

I Mina'trentai Siette Na Lihelaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
165-37 (COR)	Sabina Flores Perez Chris Barnett Therese M. Terlaje Dwayne T.D. San Nicolas Joe S. San Agustin	AN ACT TO ADD A NEW ARTICLE 10 TO CHAPTER 51A OF TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM SOLID WASTE AUTHORITY'S UNIVERSAL GARBAGE COLLECTION PLAN.	9/12/23 9:09 a.m.						

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 165-37 (COR)

Introduced by:

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**AN ACT TO *ADD* A NEW ARTICLE 10 TO CHAPTER 51A
OF TITLE 10 GUAM CODE ANNOTATED, RELATIVE
TO ESTABLISHING THE GUAM SOLID WASTE
AUTHORITY'S UNIVERSAL GARBAGE COLLECTION
PLAN.**

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

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

3 finds that in 2004, the United States Environmental Protection Agency (US EPA)
4 implemented a Consent Decree with the Government of Guam (GovGuam) due to
5 the Government of Guam's violation of the Clean Water Act stemming from the
6 Ordot Landfill's leachate contamination. After ownership was transferred from the
7 U.S. Navy to the Government of Guam in 1950, the Ordot Landfill constituted
8 Guam's sole landfill for the island's populations, including the U.S. Naval Base
9 Guam and Andersen Air Force Base. The creation of military landfill options in the
10 1970s reduced the Ordot Landfill's capacity to that of a municipal landfill, and the
11 landfill continued to operate until its closure in 2011.

12 *I Liheslatura* finds that from 1986 to 2008, the Government of Guam lacked
13 the financial and administrative capacity to prevent leachate contamination from the

1 Ordot Landfill, of which includes contamination resulting from the U.S. military's
2 usage of the landfill prior to the 1970s. The continued contamination of the Ordot
3 Landfill, its interrelated status as a Superfund site, and associated costs culminated
4 in the 2004 Consent Decree, the Ordot Landfill's 2011 closure and ongoing post
5 closure cleanup. The Ordot Landfill post closure care continues to comprise a
6 substantial amount of Guam Solid Waste Authority's (GSWA) total expenditures,
7 with forty percent (40%) of GSWA's Expenditures attributed to Assigned Contracts
8 and Ordot Landfill post closure care for the Fiscal Year 2021 (FY2021). The
9 Government of Guam has been the sole financier of the Ordot Landfill's closure and
10 cleanup to date, and consequently sued the U.S. Navy in 2017 for their contribution
11 to the Ordot Landfill's contamination and associated cleanup costs per Section
12 113(f)(3)(B) of the Comprehensive Environmental Response, Compensation, and
13 Liability Act (CERCLA).

14 *I Liheslatura* finds that the Government of Guam's inability to fully fund
15 operations concerning the Ordot Landfill (i.e. closure and environmental
16 protections) and the Layon Landfill (i.e. construction) resulted in the District Court
17 of Guam's 2008 appointment of a Federal Receiver (Receiver). The U.S. District
18 Court of Guam appointed solid waste management consultants Gershman, Brickner
19 & Bratton, Inc. (GBB) as the Federal Receiver (Receiver) of the former Solid Waste
20 Management Division of the Guam Department of Public Works to ensure the
21 Government of Guam's compliance with the 2004 Consent Decree. In enforcing the
22 terms of the Consent Decree, the Receiver established tipping fees to compensate
23 for the costs of improving the island's solid waste collection and disposal operations.

24 *I Liheslatura* finds that the Receiver's research and analysis determined
25 tipping fees would remain at a low cost, provided that all Guam residents subscribed
26 to garbage collection services. However, GSWA has indicated that 18,000 of the
27 island's residents are unregistered for curbside garbage collection services, further

1 noting that their 2021 tonnage analysis paradoxically demonstrates Layon Landfill
2 as receiving most of the island population’s refuse. The discrepancies between
3 unsubscribed residents and tonnage received at Layon Landfill suggest a multitude
4 of avenues through which residents dispose of their garbage. While some
5 unsubscribed residents choose to dispose of their garbage at transfer stations for a
6 nominal fee, GSWA has also determined that some unsubscribed residents dump
7 their garbage in residential or commercial trash bins (i.e. “piggybacking”)—with or
8 without the subscriber’s consent—or elect to illegally dump their trash in the
9 environment. Both “piggybacking” and illegal dumping hold negative financial
10 consequences for the island’s collection and disposal program, as they respectively
11 compromise the program’s financial and operational capacity through diminished
12 subscription and associated costs of collecting illegally disposed waste.

13 *I Liheslaturan Guåhan* finds that if all residents subscribe to GSWA garbage
14 collection services, that the economies of scale will result in lower rates per
15 subscriber and simultaneously ensure that every resident’s garbage will be collected
16 and properly disposed of. The implementation of universal garbage collection would
17 greatly mitigate the financial and logistical challenges posed by “piggybacking” and
18 illegal dumping. Universal garbage collection services for Guam would also parallel
19 the initiatives of other domestic and international jurisdictions that have instituted
20 mandatory garbage collection services. Studies such as the 2020 Public Utilities
21 Commission (PUC) Final Report on the Management Audit of the Guam Solid
22 Waste Authority (GSWA) demonstrate Guam as one of a very small number of
23 similarly sized jurisdictions that do not institute universal garbage collection
24 services, indicating that a majority of similar jurisdictions (i.e. similarly sized
25 government and population) have established universal garbage collection services.
26 Such implementation would include a Customer Assistance Program to financially
27 support the costs of services for community members in need. Ultimately, the

1 implementation of universal garbage collection in Guam would mirror domestic and
2 international initiatives determined to increase the efficiency of garbage collection
3 services, prevent the detrimental financial consequences of “piggybacking,” and
4 reduce illegal dumping. It is the intent of *I Liheslaturan Guåhan* to implement a
5 Universal Garbage Collection program that will be administered by the Guam Solid
6 Waste Authority.

7 **Section 2.** A new Article 10 is added to Chapter 51A, Title 10 Guam Code
8 Annotated to read as follows:

9 **“Article 10**

10 **Universal Garbage Collection Plan**

11 **§ 51A1001. Purpose.** *I Liheslaturan Guåhan* finds that if all residents
12 subscribe to GSWA garbage collection services, that the economies of scale with
13 result in lower rates per subscriber and simultaneously ensure that every resident’s
14 garbage will be collected and properly disposed of. The implementation of universal
15 garbage collection would greatly mitigate the financial and logistical challenges
16 posed by “piggybacking” and illegal dumping. Universal garbage collection services
17 for Guam would also parallel the initiatives of other domestic and international
18 jurisdictions that have instituted mandatory garbage collection services. Such
19 implementation would include a Customer Assistance Program to financially
20 support the costs of services for community members in need. Ultimately, the
21 implementation of universal garbage collection in Guam would mirror domestic and
22 international initiatives determined to increase the efficiency of garbage collection
23 services, prevent the detrimental financial consequences of “piggybacking,” and
24 reduce illegal dumping. It is the intent of *I Liheslaturan Guåhan* to implement a
25 Universal Garbage Collection program that will be administered by the Guam Solid
26 Waste Authority.

1 **§ 51A1002. Universal Garbage Collection Plan Goals.** The goals and
2 objectives of a Universal Garbage Collection include:

3 (a) Municipal Garbage Collection for all residential buildings comprising
4 of four (4) units or less,

5 (b) collection of unwanted appliances, electronics, all types of batteries and
6 construction waste,

7 (c) integration of public and private garbage collection services,

8 (d) reduction in tipping fees and disposal fees for old electronics and
9 batteries, and

10 (e) reduction of littering and dumping violations.

11 **§ 51A1003. Subscription for Garbage Collection Services.** All owners of
12 residential buildings are required to subscribe, except as provided in § 51A1005, to
13 a garbage public or private collection service under the following conditions:

14 (a) Applicants for new service and existing customers of the Guam
15 Waterworks Authority (GWA) shall be enrolled in garbage collection
16 service with Guam Solid Waste Authority (GSWA) or a private hauler.
17 GWA shall provide any GSWA forms or applications to implement this
18 Section, and provide the applicant's enrollment forms to GSWA. The
19 applicant shall be solely responsible for establishing solid waste
20 collection services.

21 (b) The subscribed owner shall pay for garbage collection service rendered
22 to their occupied residential building.

23 Nothing in this Section is intended to prevent an arrangement, or the
24 continuance of an existing arrangement, under which payments for garbage
25 collection service are made by a lessee, lessees, agent, or the Customer Assistance
26 Program pursuant to § 51A1004 on behalf of the owner; however, any such

1 arrangement will not affect the owner's obligation to ensure subscription to garbage
2 collection service and associated payment for such service.

3 **§ 51A1004. Customer Assistance Program.**

4 GSWA is authorized to establish a Customer Assistance Program to provide
5 financial assistance to eligible ratepayers. GSWA shall establish income eligibility
6 standards for the residential class ratepayer to receive financial assistance, which
7 shall include a reduction or waiver of fees.

8 **§ 51A1005. Exemptions.**

9 GSWA may exempt from the requirements of Section § 51A1003 any owner who
10 shows, and only so long as the owner can continue to show:

11 (a) The owner of a residential building comprising of four (4) units or less
12 or other qualifying building may forgo subscription if the lessee is
13 obligated, by the lease contract, to subscribe to garbage collection
14 services;

15 (b) If the building with a valid occupancy permit is vacant,

16 (c) If the building is occupied but not expected to generate any form of
17 municipal solid waste.

18 (d) contract for weekly collection services with a permitted private
19 collection hauler

20 Any owner who meets the requirements of this Section may petition the
21 GSWA for an exemption. The person must show cause why they should not be
22 required to subscribe for the collection and disposal of solid waste or why GSWA
23 should not provide such services for their premises.

24 **§ 51A1006. Tipping fees for Garbage Collection Services provided by the**
25 **Guam Solid Waste Authority.**

26 Tipping fees assessed by the Guam Solid Waste Authority shall be established
27 pursuant to Chapter 9, Title 5 Guam Code Annotated and Title 10 Guam Code

1 Annotated § 51A301. Tipping fees shall be subject to the following terms and
2 conditions:

- 3 (a) All single-family residential units shall be assessed at the same
4 rate,
- 5 (b) Single-family residential units in excess of six thousand square
6 feet (6,000 sq. ft.) of living area may be assessed at a higher rate
7 based on the average monthly volume of garbage collected,
- 8 (c) Single-family residential units used as a home business may be
9 assessed at a higher rate based on the average monthly volume
10 of garbage collected,
- 11 (d) Multifamily residential units shall be assessed at a rate not to
12 exceed the rate established under item (a) of this Section, *supra*,
13 times the number of residential units in the multifamily complex,
- 14 (e) Commercial and industrial buildings and complexes may be
15 assessed at rate based on anticipated or actual volume of garbage
16 generated,
- 17 (f) Fees for any other services not established, *supra*; and
- 18 (g) Any residential, commercial, or industrial buildings or
19 complexes are exempt from tipping fees if the building or
20 complex has contracted with a private garbage collection service.

21 **§ 51A1007. Payment Received by Guam Waterworks Authority.**

22 GWA is authorized to receive payments from GSWA customers for the
23 collection, transportation, disposal, storage, recycling, and processing of solid waste
24 pursuant to a Memorandum of Agreement (MOA) with GSWA. All money collected
25 pursuant to this Section shall be deposited into the Solid Waste Operations Fund. All
26 administrative costs pursuant to the MOA for providing this service on behalf of
27 GSWA shall be paid by GSWA.

1 **§ 51A1008. Memorandums of Agreement.**

2 GSWA may enter into a Memorandum of Agreement (MOA) with the GWA
3 for the purpose of implementing the mandates of this Article. Any MOA entered into
4 for the purpose of satisfying this Article shall stipulate payment receipt methods,
5 deposit of payments on behalf of GSWA, invoicing by and payments to GWA for
6 its administrative costs, and related responsibilities.

7 GSWA may enter into a MOA with the Department of Revenue and Taxation
8 (DRT) to garnish tax refunds of customers who have not paid and have not offered
9 to pay for services under this Article in order to collect outstanding payment for
10 services from such customers. Subject to the terms and conditions of the MOA,
11 GSWA may garnish tax refunds due to any customer who has not paid for services
12 and has not offered to pay for such services. Such garnishment shall not exceed the
13 total amount owed. GSWA shall adopt a policy, subject to the Administrative
14 Adjudication Law, to govern the referral of such tax refund garnishment requests to
15 the DRT.

16 **§ 51A1009. Penalties for Failure to Subscribe.**

17 Penalties for failure to subscribe, failure to pay tipping fees and late payment
18 fees and any other fees shall be established by the Guam Solid Waste Authority
19 Board of Directors pursuant to Chapter 9, Title 5 Guam Code Annotated and in
20 conjunction with the tipping fees established by § 51A1006 of this Article.”

21 **Section 3. Revision of Rates and Fees.**

22 GSWA shall review and revise rates as needed pursuant to Chapter 9, Title 5
23 Guam Code Annotated and § 51A301, Title 10 Guam Code Annotated.

24 **Section 4. Promulgation of Rules and Regulations.**

25 GSWA shall revise its administrative rules and regulations to comply with the
26 mandates of Chapter 51A pursuant to Chapter 9, Title 5 Guam Code Annotated and

1 Chapter 51A, Title 10 Guam Code Annotated within one hundred eighty (180) days
2 of enactment.

3 **Section 5. Effective Date.** The implementation of the provisions of this Act
4 is effective six (6) months from the date of adjudication of the Administrative Rules
5 and Regulations.

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