMITTEE REPORT
ON**

BILL No. 62-31 (COR)

AN ACT RELATIVE TO FURTHER ENSURING THE SAFETY OF GUAM'S PUBLIC ROADS AND HIGHWAYS THROUGH REQUIRING THAT CONTRACTORS, WHO OPEN AND EXCAVATE THESE ROADS, ADEQUATELY REPAIR AND RESTORE THEM TO THEIR ORIGINAL CONDITION, BY PROVIDING FOR A DEPOSIT FEE PRIOR TO BEING GRANTED A PERMIT, AND ASSESSING A PENALTY FOR INSUFFICIENT REPAIR OF SUCH ROADWAYS; THROUGH AMENDING §53105 OF CHAPTER 53, TITLE 5, GUAM CODE ANNOTATED

**As Substituted by the
Committee on Public Works,
Transportation, Utilities and
Veteran Affairs**



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
31st Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

July 19, 2011

MEMORANDUM

To: **All Members**
Committee on Public Works, Transportation, Utilities and Veterans Affairs

From: **Senator Thomas C. Ada** 
Committee Chairperson

Subject: **Committee Report on Bill No. 62-31 (COR) As Substituted**

Transmitted herewith for your consideration is the Committee Report on Bill No. 62-31 (COR) – An act relative to further ensuring the safety of Guam's public roads and highways through requiring that contractors, who open and excavate these roads, adequately repair and restore them to their original condition, by providing for a deposit fee prior to being granted a permit, and assessing a penalty for insufficient repair of such roadways; through amending §53105 of Chapter 53, Title 5, Guam Code Annotated – As Substituted by the Committee on Public Works, Transportation, Utilities and Veterans Affairs.

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Substitute Bill No. 62-31 (COR)
- Copy of Bill No. 62-31 (COR)
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony & Supporting Documents
- Copy of COR Referral of Bill No. 62-31 (COR)
- Notices of Public Hearing
- Copy of the Public Hearing Agenda

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

Si Yu'os ma'åse'!



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
 31st Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

COMMITTEE VOTE SHEET

Bill 62-31 (COR) – An act relative to further ensuring the safety of Guam’s public roads and highways through requiring that contractors, who open and excavate these roads, adequately repair and restore them to their original condition, by providing for a deposit fee prior to being granted a permit, and assessing a penalty for insufficient repair of such roadways; through amending §53105 of Chapter 53, Title 5, Guam Code Annotated – As Substituted by the Committee on Public Works, Transportation, Utilities and Veterans Affairs.

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
SENATOR THOMAS C. ADA Chairperson		✓ 7/19/14				
SENATOR ADOLPHO B. PALACIOS, SR. Vice Chairperson		✓ 7/19/14				
VICE SPEAKER BENJAMIN J.F. CRUZ Member						
SENATOR RORY J. RESPICIO Member		7/19/14 				
SENATOR TINA ROSE MUÑA BARNES Member						
SENATOR DENNIS G. RODRIGUEZ, JR. Member						
SENATOR V. ANTHONY ADA Minority Member		✓ 7/19/14				
SENATOR ALINE A. YAMASHITA, PH.D. Minority Member		7/19/14				
SENATOR MANA SILVA TAIJERON Minority Member						
SENATOR CHRISTOPHER M. DUEÑAS Minority Member		7/19/14 ✓				

COMMITTEE REPORT DIGEST

I. OVERVIEW

Bill 62-31 (COR) was introduced on February 1, 2011 by Senator Adolpho B. Palacios, Sr., and was subsequently referred by the Committee on Rules to the Committee on Public Works, Transportation, Utilities and Veterans Affairs on February 2, 2011.

The Committee on Public Works, Transportation, Utilities and Veterans Affairs convened a public hearing on Bill 62-31 (COR) on March 14, 2011 at 2:00 pm in *I Liheslatura's* Public Hearing Room, during which the subject of contractor deposit fees and penalties for roadway construction was discussed.

Public Notice Requirements

Public Hearing notices were disseminated via email to all senators and all main media broadcasting outlets on Monday, March 7, 2011 (5-Day Notice), and again on Thursday, March 10, 2011 (48-Hour Notice).

Senators Present

Senator Thomas C. Ada	Committee Chairperson
Senator Adolpho B. Palacios, Sr.	Committee Vice-Chairperson
Senator Rory J. Respicio	Committee Member
Senator Aline A. Yamashita, Ph.D.	Committee Member
Senator V. Anthony Ada	Committee Member
Senator Mana Silva Taijeron	Committee Member
Senator Judith P. Guthertz, DPA	
Senator Frank F. Blas, Jr.	

Individuals Present

Ms. Joanne Brown, Director, Department of Public Works (*oral and written testimony*)
Mr. Craig Thompson, CEO, MCV Broadband (*oral and written testimony*)

II. SUMMARY OF TESTIMONY AND DISCUSSION

The public hearing was Called-to-Order at 2:00 pm.

Senator Palacios: Provides overview of bill, stating that only a permit is required by individuals/companies to perform construction on the roads of Guam. To date, there are no requirements of deposit fees. States that bill would require a security deposit of five hundred dollars (\$500) at minimum or five percent (5%) of total cost of project, or whichever is greater to ensure that roads are restored to their original condition.

Mr. Thompson: States two brief concerns – 1) There is no provision for emergency restoration of service. For example, if a line is cut on Sunday, does company have to wait until Monday or Tuesday to get appropriate authorization from DPW to repair facilities; 2) States that all MCV projects today are bonded. Explains if MCV has any major road cuts, they post a performance bond.

Ms. Brown: States that DPW is in favor of Bill 62. Summarizes key points of written testimony. DPW supports the deposit fee and penalty mechanism outlined in the bill. However, would like three points addressed: 1) Regarding applicability of Bill 62-31 to *all* persons and agencies who excavate the road, and not just to private contractors; 2) addressing emergency excavations for which no prior permit was obtained; and 3) creating a special fund for the deposit of permit fees and bonds.

Mr. Joaquin Flores: Mr. Flores is the General Manager of Guam Power Authority. He submitted written testimony in support of the Bill. Further affirmed GPA's commitment to continue to include bond insurance coverage, which is required for all GPA projects involving road repair work.

Question & Answer

Senator Tom Ada: Asks Ms. Brown to elaborate on highway excavation bond.

Ms. Brown: Clarifies that any excavation on highways requires a bond. Further states that the length of time for which bonds are held and for completion of repair work should be factored into consideration for bill. States that normally once repair is completed, inspections are signed-off, and bond is returned back to applicant.

Senator Tom Ada: Clarifies that the concern is more about not whether a security fee is deposited, but rather, how long the bond is held on to.

Ms. Brown: Agrees and adds how long it takes to verify that the quality of the work is there. States that it would be worth deliberating on what is a reasonable amount of time to ensure that repair is done adequately.

Senator Palacios: Appreciates DPW's thorough testimony, which will be included in substituted version of bill. States that the focus of Bill 62 was originally intended for non-bonded projects. Cites project along Route 10 that required permit, but no bond. States that DPW's testimony clarifies and further develops the intention of Bill 62.

Senator Tom Ada: Bill 62-31 is hereby deemed publicly heard.

The public hearing was adjourned at 4:25 pm.

III. FINDINGS AND RECOMMENDATIONS

The Committee on Public Works, Transportation, Utilities and Veterans Affairs has substituted Bill No. 62-31 (COR) with the following changes:

- A public or private contractor or public agency, not just a private contractor, requires a deposit fee/bond.
- Under §53105, the deposit fee/bond is held for one (1) year during which time road repair must be completed by contractor/agency, and DPW site inspection must be conducted and approval must be granted.
- A new §53105 (a) was added to include that all proceeds from deposit fees shall be deposited to the Territorial Highway Fund and interest derived shall remain in Fund.
- A new §53105 (b) was added to include “Emergency Excavations” for which no prior permit was obtained.

The Committee on Public Works, Transportation, Utilities and Veterans Affairs hereby reports out Bill 62-31 (COR), As Substituted by the Committee, with the recommendation TO PASS.

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

Bill No. 67-31(COR)

Introduced by:

ADOLPHO B. PALACIOS, SR. 

AN ACT RELATIVE TO FURTHER ENSURING THE SAFETY OF GUAM'S PUBLIC ROADS AND HIGHWAYS THROUGH REQUIRING THAT CONTRACTORS, WHO OPEN AND EXCAVATE THESE ROADS, ADEQUATELY REPAIR AND RESTORE THEM TO THEIR ORIGINAL CONDITION, BY PROVIDING FOR A DEPOSIT FEE PRIOR TO BEING GRANTED A PERMIT, AND ASSESSING A PENALTY FOR INSUFFICIENT REPAIR OF SUCH ROADWAYS; THROUGH AMENDING §53105 OF CHAPTER 53, TITLE 5, GUAM CODE ANNOTATED.

2011 FEB - 1 AM 10:38 

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent.

3 I Liheslaturan Guahan finds that many of Guam's residents
4 have expressed concerns about the opening or excavating of public
5 roads or highways by contractors, who eventually repair the road
6 following the completion of their work; but at times such repairs are
7 inadequate. The roads and highways that are not properly restored
8 to their original condition as a result of temporary excavations or
9 openings eventually become a safety hazard to Guam's drivers and
10 further cause damage to vehicles. Thus, it is essential that the

1 government of Guam have a system in place whereby these private
2 contractors are required to place a deposit fee, and are penalized if
3 the repair work does not restore the road or highway back to its
4 original condition. The dangerous road condition these situations
5 present can be minimized or prevented if the government of Guam
6 works collectively with these contractors to ensure repairs are
7 completed, and if an appropriate system is established which would
8 further encourage proper compliance.

9 Therefore, it is the intent of *I Liheslaturan Guahan* to require that
10 private contractors who must encroach into Guam's roads or
11 highways for their respective projects provide an initial deposit,
12 which will be returned upon the complete repair and restoration of
13 the road or highway to Department of Public Works standards; or if
14 such repair is inadequate, the deposit fee shall then serve as a
15 penalty, in addition to the requirement to re-do the repair work on
16 the designated site.

17 **Section 2. Requirement for Deposit Fee and Bond Insurance**
18 **for Repair of Highways and Roadways by Private Contractors.**

19 §53105 of Chapter 53, Title 5, Guam Code Annotated, relative
20 to bond and deposit fee requirements for care and protection of
21 highways, is hereby amended to read as follows:

1 **“§53105. Condition for Deposit Fees and/or Bond for**
2 **Construction Projects that Require an Opening or Excavation of**
3 **Guam’s Roads or Highways.**

4 Any project by a private contractor which would require an
5 opening or excavation for any purpose in a highway or public
6 roadway shall be required to provide a deposit fee of no less than
7 \$500.00 or no less than 5% of the total cost of the project impacting
8 the roadway, whichever is greater. No permit shall be granted to a
9 private contractor unless the deposit fee is paid in full. The
10 prerequisite for a deposit fee shall not be applicable to government
11 funded projects that necessitate bond insurance coverage as a
12 stipulation of the project. This requirement for a deposit fee shall
13 not preclude the Department’s condition for a bond, as may be
14 imposed herein.

15 The deposit fee highlighted herein shall be retained by the
16 Department until such time that the Department conducts a site
17 visit of the road or highway project area in which the opening or
18 excavation had occurred, and can ascertain that the repairs were
19 conducted and completed properly. If the road or highway area
20 were identified to be insufficiently repaired, then the deposit fee
21 shall be assessed as a penalty, exclusive of the requirement for the
22 private contractor to return and ensure that proper repair is

1 conducted. Should the area repaired meet the Department's
2 standards set forth for the repair of the road or highway to its
3 original condition prior to the project, the Department shall return
4 the deposit fee in full.

5 Before granting a permit under any provision of this Chapter,
6 the Department may require the applicant to file with the
7 Department a satisfactory bond, payable to the government of
8 Guam in such amount and term as the Department deems
9 sufficient, conditioned on the proper compliance by the permittee
10 with the provisions of this Chapter. In the event of forfeiture of the
11 Bond, the proceeds shall go to the affected agency."

12 **Section 3. Effective Date and Public Notification.**

13 The provisions contained in this Act shall be effective thirty (30)
14 days following the date of enactment. The Department of Public
15 Works, upon enactment, shall provide immediate notification to the
16 general public and to the Guam Contractors' Association on the
17 implementation and effective date of the provisions contained in this
18 Act.

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

Bill No. 62-31 (COR)

As Substituted by the Committee on Utilities, Transportation,
Public Works and Veterans Affairs

Introduced by:

ADOLPHO B. PALACIOS, SR.

AN ACT RELATIVE TO FURTHER ENSURING THE SAFETY OF GUAM'S PUBLIC ROADS AND HIGHWAYS THROUGH REQUIRING THAT CONTRACTORS, WHO OPEN AND EXCAVATE THESE ROADS, ADEQUATELY REPAIR AND RESTORE THEM TO THEIR ORIGINAL CONDITION, BY PROVIDING FOR A DEPOSIT FEE PRIOR TO BEING GRANTED A PERMIT, AND ASSESSING A PENALTY FOR INSUFFICIENT REPAIR OF SUCH ROADWAYS; THROUGH AMENDING §53105 OF CHAPTER 53, TITLE 5, GUAM CODE ANNOTATED.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent.

1 *I Liheslaturan Guåhan* finds that many of Guam's residents have
2 expressed concerns about the opening or excavating of public roads
3 or highways by contractors, who eventually repair the road following
4 the completion of their work; but at times such repairs are
5 inadequate. The roads and highways that are not properly restored
6 to their original condition as a result of temporary excavations or
7 openings eventually become a safety hazard to Guam's drivers and
8 further cause damage to vehicles. Thus, it is essential that the
9 government of Guam have a system in place whereby these private
10 contractors are required to place a deposit fee, and are penalized if
11 the repair work does not restore the road or highway back to its
12 original condition. The dangerous road condition these situations
13 present can be minimized or prevented if the government of Guam
14 works collectively with these contractors to ensure repairs are
15 completed, and if an appropriate system is established which would
16 further encourage proper compliance.

17 Therefore, it is the intent of *I Liheslaturan Guåhan* to require that
18 private contractors who must encroach into Guam's roads or
19 highways for their respective projects provide an initial deposit,
20 which will be returned upon the complete repair and restoration of
21 the road or highway to Department of Public Works standards; or if
22 such repair is inadequate, the deposit fee shall then serve as a

1 penalty, in addition to the requirement to re-do the repair work on
2 the designated site.

3 **Section 2. Requirement for Deposit Fee and Bond Insurance**
4 **for Repair of Highways and Roadways by Public or Private**
5 **Contractors.**

6 §53105 of Chapter 53, Title 5, Guam Code Annotated, relative
7 to bond and deposit fee requirements for care and protection of
8 highways, is hereby amended to read as follows:

9 **“§53105. Condition for Deposit Fees and/or Bond for**
10 **Construction Projects that Require an Opening or Excavation of**
11 **Guam’s Roads or Highways Bond May Be Required.**

12 In addition to the permit application fee, any project by a
13 public or private contractor or public agency which would require
14 an opening or excavation for any purpose in a highway or public
15 roadway shall be required to provide a deposit fee of no less than
16 five hundred dollars (\$500.00) or no less than five percent (5%) of
17 the total cost of the project impacting the roadway, whichever is
18 greater. No permit shall be granted to a contractor or public
19 agency unless the deposit fee is paid in full. The prerequisite for a
20 deposit fee shall not be applicable to government funded projects
21 that necessitate bond insurance coverage as a stipulation of the

1 project. This requirement for a deposit fee shall not preclude the
2 Department's condition for a bond, as may be imposed herein.

3 The deposit fee highlighted herein shall be retained by the
4 Department for one (1) year from the completion of the road repair
5 and until such time that the Department conducts a site inspection
6 of the road or highway project area in which the opening or
7 excavation had occurred, and can ascertain that the repairs were
8 conducted and completed properly in accordance with applicable
9 Federal Highway Administration and/or Department of Public
10 Works standards. If the road or highway area is identified to be
11 insufficiently repaired, then the deposit fee shall be assessed as a
12 penalty, exclusive of the requirement for the contractor or public
13 agency to return and ensure that proper repair is conducted.
14 Should the area repaired meet the Department's standards set
15 forth for the repair of the road or highway to its original condition
16 prior to the project, the Department shall return the deposit fee in
17 full, however, the permit application fee shall not be returned.
18 Inspection of the road or highway project area shall be performed
19 by DPW within the one (1) year period following completion of the
20 road repair.

21 (a) All proceeds from the deposit fees established by this
22 Section shall be deposited into the Territorial Highway Fund and

1 interest derived therefrom shall remain in the Fund. Sufficient
2 funds shall be reserved for the refund of deposits, pursuant to this
3 Section.

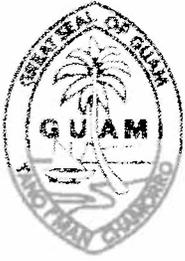
4 (b) Emergency Excavations. An emergency excavation
5 may be made without prior permit or deposit if the reason for the
6 excavation is to prevent loss of life or damage to property that
7 appears to be imminent if the excavation is delayed. In such
8 emergency situations the contractor or public agency responsible
9 shall contact the Department on the first working day following
10 the excavation and complete and secure a formal permit. The
11 contractor or public agency responsible shall provide justification
12 for the Emergency Excavation. In the event the Department deems
13 that the excavation was not an emergency, the applicant shall be
14 penalized Five Hundred Dollars (\$500) for failure to properly
15 secure a permit prior to excavating. Except for the prior permit
16 requirement, none of the application fee, deposit, bond, or penalty
17 provisions of this Section shall be waived for emergency situations.

18 Before granting a permit under any provision of this Chapter,
19 the Department may require the applicant to file with the
20 Department a satisfactory bond, payable to the government of
21 Guam in such amount and term as the Department deems
22 sufficient, conditioned on the proper compliance by the permittee

1 with the provisions of this Chapter. In the event of forfeiture of the
2 Bond, the proceeds shall go to the affected agency.”

3 **Section 3. Effective Date and Public Notification.**

4 The provisions contained in this Act shall be effective thirty (30)
5 days following the date of enactment. The Department of Public
6 Works, upon enactment, shall provide immediate notification to the
7 general public and to the Guam Contractors’ Association on the
8 implementation and effective date of the provisions contained in this
9 Act.



The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor



JOANNE M.S. BROWN
Director
CARL V. DOMINGUEZ
Deputy Director

March 14, 2011

The Honorable Thomas C. Ada, Chairperson
Committee on Public Works, Transportation, Utilities and Veterans Affairs
I Mina'trentai Unu Na Liheslaturan Guåhan
Suite 207, Ada Plaza Center
Hagåtña, Guam 96910

Subject: **Testimony Concerning Bill No. 62-31, An Act Relative to Further Ensuring the Safety of Guam's Public Roads and Highways. . . by Providing for a Deposit Fee. . . Through Amending § 53105 of Chapter 53, Title 5, Guam Code Annotated**

Dear Senator Ada:

Thank you giving the Department of Public Works (DPW) an opportunity to provide this testimony on Bill No. 62-31, *An Act Relative to Ensuring the Safety of Guam's Public Roads and Highways Through Requiring that Contractors, who Open and Excavate These Roads, Adequately Repair and Restore them to their Original Condition, by Providing for a Deposit Fee Prior to Being Granted a Permit, and Assessing a Penalty for Insufficient Repair of such Roadways; through Amending chapter 53, Title 5, Guam Code Annotated.*

DPW is the government agency charged with protecting and maintaining the roads and highways of Guam. After many years and much experience in road repair, DPW welcomes Bill No. 62-31 and *i Lihislaturan's* continued efforts to protect the safety and welfare of the people of Guam.

After reviewing the draft of Bill No. 62-31, DPW believes that the intent of the Bill and the deposit fee/penalty mechanism that it seeks to impose upon contractors conducting excavations on the highway are generally sound and well-placed. Nevertheless, DPW respectfully submits that some of the language of Bill 62-31 can be revised to address certain concerns. Specifically, these concerns include: (1) expanding the applicability of Bill 62-31 to *all* persons and agencies who excavate the road, and not just to private contractors; (2) addressing emergency excavations for which no prior permit was obtained; and (3) creating a special fund for the deposit of permit fees and bonds.

1. **Bill 62-31 Should Apply to All Persons and Entities who Open or Excavate on Public Highways or Roadways.**

As presently written, the language of Bill 62-31 only applies to private contractors. However, private contractors are not the only persons who excavate on the highway. For example, government utility agencies such as the Guam Power Authority and the Guam Waterworks Authority have many assets buried beneath the highway or the adjacent highway shoulder. In order to repair, replace, or maintain these assets, a utility must conduct excavation. Sometimes the utility will retain a private contractor to do the excavation and the repair work, and sometimes the utility will use its own employees and do the work itself.

Additionally, Bill 62-31 does not distinguish between the deposit fee for repairing an excavated highway, and the application fee for obtaining a permit. While the deposit fee for repairs may be refundable, the application fee is used to cover expenses associated with processing the permit and therefore cannot be refunded.

In order to close these loopholes, DPW suggests that some of the language of Bill 62-31 be revised to read as follows:

§ 53105. Condition for Deposit Fees and/or Bond for Construction Projects that Require an Opening or Excavation of Guam's Roads or Highways.

(a) **IN ADDITION TO THE PERMIT APPLICATION FEE,** any project by a ~~private contractor~~ **PUBLIC OR PRIVATE CONTRACTOR OR PUBLIC AGENCY** which would require an opening or excavation for any purpose in a highway or public roadway shall be required to provide a deposit fee of no less than \$500 or no less than 5% of the total cost of the project impacting the roadway, whichever is greater. No permit shall be granted to a ~~private contractor~~ **OR PUBLIC AGENCY** unless the deposit fee is paid in full. The prerequisite for a deposit fee shall not be applicable to government funded projects that necessitate bond insurance coverage as a stipulation of the project. This requirement for a deposit fee shall not preclude the Department's condition for a bond, as may be imposed herein.

The deposit fee highlighted herein shall be retained by the Department until such time that the Department conducts a site visit of the road or highway project area in which the opening or excavation had occurred, and can ascertain that the repairs were conducted and completed properly **IN ACCORDANCE WITH APPLICABLE FHWA AND/OR DPW STANDARDS.** If the road or highway

area were *IS* identified to be insufficiently repaired, then the deposit fee shall be assessed as a penalty, exclusive of the requirement for the private contractor **OR PUBLIC AGENCY** to return and ensure that proper repair is conducted. Should the area repaired meet the Department's standards set forth for the repair of the road or highway to its original condition prior to the project, the Department shall return the deposit fee in full, **HOWEVER, THE PERMIT APPLICATION FEE SHALL NOT BE RETURNED.**

Before granting a permit under any provision of this Chapter, the Department may require the applicant to file with the Department a satisfactory bond, payable to the government of Guam in such amount and term as the Department deems sufficient, conditioned on the proper compliance by the permittee with the provisions of this Chapter. In the event of forfeiture of the Bond, the proceeds shall go to the affected agency.

2. **The Highway Must be Fully Restored after Any Excavation, Including Emergency Excavations for Which no Permit was Issued.**

It is a fact that many times an emergency occurs and there is no time for a contractor or other public agency to obtain an excavation permit. Such emergencies include power outages, water or sewer pipe leaks, damage caused by typhoon or earthquake, etcetera.

When an emergency occurs that requires an excavation, the highway must be repaired and restored once the emergency is over. Unfortunately, this does not always happen. Often, a contractor or repair crew will mitigate whatever is the problem and put a temporary patch on the road with the intention to return later with a permanent fix. For whatever reason, many times they never return. Months and even years later, the purported "temporary" patch is still on the road and has essentially become permanent. Such patches can readily be seen on nearly every major highway in Guam.

Because no permit or deposit fee or bond was obtained prior to the emergency excavation, DPW has had difficulty obtaining recourse against the contractor or public agency. DPW respectfully suggests, therefore, that in addition to requiring deposit fees and a penalty, Bill 62-31 should also include a new subsection (b) to Section 53105 to address emergency excavations.

(b) Emergency Excavations. An emergency excavation may be made without prior permit or deposit if the reason for the excavation is to prevent loss of life or damage to property that appears to be imminent if the excavation is delayed. In such emergency situations the contractor or public agency responsible shall contact the Department on the first working day following the excavation and complete and secure a formal permit. Except for the prior permit requirement, none of the application fee, deposit, bond, or penalty provisions of this Section shall be waived for emergency situations.

3. **Funds Received from Fees or Forfeited Bonds Should be Protected and Used for Highway Purposes Only.**

As a line agency, all monies paid into DPW, including permit fees and forfeited bonds are deposited into the Government of Guam General Fund and therefore do not go to Department.

In order to fully effectuate that the language and intent of Section 53105 which provides that in the event of a forfeiture of a bond, the proceeds shall go to DPW, it is suggested that Bill 62-31 include a section authorizing the creation of a special interest-bearing account or fund into which the fees, bond proceeds or other monies received as compensation for damages caused to Guam's highways can be deposited. The account should be created separate and apart from other funds of the government of Guam. And, the monies deposited should be used for the sole purpose of financing the protection and maintenance of the public highways, roads, easements, rights of way, or roadway equipment and assets, and for no other purpose.

Sincerely,



JOANNE M. BROWN



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

March 14, 2011

Senator Thomas C. Ada, Chairman
Thirty-first Guam Legislature
155 Hesler Street
Hagatna, Guam 96910

Subject: Testimony on Bill 62-31

Dear Senator Ada:

The Guam Power Authority (GPA) is hereby submitting written testimony regarding **Bill 62-31**, "An act relative to further ensuring the safety of Guam's public roads and highways. . . ." The Authority is in full support of this bill. Additionally, GPA will continue to specify in our contract documents that bond insurance coverage is required for all GPA projects involving road repair work.

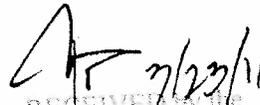
Thank you for the opportunity to submit written testimony for Bill 18-31.

Sincerely,


JOAQUIN C. FLORES, P.E.
GENERAL MANAGER

JCF/MRC/JGA:vjs

cc: Consolidated Commission on Utilities
Governor of Guam


RECEIVED by the
Office of Senator
Thomas C. Ada
2:25 pm



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 FEB 25 AM 9:29
EPM

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

February 24, 2011

Memorandum

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

To: Pat C. Santos
Clerk of the Legislature

MAJORITY MEMBERS:

From: Senator Rory J. Respicio
Chairperson, Committee on Rules

Speaker
Judith T. Won Pat

Subject: Fiscal Notes

Vice Speaker
Benjamin J. F. Cruz

Hafa Adai!

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

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.

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

Bill Nos.:	28-31 (COR)	63-31 (COR)
	54-31 (COR)	67-31 (COR)
	56-31 (COR)	75-31 (COR)
	59-31 (COR)	
	60-31 (COR)	
	61-31 (COR)	
	62-31 (COR)	

Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Senator
Christopher M. Duenas

Si Yu'os ma'åse'!

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

RAY TENORIO
LIEUTENANT GOVERNOR

BENITA A. MANGLONA
DIRECTOR

STEPHEN J. GUERRERO
DEPUTY DIRECTOR

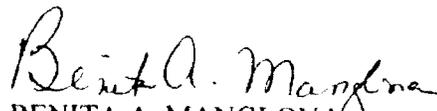
FEB 24 2011

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.: 28-31(COR), 54-31(COR), 60-31(COR), 61-31(COR), 62-31(COR), 63-31(COR), 67-31(COR) and 75-31(COR),

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.


BENITA A. MANGLONA
Director

Enclosures

cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 62-31 (COR)**

AN ACT RELATIVE TO FURTHER ENSURING THE SAFETY OF GUAM'S PUBLIC ROADS AND HIGHWAYS THROUGH REQUIRING THAT CONTRACTORS, WHO OPEN AND EXCAVATE THESE ROADS, ADEQUATELY REPAIR AND RESTORE THEM TO THEIR ORIGINAL CONDITION, BY PROVIDING FOR A DEPOSIT FEE PRIOR TO BEING GRANTED A PERMIT, AND ASSESSING A PENALTY FOR INSUFFICIENT REPAIR OF SUCH ROADWAYS; THROUGH AMENDING §53105 OF CHAPTER 53, TITLE 5, GUAM CODE ANNOTATED.

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	15,572,761
Total Department/Agency Appropriation(s) to date:	\$24,354,274

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special 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
(Specify Special Fund) 1/	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions?
If Yes, see attachment /X/ Yes / / No
- Is amount appropriated adequate to fund the intent of the appropriation?
If no, what is the additional amount required? \$ _____ /X/ N/A / / Yes / / No
- Does the Bill establish a new program/agency?
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
- Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason:
/X/ Requested agency comments not received by due date /X/ Yes / / No
/ / Other: _____

Analyst: g/loru Date: 2/21/11 Director: Benita Mangiona Date: 2/22/11
Benita A. Mangiona, Acting Director

Footnotes: See Attachment.

Bureau of Budget & Management Research
Attachment to Fiscal Note No. 62-31 (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/	<u>1/</u>	<u>1/</u>	<u>1/</u>	<u>1/</u>	<u>1/</u>
Total	<u>1/</u>	<u>1/</u>	<u>1/</u>	<u>1/</u>	<u>1/</u>

Comments:

1/ The proposed legislation provides for penalty assessments based on non-compliance of standards in the repair of roadways to its original condition prior to a construction project. Such penalty assessments initially are recorded as a deposit fee of no less than \$500 or no less than 5% of the total cost of a project impacting a roadway; but which are then assessed as a penalty should the roadway not be restored to its previous condition prior to the construction project. This penalty assessment is exclusive of the requirement to the private contractor to return and ensure that proper road repair is conducted. Additionally, the deposit fund account is not identified in the proposed legislation.



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

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

February 2, 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. 62-31 (COR) and 63-31 (COR)**

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 62-31 (COR) and 63-31 (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!

(2) Attachments

2011 FEB -3 AM 11:55
EOM

I Mina'trentai Unu Na Liheslaturan Guåhan

Bill Log Sheet

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date) Passed? Failed? Vetoed? Overridden? Public Law?
62-31 (COR)	A. B. Palacios, Sr.	An act relative to further ensuring the safety of Guam's public roads and highways through requiring that contractors, who open and excavate these roads, adequately repair and restore them to their original condition, by providing for a deposit fee prior to being granted a permit, and assessing a penalty for insufficient repair of such roadways; through amending §53105 of Chapter 53, Title 5, Guam Code Annotated.	2/01/11 10:38 a.m.	2/2/11		Committee on Utilities, Transportation, Public Works and Veterans Affairs			
B21-31 (COR)	A. B. Palacios, Sr.	An act to repeal and reenact Chapter 59 of Title 5, Guam Code Annotated, relative to the construction of a permanent joint public safety headquarters facility for two of Guam's critical law enforcement agencies; this act shall hereby be referred to as <i>The Guam Police Department and Guam Fire Department Joint Headquarters Initiative Act of 2011</i> .	2/01/11 10:38 a.m.	2/2/11		Committee on Public Safety, Law Enforcement and Judiciary			



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
31st Guam Legislature • I Mina' Trentai Unu Liheslaturan Guahan

March 2, 2011

MEMORANDUM

To: All Senators

Subject: **Public Hearing Notice: March 14, 2011**

Please be advised that the Committee on Transportation, Utilities, Public Works and Veterans Affairs is holding a public hearing on **March 14, 2011**. This meeting will take place in the Public Hearing Room of *I Liheslatura*.

The agenda is as follows:

2:00pm

- **Bill 79-31 (COR):** An act to repeal Article 3, Chapter 10, Title 12 of the Guam Code Annotated relative to authorizing the Board of Directors of the Jose D. Leon Guerrero Commercial Port ("The Port") to enter into a public-private partnership contract, lease agreement, and operating permit for terminal operations and maintenance of the Jose D. Leon Guerrero Commercial Port; and to add a new Article 3, Chapter 10, Title 12 of the Guam Code Annotated relative to the prohibition of the privatization, sale or lease of the port.

- **Bill 62-31 (COR):** An act relative to further ensuring the safety of Guam's public roads and highways through requiring that contractors, who open and excavate these roads, adequately repair and restore them to their original condition, by providing for a deposit fee prior to being granted a permit, and assessing a penalty for insufficient repair of such roadways; through amending §53105 of Chapter 53, Title 5, Guam Code Annotated.

- **Bill 85-31 (COR):** An act to add a new Subsection 54106 and items 54106(A)(B) to Article 1 of Chapter 54, Title 5, Guam Code Annotated relative to ensuring that efficient traffic flow continues in alternate routes during all periods of highway and road construction projects.

- **Bill 84-31 (COR):** An act to *amend* 7120.2 (b)(1), Chapter 7 of Title 16 of the Guam Code Annotated, relative to extending benefits for veterans.

Testimonies should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to office@senatorada.org, or via facsimile to (671) 473-3303 until March 16, 2011, 5:00 pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Jimmy Camacho at 473-3301. Please feel free to contact our office at 473-3301 should you have any questions or concerns.



Senator Tom Ada

Jimmy Camacho <jcamacho@senatorada.org>

First Notice: Public Hearing March 14, 2011

Jimmy Camacho <jcamacho@senatorada.org>

Wed, Mar 2, 2011 at 5:10 PM

To: "Public Hearing notice (to Legislature)" <ph.notice.leg@senatorada.org>

Hafa adai,

Please find the attached public hearing notice scheduled for March 14, 2011.

Should you have any difficulty viewing the document, please contact me.

con paz,

--

Jimmy Taitano Camacho
Policy Analyst
Office of Senator Thomas C. Ada
I Mina' Trentai Unu Na Liheslaturan Guåhan - 31st Guam Legislature
(Office) 473 - 3301 (Cell) 486 - 9494

 **PH MARCH 14 .pdf**
467K

Listserv: phnotice@guamlegislature.org

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jamespcastro@gmail.com
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sem@guamlegislature.org
senabpalacios@gmail.com
senator@senatorbjcruz.com
senator@tinamunabarnes.com
senatordrodriguez@gmail.com
senatormana@gmail.com
sensorsam@senatormabini.com
senatortonyada@guamlegislature.org
senbenp@guam.net
sgtarms@guamlegislature.org
speaker@judiwonpat.com
steve@judiwonpat.com
tanya4families@gmail.com
tom@senatorada.org
tterlaje@guam.net



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
31st Guam Legislature • I Mina' Trentai Unu Liheslaturan Guahan

March 2, 2011

MEMORANDUM

To: All MEDIA

Subject: **Public Hearing Notice: March 14, 2011**

Please be advised that the Committee on Transportation, Utilities, Public Works and Veterans Affairs is holding a public hearing on **March 14, 2011**. This meeting will take place in the Public Hearing Room of *I Liheslatura*.

The agenda is as follows:

2:00pm

- **Bill 79-31 (COR):** An act to repeal Article 3, Chapter 10, Title 12 of the Guam Code Annotated relative to authorizing the Board of Directors of the Jose D. Leon Guerrero Commercial Port ("The Port") to enter into a public-private partnership contract, lease agreement, and operating permit for terminal operations and maintenance of the Jose D. Leon Guerrero Commercial Port; and to add a new Article 3, Chapter 10, Title 12 of the Guam Code Annotated relative to the prohibition of the privatization, sale or lease of the port.

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Testimonies should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to office@senatorada.org, or via facsimile to (671) 473-3303 until March 16, 2011, 5:00 pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Jimmy Camacho at 473-3301. Please feel free to contact our office at 473-3301 should you have any questions or concerns.



Senator Tom Ada

Jimmy Camacho <jcamacho@senatorada.org>

First Notice: Public Hearing March 14, 2011

Jimmy Camacho <jcamacho@senatorada.org>
To: media@senatorada.org

Wed, Mar 2, 2011 at 5:12 PM

Hafa adai,

Please find the attached public hearing notice schedule for March 14, 2011.

Should you have any difficulty viewing the document, please contact me.

--
Jimmy Taitano Camacho
Policy Analyst
Office of Senator Thomas C. Ada
I Mina' Trentai Unu Na Liheslaturan Guahan - 31st Guam Legislature
(Office) 473 - 3301 (Cell) 486 - 9494

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clynt@spbguam.com	clynt@spbguam.com	Member
dmgeorge@guampdn.com	dmgeorge@guampdn.com	Member
dtamondong@guampdn.com	dtamondong@guampdn.com	Member
editor@mvguam.com	editor@mvguam.com	Member
gdumat-ol@guampdn.com	gdumat-ol@guampdn.com	Member
holips@kuam.com	holips@kuam.com	Member
jac.cherry@gmail.com	jac.cherry@gmail.com	Member
janelis@mvguam.com	janelis@mvguam.com	Member
kevin@spbguam.com	kevin@spbguam.com	Member
limathews@guampdn.com	limathews@guampdn.com	Member
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mindy@kuam.com	mindy@kuam.com	Member

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news@k57.com	news@k57.com	Member
nick.deigado@kuam.com	nick.deigado@kuam.com	Member
rgbson@k57.com	rgbson@k57.com	Member
sabrina@kuam.com	sabrina@kuam.com	Member
scoop@guamnewswatch.com	scoop@guamnewswatch.com	Member
thebigshow@k57.com	thebigshow@k57.com	Member
thebigshow@spbguam.com	thebigshow@spbguam.com	Member
therese.hart.writer@gmail.com	therese.hart.writer@gmail.com	Member
therese@mvguam.com	therese@mvguam.com	Member
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Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
31st Guam Legislature • I Mina Trentai Unu Liheslaturan Guahan

March 7, 2011

MEMORANDUM

To: All Stakeholders

Subject: **Public Hearing Notice: March 14, 2011**

Please be advised that the Committee on Transportation, Utilities, Public Works and Veterans Affairs is holding a public hearing on **March 14, 2011**. This meeting will take place in the Public Hearing Room of *I Liheslatura*.

The agenda is as follows:

2:00pm

- **Bill 79-31 (COR):** An act to repeal Article 3, Chapter 10, Title 12 of the Guam Code Annotated relative to authorizing the Board of Directors of the Jose D. Leon Guerrero Commercial Port ("The Port") to enter into a public-private partnership contract, lease agreement, and operating permit for terminal operations and maintenance of the Jose D. Leon Guerrero Commercial Port; and to add a new Article 3, Chapter 10, Title 12 of the Guam Code Annotated relative to the prohibition of the privatization, sale or lease of the port.
- **Bill 62-31 (COR):** An act relative to further ensuring the safety of Guam's public roads and highways through requiring that contractors, who open and excavate these roads, adequately repair and restore them to their original condition, by providing for a deposit fee prior to being granted a permit, and assessing a penalty for insufficient repair of such roadways; through amending §53105 of Chapter 53, Title 5, Guam Code Annotated.
- **Bill 85-31 (COR):** An act to add a new Subsection 54106 and items 54106(A)(B) to Article 1 of Chapter 54, Title 5, Guam Code Annotated relative to ensuring that efficient traffic flow continues in alternate routes during all periods of highway and road construction projects.
- **Bill 84-31 (COR):** An act to *amend* 7120.2 (b)(1), Chapter 7 of Title 16 of the Guam Code Annotated, relative to extending benefits for veterans.

Testimonies should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to office@senatorada.org, or via facsimile to (671) 473-3303 until March 18, 2011, 5:00 pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Jimmy Camacho at 473-3301. Please feel free to contact our office at 473-3301 should you have any questions or concerns.



Public Hearing Notice

Jimmy Camacho <jcamacho@senatorada.org>

Mon, Mar 7, 2011 at 2:43 PM

To: "Pedro A. Leon Guerrero" <paleonguerrero@portguam.com>, djtydingco@gta.net, mdkatsuren@portguam.com, Len Isotoff <lisotoff@matson.com>, Hugh Healey <HHealey@horizonlines.com>, "Paul L. Blas" <plblas@seabridgeguam.com>, dleddy@guamchamber.com.gu, Thomas Cruz <thomas@guamwaterworks.org>, Martin Roush <roushm@guamwaterworks.net>, Heidi Ballendorf <heidi@guamwaterworks.org>, jflores@gpagwa.com, Graham Botha <gbotha@gpagwa.com>, joanne.brown@dpw.guam.gov, carl.dominguez@dpw.guam.gov, "Joaquin R. Blaz" <joaquin.blaz@dpw.guam.gov>, Simon Sanchez <gdcmgr@ite.net>, mcogadmin@teleguam.net, msavares@guamcell.net, staff03@guamchamber.com.gu, chairman@guamchamber.com.gu, cindy.gogo@gvao.guam.gov, Alan VanAken <AGunner77@teleguam.net>, Stan Ko <stanstw@hotmail.com>, jpcamacho@revtax.gov.gu, saguon@revtax.gov.gu, jcsalas@revtax.gov.gu, gca@teleguam.net, desiree.lizama@guamcontractors.org, chris@mcvguam.com, genmgr@ite.net, steven.carrara@itehq.net, cthompson@mcvguam.com, larry@gta.net

Cc: Nicole Santos <nsantos@senatorada.org>

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Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
31st Guam Legislature • I Mina' Trentai Unu Liheslaturan Guåhan

March 10, 2011

MEMORANDUM

To: All Senators

Fr: Senator Thomas C. Ada 

Subject: **Public Hearing Notice: March 14, 2011**

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- **Bill 62-31 (COR):** An act relative to further ensuring the safety of Guam's public roads and highways through requiring that contractors, who open and excavate these roads, adequately repair and restore them to their original condition, by providing for a deposit fee prior to being granted a permit, and assessing a penalty for insufficient repair of such roadways; through amending §53105 of Chapter 53, Title 5, Guam Code Annotated. **(Sponsor: A.B. Palacios, Sr.)**

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- **Bill 84-31 (COR):** An act to *amend* 7120.2 (b)(1), Chapter 7 of Title 16 of the Guam Code Annotated, relative to extending benefits for veterans. **(Sponsors: F.F. Blas, Jr., T.C. Ada, and V.A. Ada)**

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Senator Tom Ada

Nicole Santos <nsantos@senatorada.org>

Fwd: 1st Public Hearing Notice (March 14, 2011)

Jimmy Camacho <jcamacho@senatorada.org>

Mon, Jul 18, 2011 at 3:57 PM

To: Nicole Santos <nsantos@senatorada.org>

----- Forwarded message -----

From: **Jimmy Camacho** <jcamacho@senatorada.org>

Date: Mon, Mar 7, 2011 at 10:41 AM

Subject: 1st Public Hearing Notice (March 14, 2011)

To: Benjamin JF Cruz" <senator@senatorbjcruz.com>, "Senator Sam Mabini" <senatormabini@gmail.com>, "Adolpho B. Palacios, Sr." <senabpalacios@gmail.com>, "Aline A. Yamashita, Ph.D" <aline4families@gmail.com>, "Christopher M. Duenas" <duenasenator@gmail.com>, "Dennis G. Rodriguez" <senatordrodriguez@gmail.com>, "Frank F. Blas, Jr." <frank.blasjr@gmail.com>, "Judith P. Guthertz, DPA" <judiguthertz@pticom.com>, "Judith T. Won Pat, Ed.D." <info@judiwonpat.com>, Mana Silva Taijeron <senatormana@gmail.com>, "Thomas C. Ada" <tom@senatorada.org>, Tina Rose Muna Barnes <tinamunabarnes@gmail.com>, "V. Anthony Ada" <senatortonyada@guamlegislature.org>, vicente 'ben' pangelinan <senbenp@guam.net>, "Rory J. Respicio" <roryforguam@gmail.com>

Cc: mis@guamlegislature.org, clerks@guamlegislature.org, Joe Leon Guerrero <sgtarms@guamlegislature.org>, Therese Terlaje <tterlaje@guam.net>

Hafa adai,

Please find the attached (1st) Public Hearing Notice. Should you have any difficulty viewing the document, please contact me at:

--

Jimmy Taitano Camacho
Policy Analyst
Office of Senator Thomas C. Ada
I Mina' Trentai Unu Na Liheslaturan Guåhan - 31st Guam Legislature
(Office) 473 - 3301 (Cell) 486 - 9494

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Jimmy Taitano Camacho
Policy Analyst
Office of Senator Thomas C. Ada
I Mina' Trentai Unu Na Liheslaturan Guåhan - 31st Guam Legislature



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
31st Guam Legislature • I Mina' Trentai Unu Liheslaturan Guahan

March 10, 2011

MEMORANDUM

To: ALL MEDIA

From: Senator Thomas C. Ada 

Subject: **Public Hearing Notice: March 14, 2011**

Please be advised that the Committee on Transportation, Utilities, Public Works and Veterans Affairs is holding a public hearing on **March 14, 2011**. This meeting will take place in the Public Hearing Room of *I Liheslatura*. The agenda is as follows:

2:00pm

- **Bill 79-31 (COR):** An act to repeal Article 3, Chapter 10, Title 12 of the Guam Code Annotated relative to authorizing the Board of Directors of the Jose D. Leon Guerrero Commercial Port ("The Port") to enter into a public-private partnership contract, lease agreement, and operating permit for terminal operations and maintenance of the Jose D. Leon Guerrero Commercial Port; and to add a new Article 3, Chapter 10, Title 12 of the Guam Code Annotated relative to the prohibition of the privatization, sale or lease of the port. **(Sponsors: T.C. Ada, R.K. Respicio, and J.P. Guthertz, DPA)**

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Senador
Senator Tom Ada

Nicole Santos <nsantos@senatorada.org>

Public Hearing Notice (2nd) March 14th Public Hearing

Jimmy Camacho <jcamacho@senatorada.org>
To: media@senatorada.org

Thu, Mar 10, 2011 at 10:24 AM

Hafa adai,

Please find the attached Public Hearing Notice. Should you have any difficulty viewing the document, please contact me at:

--

Jimmy Taitano Camacho
Policy Analyst
Office of Senator Thomas C. Ada
I Mina' Trentai Unu Na Liheslaturan Guåhan - 31st Guam Legislature
(Office) 473 - 3301 (Cell) 486 - 9494

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Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
31st Guam Legislature • I Mina' Trentai Unu Liheslaturan Guåhan

AGENDA

PUBLIC HEARING

Monday, March 14, 2011

Public Hearing Room, *I Liheslaturan Guåhan*

The agenda is as follows:

2:00pm

- **Bill 79-31 (COR):** An act to repeal Article 3, Chapter 10, Title 12 of the Guam Code Annotated relative to authorizing the Board of Directors of the Jose D. Leon Guerrero Commercial Port ("The Port") to enter into a public-private partnership contract, lease agreement, and operating permit for terminal operations and maintenance of the Jose D. Leon Guerrero Commercial Port; and to add a new Article 3, Chapter 10, Title 12 of the Guam Code Annotated relative to the prohibition of the privatization, sale or lease of the port. **(Sponsors: T.C. Ada, R.K. Respicio, and J.P. Guthertz, DPA)**
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I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN
2011 (FIRST) Regular Session

Bill No. 67-31(COR)

Introduced by:

ADOLPHO B. PALACIOS, SR. 

AN ACT RELATIVE TO FURTHER ENSURING THE SAFETY OF GUAM'S PUBLIC ROADS AND HIGHWAYS THROUGH REQUIRING THAT CONTRACTORS, WHO OPEN AND EXCAVATE THESE ROADS, ADEQUATELY REPAIR AND RESTORE THEM TO THEIR ORIGINAL CONDITION, BY PROVIDING FOR A DEPOSIT FEE PRIOR TO BEING GRANTED A PERMIT, AND ASSESSING A PENALTY FOR INSUFFICIENT REPAIR OF SUCH ROADWAYS; THROUGH AMENDING §53105 OF CHAPTER 53, TITLE 5, GUAM CODE ANNOTATED.

2011 FEB - 1 AM 10:38 

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent.

3 I Liheslaturan Guahan finds that many of Guam's residents
4 have expressed concerns about the opening or excavating of public
5 roads or highways by contractors, who eventually repair the road
6 following the completion of their work; but at times such repairs are
7 inadequate. The roads and highways that are not properly restored
8 to their original condition as a result of temporary excavations or
9 openings eventually become a safety hazard to Guam's drivers and
10 further cause damage to vehicles. Thus, it is essential that the

1 government of Guam have a system in place whereby these private
2 contractors are required to place a deposit fee, and are penalized if
3 the repair work does not restore the road or highway back to its
4 original condition. The dangerous road condition these situations
5 present can be minimized or prevented if the government of Guam
6 works collectively with these contractors to ensure repairs are
7 completed, and if an appropriate system is established which would
8 further encourage proper compliance.

9 Therefore, it is the intent of *I Liheslaturan Guahan* to require that
10 private contractors who must encroach into Guam's roads or
11 highways for their respective projects provide an initial deposit,
12 which will be returned upon the complete repair and restoration of
13 the road or highway to Department of Public Works standards; or if
14 such repair is inadequate, the deposit fee shall then serve as a
15 penalty, in addition to the requirement to re-do the repair work on
16 the designated site.

17 **Section 2. Requirement for Deposit Fee and Bond Insurance**
18 **for Repair of Highways and Roadways by Private Contractors.**

19 §53105 of Chapter 53, Title 5, Guam Code Annotated, relative
20 to bond and deposit fee requirements for care and protection of
21 highways, is hereby amended to read as follows:

1 **“§53105. Condition for Deposit Fees and/or Bond for**
2 **Construction Projects that Require an Opening or Excavation of**
3 **Guam’s Roads or Highways.**

4 Any project by a private contractor which would require an
5 opening or excavation for any purpose in a highway or public
6 roadway shall be required to provide a deposit fee of no less than
7 \$500.00 or no less than 5% of the total cost of the project impacting
8 the roadway, whichever is greater. No permit shall be granted to a
9 private contractor unless the deposit fee is paid in full. The
10 prerequisite for a deposit fee shall not be applicable to government
11 funded projects that necessitate bond insurance coverage as a
12 stipulation of the project. This requirement for a deposit fee shall
13 not preclude the Department’s condition for a bond, as may be
14 imposed herein.

15 The deposit fee highlighted herein shall be retained by the
16 Department until such time that the Department conducts a site
17 visit of the road or highway project area in which the opening or
18 excavation had occurred, and can ascertain that the repairs were
19 conducted and completed properly. If the road or highway area
20 were identified to be insufficiently repaired, then the deposit fee
21 shall be assessed as a penalty, exclusive of the requirement for the
22 private contractor to return and ensure that proper repair is

1 conducted. Should the area repaired meet the Department's
2 standards set forth for the repair of the road or highway to its
3 original condition prior to the project, the Department shall return
4 the deposit fee in full.

5 Before granting a permit under any provision of this Chapter,
6 the Department may require the applicant to file with the
7 Department a satisfactory bond, payable to the government of
8 Guam in such amount and term as the Department deems
9 sufficient, conditioned on the proper compliance by the permittee
10 with the provisions of this Chapter. In the event of forfeiture of the
11 Bond, the proceeds shall go to the affected agency."

12 **Section 3. Effective Date and Public Notification.**

13 The provisions contained in this Act shall be effective thirty (30)
14 days following the date of enactment. The Department of Public
15 Works, upon enactment, shall provide immediate notification to the
16 general public and to the Guam Contractors' Association on the
17 implementation and effective date of the provisions contained in this
18 Act.