



Territory of Guam
Territorio Guam

OFFICE OF THE GOVERNOR
U'FSINAN I MAGA'LAHI
AGANA, GUAM 96910 U.S.A.

RECEIVED
OFFICE OF THE SPEAKER
DATE: 4/15/94
TIME: 10:10 am
RECD BY: [Signature]

APR 01 1994

The Honorable Joe T. San Agustin
Speaker, Twenty-Second Guam Legislature
155 Hesler Street
Agana, Guam 96910

REFER TO
LEGISLATION
[Signature]

Dear Mr. Speaker:

Transmitted herewith is Bill No. 874 which I have signed into law this date as
Public Law 22-106.

Sincerely yours,

Joseph F. Ada
JOSEPH F. ADA
Governor of Guam

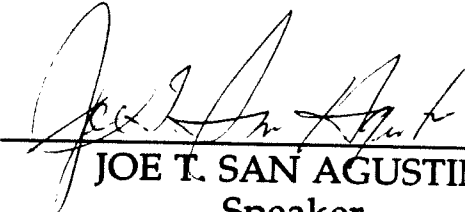
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Attachment

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

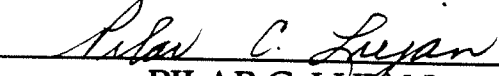
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 874 (LS), "AN ACT TO REPEAL AND REENACT SECTION 2 OF PUBLIC LAW NO. 21-101, TO ADD ARTICLE 10 TO CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, TO CREATE THE GUAM TERRITORIAL AQUARIUM FOUNDATION TO OVERSEE THE PRE-DESIGN STAGE AND CONTINUED DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM; TO REPEAL SECTION 10 OF PUBLIC LAW NO. 18-6 AND TO APPROPRIATE SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) FROM THE TOURIST ATTRACTION FUND TO THE GUAM TERRITORIAL AQUARIUM FOUNDATION FOR THE PRE-DESIGN STAGE OF THE AQUARIUM," was on the 14th day of March, 1994, duly and regularly passed.



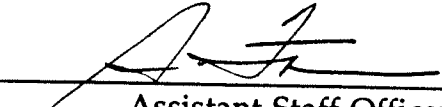
JOE T. SAN AGUSTIN
Speaker

Attested:



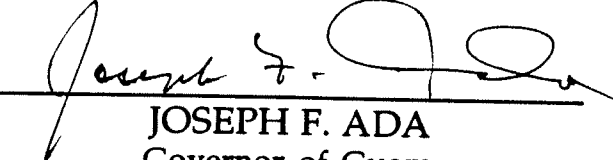
PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 21st day of March, 1994, at
11:16 o'clock A.M.



Assistant Staff Officer
Governor's Office

APPROVED:



JOSEPH F. ADA
Governor of Guam

Date: APR 01 1994

Public Law No. 22-106

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No. 874 (LS)

As substituted by the Committee on
Tourism & Transportation and as
further substituted by the Committee
on Rules

Introduced by:

J. P. Aguon
C. T. C. Gutierrez
F. E. Santos
T. S. Nelson
T. C. Ada
E. P. Arriola
M. Z. Bordallo
H. D. Dierking
P. C. Lujan
V. C. Pangelinan
D. Parkinson
E. D. Reyes
J. T. San Agustin
D. L. G. Shimizu
J. G. Bamba
A. C. Blaz
D. F. Brooks
F. P. Camacho
M. D. A. Manibusan
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO REPEAL AND REENACT SECTION 2 OF PUBLIC LAW NO. 21-101, TO ADD ARTICLE 10 TO CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, TO CREATE THE GUAM TERRITORIAL AQUARIUM FOUNDATION TO OVERSEE THE PRE-DESIGN STAGE AND CONTINUED DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM; TO REPEAL SECTION 10 OF PUBLIC LAW NO. 18-6 AND TO APPROPRIATE SEVEN

HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000)
FROM THE TOURIST ATTRACTION FUND TO THE
GUAM TERRITORIAL AQUARIUM FOUNDATION FOR
THE PRE-DESIGN STAGE OF THE AQUARIUM.

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

2 **Section 1. Legislative findings and intent.** The Legislature finds that
3 the Guam Aquarium Council ("GAC") has completed its task as mandated by
4 Public Law No. 21-101 and has submitted its report and recommendations to
5 the Legislature to create an oversight authority, to be referred to as the
6 Guam Territorial Aquarium Foundation (the "Foundation"), to oversee the
7 pre-design stage and continued development of the proposed Guam
8 Territorial Aquarium. GAC has also recommended that funding in the
9 amount of Seven Hundred and Fifty Thousand Dollars (\$750,000) be provided
10 for the pre-design stage.

11 It is therefore the intent of the Legislature to approve the GAC report
12 and recommendations and to repeal Section 10 of Public Law 18-6, which
13 provided funding from the Tourist Attraction Fund for the micro-dredging of
14 Tumon Bay, of which funding Seven Hundred Ninety Seven Thousand
15 Dollars (\$797,000) remain unexpended and unneeded, and to reprogram the
16 funds necessary for the pre-design stage of the Guam Territorial Aquarium.

17 **Section 2.** Section 2 of Public Law No. 21-101 is hereby repealed and
18 reenacted to read:

19 **"Section 2.** A new Article 10 is hereby added to Chapter 2, Title
20 12, Guam Code Annotated, to read:

21 **"ARTICLE 10**

22 **GUAM TERRITORIAL AQUARIUM**

1 **§2950. Creation of the Guam Territorial Aquarium**
2 **Foundation.** There is hereby created within the Guam Economic
3 Development Authority (the "Authority") the Guam Territorial
4 Aquarium Foundation ("GTAF"), a non-profit corporation, which
5 shall oversee the continued development design, construction and
6 operation of the proposed Guam Territorial Aquarium.

7 **§2951. Powers of GTAF.** GTAF shall have, and may exercise
8 the following general powers in carrying out the activities
9 authorized:

10 (a) To have perpetual succession, unless sooner
11 terminated by law;

12 (b) To adopt, amend and repeal bylaws and other rules,
13 regulations and directives governing the conduct of its
14 business. No rule or regulation other than that covering the
15 internal conduct of GTAF shall be adopted without a public
16 hearing thereon in the manner prescribed by law;

17 (c) To determine the character of and the necessity for its
18 obligations and expenditures and the manner in which they
19 shall be incurred, allowed and paid;

20 (d) To acquire, in any lawful manner, any real property,
21 and to hold, maintain, use and operate the same; and to lease
22 or encumber the same, whenever any of the foregoing
23 transactions are deemed necessary or appropriate and on such
24 terms as may be prescribed by GTAF;

25 (e) To enter into and perform such contracts, leases,
26 cooperative agreements as may be necessary or appropriate to

1 the conduct of the activities authorized and on such terms as
2 may be prescribed by GTAF;

3 (f) To execute all instruments necessary or appropriate
4 in the exercise of any of its functions;

5 (g) To accept gifts or donations of services, or of
6 property—real, personal or mixed, tangible or intangible—in
7 aid of any of the activities authorized. All such gifts or
8 donations shall be recorded and made a permanent part of
9 GTAF files and open to public scrutiny upon request;

10 (h) In accordance with Title 5, Guam Code Annotated,
11 to construct, equip, operate and maintain buildings and other
12 facilities including all equipment, supplies and machinery
13 incident thereto;

14 (i) To seek and maintain funding from both public and
15 private sources sufficient to capitalize and maintain a high
16 operational quality of facilities for the initial construction and
17 any expansions of the Guam Territorial Aquarium in a cost-
18 effective and efficient manner.

19 **§2952. Board of trustees.** All functions and powers of GTAF
20 shall be vested in and be exercised by and under the direction of a
21 board of trustees (the "Board"), which is hereby created. The Board
22 shall be composed of eleven (11) voting members and four (4) *ex*
23 *officio* members. The Chairman of the Board of Directors of the
24 Authority shall concurrently serve as chairman of the Board, whose
25 voting members shall be:

26 (a) The Director or a designee of the Marine Laboratory
27 of the University of Guam;

- 1 (b) The Mayor or a designee of the Municipality of Yoña;
2 (c) The President or a designee of the Guam Mayors'
3 Council;
4 (d) Two (2) at large from the community appointed by the
5 Governor of Guam;
6 (e) Two (2) representatives from the Guam Chamber of
7 Commerce selected by its Board of Directors;
8 (f) The Chairman or a designee of the Board of Directors
9 of the Guam Visitors Bureau;
10 (g) The Chairman or a designee of the Board of
11 Directors of the Guam Hotel and Restaurant Association; and
12 (h) The Director or a designee of the Department of
13 Education.

14 Members selected by the Governor and the Chamber of
15 Commerce shall serve four (4) year terms.

16 Non-voting, *ex officio* members shall include the following:

- 17 (a) The Director or a designee of the Guam
18 Environmental Protection Agency;
19 (b) The Director or a designee of the Department of
20 Commerce;
21 (c) A representative of the Department of Agriculture's
22 Division of Aquatic and Wildlife Resources to be selected by the
23 Director of Agriculture; and
24 (d) The Administrator or a designee of the Authority.

25 **§2953. Operation of the Board.** The Board shall be responsible
26 for the overall management, administration, policies and direction
27 of GTAF and shall exercise supervision through an agent or agents

1 duly appointed. The Board shall meet in regular session at least once
2 per month and in special session as often as it may deem necessary.
3 A majority of the Board shall constitute a quorum for the transaction
4 of business. The Board shall act by the vote of at least six (6) of its
5 members. Members of the Board shall receive no salary for their
6 services, but in amounts prescribed by the Board may receive
7 reasonable travel allowances for time spent on official business of
8 GTAF. As a subsidiary corporation of the Authority, GTAF shall
9 receive all general administrative support as may be needed by
10 GTAF to operate and function, including but not limited to fund
11 accounting, purchasing, contracting and general supervision."

12 **Section 3.** Within thirty (30) days of the effective date of this Act,
13 GAC shall transfer all accounts, records and materials pertaining to the
14 Guam Territorial Aquarium to GTAF.

15 **Section 4. Repealer.** Section 10 of Public Law No. 18-6 is hereby
16 repealed.

17 **Section 5. Appropriation.** Seven Hundred and Fifty Thousand
18 Dollars (\$750,000) from the sum that reverts to the Tourist Attraction Fund
19 ("TAF") following the repeal contained in Section 4 of this Act are hereby
20 reappropriated from TAF to GTAF to be expended for the pre-design
21 stage of the Guam Territorial Aquarium.

22 **Section 6.** The GTAF Board shall report the status and findings of
23 the pre-design stage of the aquarium to the Speaker of the Legislature no
24 later than four hundred and twenty (420) days after the effective date of
25 this Act.

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TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Date: 3/14/94

VOTING SHEET
(AS REVISED)

Bill No. 874
Resolution No. _____
Question: _____

NAME	AYE	NO	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C. H		✓		
AGUON, John P.	✓			
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C. A	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.			✓	
CAMACHO, Felix P. +	✓			
DIERKING, Herminia D.	✓			
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MANIBUSAN, Marilyn D. A.			✓	
NELSON, Ted S.	✓			
PANGELINAN, Vicente C.		✓		
PARKINSON, Don		✓		
REYES, Edward D.	✓			
SAN AGUSTIN, Joe T.		✓		
SANTOS, Francis E.	✓			
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.		✓		
UNPINGCO, Antonio R.	✓			

TOTAL

14 5 2



**OFFICE OF THE VICE-SPEAKER
 Twenty-Second Guam Legislature
 Senator John Perez Aguon**

Chairman, Committee on Tourism & Transportation

155 Hesler St., Agana, Guam USA 96910 • (671) 472-3435 • 472-3497 • 472-3570/1/2 • Facsimile: (671) 477-8358

March 8, 1994

Honorable Joe T. San Agustin, Speaker
 22nd Guam Legislature
 155 Hessler St.
 Agana, Guam 96910

Dear Mr. Speaker,

The Committee on Tourism & Transportation, to which the following was referred, wishes to report its findings and recommendations:

Bill No. 874: AN ACT TO REPEAL AND REENACT SECTION 2 OF PUBLIC LAW 21-101 RELATIVE TO CREATING THE GUAM TERRITORIAL AQUARIUM FOUNDATION TO OVERSEE THE PRE-DESIGN STAGE AND CONTINUED DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM; TO REPEAL SECTION 10 OF PUBLIC LAW 18-6 AND TO APPROPRIATE SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) FROM THE TOURIST ATTRACTION FUND TO THE GUAM TERRITORIAL AQUARIUM FOUNDATION FOR THE PRE-DESIGN STAGE OF THE AQUARIUM.

The Committee voting record on Bill No. 874 as substituted is as follows:

TO PASS	<u>11</u>
NOT TO PASS	<u>2</u>
TO ABSTAIN	<u>2</u>
TO PLACE IN THE INACTIVE FILE	<u>0</u>
NOT VOTING	<u>0</u>

The recommendation of the Committee is to do pass. A copy of the voting sheet, report and all pertinent documents are attached for your information.


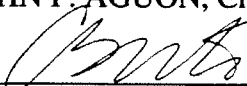
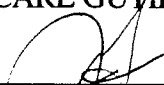

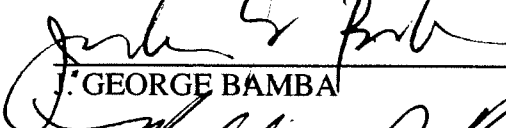






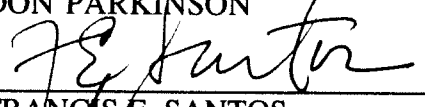

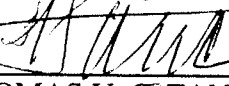

Sincerely,


 JOHN PEREZ AGUON

Attachments

VOTING SHEET COMMITTEE ON TOURISM & TRANSPORTATION

Bill 874 as Substituted: AN ACT TO REPEAL AND REENACT SECTION 2 OF PUBLIC LAW 21-101 RELATIVE TO CREATING THE GUAM TERRITORIAL AQUARIUM FOUNDATION TO OVERSEE THE PRE-DESIGN STAGE AND CONTINUED DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM; TO REPEAL SECTION 10 OF PUBLIC LAW 18-6 AND TO APPROPRIATE SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) FROM THE TOURIST ATTRACTION FUND TO THE GUAM TERRITORIAL AQUARIUM FOUNDATION FOR THE PRE-DESIGN STAGE OF THE AQUARIUM.

	TO PASS	NOT TO PASS	TO ABSTAIN	TO PLACE IN INACTIVE FILE
 _____ JOHN P. AGUON, Chairman	✓			
 _____ CARL GUTIERREZ, Vice Chairman	✓			
 _____ JOE T. SAN AGUSTIN, Speaker	✓			
 _____ ELIZABETH PARRIOLA	✓			
 _____ J. GEORGE BAMBA	✓			
 _____ MADELEINE Z. BORDALLO	✓			
 _____ DORIS F. BROOKS			✓	
 _____ HERMINIA D. DIERKING	✓			
 _____ PILAR C. LUJAN	✓			
 _____ MARILYN D. A. MANIBUSAN			✓	
 _____ DON PARKINSON		✓		
 _____ FRANCIS E. SANTOS	✓			
 _____ DAVID L.G. SHIMIZU	✓			
 _____ THOMAS V. C. TANAKA		✓		
 _____ ANTONIO R. UNPINGCO	✓			



22nd Guam Legislature COMMITTEE ON TOURISM and TRANSPORTATION

COMMITTEE REPORT

BILL 874: AN ACT TO REPEAL AND REENACT SECTION 2 OF PUBLIC LAW 21-101 RELATIVE TO CREATING THE GUAM TERRITORIAL AQUARIUM FOUNDATION TO OVERSEE THE PRE-DESIGN STAGE AND CONTINUED DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM; TO REPEAL SECTION 10 OF PUBLIC LAW 18-6 AND TO APPROPRIATE SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) FROM THE TOURIST ATTRACTION FUND TO THE GUAM TERRITORIAL AQUARIUM FOUNDATION FOR THE PRE-DESIGN STAGE OF THE AQUARIUM.

PUBLIC HEARING:

March 4, 1994

VICE SPEAKER JOHN PEREZ AGUON, Chairman

SENATOR CARL T.C. GUTIERREZ, Vice Chairman

Members:

SPEAKER JOE T. SAN AGUSTIN

**SENATOR ELIZABETH P. ARRIOLA
SENATOR J. GEORGE BAMBA
SENATOR MADELEINE Z. BORDALLO
SENATOR DORIS F. BROOKS
SENATOR HERMINIA D. DIERKING
SENATOR PILAR C. LUJAN**

**SENATOR MARILYN D.A. MANIBUSAN
SENATOR DON PARKINSON
SENATOR FRANCIS E. SANTOS
SENATOR DAVID L.G. SHIMIZU
SENATOR THOMAS V.C. TANAKA
SENATOR ANTONIO R. UNPINGCO**

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No.: 874

As Substituted by the
Committee on Tourism & Transportation

Introduced By:

J. P. AGUON
C. T. C. GUTIERREZ
F. E. SANTOS
T. S. NELSON

AN ACT TO REPEAL AND REENACT SECTION 2 OF PUBLIC LAW 21-101 RELATIVE TO CREATING THE GUAM TERRITORIAL AQUARIUM FOUNDATION TO OVERSEE THE PRE-DESIGN STAGE AND CONTINUED DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM; TO REPEAL SECTION 10 OF PUBLIC LAW 18-6 AND TO APPROPRIATE SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) FROM THE TOURIST ATTRACTION FUND TO THE GUAM TERRITORIAL AQUARIUM FOUNDATION FOR THE PRE-DESIGN STAGE OF THE AQUARIUM.

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

2 SECTION 1. LEGISLATIVE FINDINGS AND INTENT. The

3 Legislature finds that the Guam Aquarium Council (GAC) has completed its
4 task as mandated by Public Law 21-101 and has submitted its report and
5 recommendations to the Legislature to create an oversight authority, to be
6 referred to as the Guam Territorial Aquarium Foundation [~~Board~~] to oversee
7 the pre-design stage and continued development of the proposed Guam
8 Territorial Aquarium. GAC has also recommended that funding in the
9 amount of Seven Hundred and Fifty Thousand Dollars (\$750,000) be
10 provided to the Guam Territorial Aquarium Foundation for the pre-design
11 stage.

12 It is therefore the intent of the Legislature to approve the GAC report
13 and recommendations and also to repeal Section 10 of Public Law 18-6, which

1 provided funding from the Tourist Attraction Fund for the micro-dredging
2 project of Tumon Bay of which Seven Hundred Ninety Seven Thousand
3 Dollars (\$797,000) remain unexpended and unneeded, and to reprogram the
4 funds necessary for the pre-design stage of the Guam Territorial Aquarium.

5 Section 2. Section 2 of Public Law 21-101 is repealed and reenacted to
6 read:

7 "Creation of the Guam Territorial Aquarium Foundation. There is
8 hereby created within the Guam Economic Development Authority
9 (GEDA) the Guam Territorial Aquarium Foundation (GTAF) [~~Board~~], a
10 non-profit corporation, which shall oversee the continued development
11 [~~and administration~~] design, construction and operation of the
12 proposed Guam Territorial Aquarium. [~~The Board shall seek to~~
13 ~~establish funding arrangements from both public and private sources~~
14 ~~sufficient to maintain the quality of facilities and meet expectations~~
15 ~~for the on-going management, operations and expansion of the~~
16 ~~Guam Territorial Aquarium in a cost effective and efficient manner.]~~
17 The GTAF shall have, and may exercise the following general powers
18 in carrying out the activities authorized:

19 (a) To have perpetual succession, unless sooner
20 terminated by law;

21 (b) To adopt, amend and repeal by laws and other rules,
22 regulations and directives governing the conduct of its
23 business. No rule or regulation other than that covering the
24 internal conduct of the GTAF shall be adopted without a
25 public hearing thereon in the manner prescribed by law;

26 (c) To determine the character of and the necessity for its
27 obligations and expenditures and the manner in which they
28 shall be incurred, allowed and paid;

1 (d) To acquire, in any lawful manner, any real property,
2 and to hold, maintain, use and operate the same; and to lease
3 or encumber the same, whenever any of the foregoing
4 transactions are deemed necessary or appropriate and on such
5 terms as may be prescribed by the GTAF;

6 (e) To enter into and perform such contracts, leases,
7 cooperative agreements as may be necessary or appropriate to
8 the conduct of the activities authorized and on such terms as
9 may be prescribed by the GTAF;

10 (f) To execute all instruments necessary or appropriate in
11 the exercise of any of its functions;

12 (g) To accept gifts or donations of services, or of property
13 — real, personal or mixed, tangible or intangible — in aid of
14 any of the activities authorized. All such gifts or donations shall
15 be recorded and made a permanent part of the GTAF files and
16 open to public scrutiny upon request;

17 (h) In accordance with Title 5, Guam Code Annotated, to
18 construct, equip, operate and maintain buildings and other
19 facilities including all equipment, supplies and machinery
20 incident thereto;

21 (i) To seek and maintain funding from both public and
22 private sources sufficient to capitalize and maintain a high
23 operational quality of facilities for the initial construction and
24 any expansions of the Guam Territorial Aquarium in a cost
25 effective and efficient manner.

26 All functions and powers of the GTAF shall be vested in and
27 be exercised by and under the direction of a Board of Trustees,
28 hereinafter referred to as the Board, which is hereby created. The

1 GTAF Board shall be comprised of eleven (11) voting members and
2 three (3) ex-officio members. The Chairman of the Board of Directors
3 of GEDA shall concurrently serve as chair of the GTAF Board [to]
4 which voting members shall include the following:

5 (a) The Director or [his] a designee of the Marine
6 Laboratory of the University of Guam;

7 (b) The Mayor or [his] a designee of the Municipality of
8 Yona;

9 (c) The President or [his] a designee of the Guam Mayors
10 Council;

11 (d) Two appointed at large from the community by the
12 Governor of Guam;

13 (e) Two representatives from the Guam Chamber of
14 Commerce selected by its Board of Directors;

15 (f) The Chairman or [his] a designee of the Board of
16 Directors of the Guam Visitors Bureau;

17 (g) The Chairman or [his] a designee of the Board of
18 Directors of the Guam Hotel and Restaurant Association; and

19 (h) The Director or [his] a designee of the Department of
20 Education.

21 Members selected by the Governor and the Chamber of
22 Commerce shall serve four (4) year terms.

23 Non-voting, ex-officio members shall include the following:

24 (a) The Director or a designee of the Guam Environmental
25 Protection Agency;

26 (b) The Director or a designee of the Guam Department of
27 Commerce; and

28 (c) A representative of the Department of Agriculture

1 Division of Aquatic and Wildlife Resources to be selected by
2 the Director of Agriculture.

3 The Board of Trustees shall be responsible for the overall
4 management, administration, policies and direction of the GTAF and
5 shall exercise supervision through an agent or agents duly
6 appointed.

7 The Board shall meet in regular session at least once per month
8 and in special session as often as it may deem necessary. A majority
9 of the Board shall constitute a quorum for the transaction of
10 business. The Board shall act by the vote of at least six (6) of its
11 members. The Board shall receive no salary for their service, but in
12 amounts prescribed by the Board may receive reasonable travel
13 allowances for time spent on official business of the GTAF.

14 As a subsidiary corporation of GEDA, the GTAF shall receive
15 all general administrative support as may be needed by the GTAF to
16 operate and function, including but not limited to fund accounting,
17 purchasing, contracting and general supervision."

18 Section 3. [~~Upon the creation of the GTAF,~~] Within thirty (30) days
19 of the effective date of this act, GAC shall transfer all accounts, records and
20 materials pertaining to the Guam Territorial Aquarium to the GTAF.

21 Section 4. Section 10 of Public Law 18-6 is hereby repealed.

22 Section 5. Appropriation. Seven Hundred and Fifty Thousand Dollars
23 (\$750,000) are hereby appropriated from the Tourist Attraction Fund to the
24 GTAF to be expended for the pre-design stage of the Guam Territorial
25 Aquarium.

26 Section 6. The GTAF Board shall report the status and findings of the
27 pre-design stage of the aquarium to the Speaker of the Legislature no later
28 than four hundred and twenty (420) days after the effective date of this Act.

COMMITTEE REPORT
BILL 874

The Committee on Tourism and Transportation held a public hearing on March 4, 1994 at 9 a. m. in the Legislative Public Hearing Room to receive testimonies on Bill 874.

BILL 874 AN ACT TO REPEAL AND REENACT SECTION 2 OF PUBLIC LAW 21-101 RELATIVE TO CREATING THE GUAM TERRITORIAL AQUARIUM FOUNDATION TO OVERSEE THE PRE-DESIGN STAGE AND CONTINUED DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM; TO REPEAL SECTION 10 OF PUBLIC LAW 18-6 AND TO APPROPRIATE SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) FROM THE TOURIST ATTRACTION FUND TO THE GUAM TERRITORIAL AQUARIUM FOUNDATION FOR THE PRE-DESIGN STAGE OF THE AQUARIUM.

Present at the hearing were Senators John Perez Aguon, Chairman of the Committee on Tourism and Transportation, Pilar C. Lujan, Thomas C. Ada and Ted S. Nelson.

Signing in to present testimonies in favor of the bill were Charles P. Crisostomo, Administrator of GEDA, Valerie Paul, Director Marine Lab, UOG, Kenneth Carriveau, President GHRA, Victor Torres, DPR, Eloise Baza, President Guam Chamber of Commerce and Joey B. Cepeda, General Manager of the Guam Visitors Bureau.

Testifying as the Chairman of the Guam Aquarium Council (GAC), Charles Crisostomo said that he thoroughly supported the bill in its entirety and strongly urged its passage. As the Administrator of the Guam Economic Development Authority (GEDA), Mr. Crisostomo fully supports the development of the Territorial Aquarium and pledge GEDA'S continued commitment to realize this most worthy project. After reviewing the chronology of activities associated with the development of the aquarium, Mr. Crisostomo thanked the members of GAC for their enthusiasm throughout the study and the Office of the Governor for their continued staunch support of the project. Mr. Crisostomo personally and on behalf of GAC extended his recognition to Senator Aguon for his diligent and undying efforts to turn a dream of some into a reality to be enjoyed by many.

Following a video presentation of the proposed aquarium, Mr. Crisostomo concluded his testimony saying: "In summary, the Guam Territorial Aquarium is a response to a strong market need to improve Guam's tourist attractions. It's something that has been identified as a need in the tourist industry for quite some time. The aquarium as depicted in the video can satisfy many of the needs, not necessarily as a cultural center but it would

have a lot of cultural features and can serve the need for community meeting center as well.

The project is fundamentally sound in terms of the development of a unique and marketable concept, as seen throughout Asia, these types of attractions are something that tourists go to."

He said that the Guam Territorial Aquarium Foundation should be formed immediately to act as a governing agency. He said that the governing organization for the project is probably every bit as important, if not more so, than the project itself. It is what will make the project stay together and go all the way to completion.

Senator Aguon requested, for the record, pre-design stage activity descriptions and allocation of the \$750,000 appropriation requested in the bill. GAC and the consultant from Montgomery Watson Americas, Inc. provided the committee with this information and is made a part of the committee report.

Senator Ted Nelson asked how the Guam Territorial Aquarium Foundation, once established, fit into the pre-design stage, what is the relationship between the managing consultant in the pre-design stage and the foundation?

Charles Crisostomo explained that the GTA Foundation is the governing body of the project. They will do the hiring of the managing consultant and they will probably be involved along with the managing consultant with the hiring of the other specialties necessarily involved to do review.

Ron Mayo of Montgomery Watson said that it is important that the GTA Foundation, board of trustees, start feeling ownership of the project from the very beginning, so that as it moves down the line into the tough part, they will feel that they have been part of the decision, they have an ownership.

Senator Nelson told the Chairman that he is very much impressed by the leadership of "Chuck", Joey, Vic of Parks and Rec and everybody else involved with GEDA and the GVB relation to the project is just outstanding and he has nothing but great regards and commendation for these young folks who have manifested great leadership and talent.

Senator Aguon requested that Mr. Crisostomo, perhaps with the help of his legal or technical consultant, look at the language in the bill regarding the creation of the Guam Territorial Aquarium Foundation. To define the responsibility of the foundation so that there won't be any gray area which would require later on down the road somebody's opinion to really establish what they are suppose to do.

He said: "Look at the language as is written in the bill and see what we can do to make it much clearer and very little interpretations from all these legal beagles because I don't want any problems down the road."

Senator Aguon also expressed concern regarding the governing body in the interim after the creation of the Guam Territorial Aquarium Foundation and the empaneling of its members. He inquired if the present aquarium council be the governing body in the interim.

Senator Nelson recommended to incorporate into the bill a provision that the Guam Aquarium Council continue to be the governing body in the interim for sixty (60) days after the effective date of the Act or until all members of the GTAF are in place whichever comes first.

Senator Aguon asked what period of time is needed for the next stage. Crisostomo responded that the projected completion date of the Core Facility is August 1998.

Ron Mayo informed the committee that the projected operating revenue is \$10,000,000 per year and the projected operating expense is about \$7.5 million. The \$2.5 million will be monies to support partial bonding of construction cost and gathering the funds necessary to complete future expansions.

There being no further testimonies, the Chairman declared the hearing concluded.

COMMITTEE RECOMMENDATION

The Committee on Tourism & Transportation recommends that Bill 874 be passed as substituted.

Pre-design Stage Activity Descriptions

The purpose of the pre-design stage is to resolve permitting, financial, environmental and technical issues to the point that a final commitment can be made to design and construction. The work will be carried out by a consulting team and by representatives of GovGuam.

Management Consulting - The consulting team will work under the day-to-day direction of a managing consultant. This managing consultant will participate in each of the activities described below and, in addition will prepare permit applications and will carry out special studies as required. The managing consultant will be represented at all major meeting and will be responsible for schedule and budget control. (Working period is 12 months and the estimated cost is \$135,000.)

The other activities of the consulting team are:

- **NEPA/EIS Consulting** - This project is subject to NEPA and for that reason an environmental analysis (in the form of an EIS) must be completed. The Concept Design and Feasibility report accomplished parts of the analysis but additional work is required an a lengthy public hearing process is necessary. Completion of this activity will validate the site selection and provide the Legislature part of the information it needs to proceed. (Working period is 8 months and the estimated cost is \$119,000.)
- **Financial/Institutional Consulting** - Financing of this project will require participation by a number of public and private institutions. The F/I consultant will, in close cooperation with GEDA and the Guam Territorial Aquarium Foundation (GTAF), prepare project prospectuses, grant applications and documentation. They will also organize meetings, develop strategies and assist in the selection of the operations contractor. They will assist in obtaining preliminary and final financial commitments. (Working period is 9 months and the estimated cost is \$100,000.)
- **Site Mapping** - Once the site selection is validated, detailed topographic maps need be prepared to allow for a rapid start to final design. This is a relatively large area, with difficult grades, and the nature of the design requires that very detailed mapping be done. (The estimated cost is \$100,000.)
- **Site Geotechnical Work** - Once the site selection is validated, detailed foundation maps need be prepared to allow for a rapid start to final design. This is a relatively large area and a number of borings will be required both to allow foundation design and development of seawater wells. (The estimated cost is \$100,000.)
- **Miscellaneous Contracting** - This is to allow for such activities as the clearing of the site for mapping and geotechnical work and to locate utilities. (The estimated cost is \$30,000.)

Client Administration - Activities by GEDA and the GTAF will be carried out as part of the Client Administration Task. In addition to administration by the GEDA Staff, considerable effort will be expended in working with the Financial/Institutional consultant and in the selection of the Operations Contractor. (The estimated cost is \$136,000.)

Operations Contractor - Part of the PreDesign activities will be the screening and selection of an Operations Contractor for this project. There work will be to review the design as it is developed and eventually operate the facility. Once retained they will be compensated for their activities. During this stage the estimated cost is \$30,000.)

The above estimated costs total \$750,000.

TESTIMONY ON BILL 874
AN ACT TO REPEAL AND REENACT SECTION 2 OF
PUBLIC LAW 21-101 RELATIVE TO CREATING THE
GUAM TERRITORIAL AQUARIUM FOUNDATION TO
OVERSEE THE PRE-DESIGN STAGE AND CONTINUED
DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM;
TO REPEAL SECTION 10 OF PUBLIC LAW 18-6 AND TO
APPROPRIATE SEVEN HUNDRED AND FIFTY THOUSAND
DOLLARS (\$750,000) FROM THE TOURIST ATTRACTION
FUND TO THE GUAM TERRITORIAL AQUARIUM
FOUNDATION FOR THE PRE-DESIGN STAGE OF THE
AQUARIUM.

March 4, 1994

SUBMITTED BY CHARLES P. CRISOSTOMO
ADMINISTRATOR, GUAM ECONOMIC
DEVELOPMENT AUTHORITY

Hafa Adai Senator Aguon and fellow Committee Members:

I am Charles P. Crisostomo, Administrator of the Guam Economic Development Authority (GEDA). I come before you today to testify on Bill 874 on behalf of the Guam Aquarium Council (GAC). As the GAC Chairman, I thoroughly support Bill 874 in its entirety and strongly urge its passage. As the Administrator of GEDA I fully support the development of the Territorial Aquarium and pledge GEDA's continued commitment to realize this most worthy project.

For the record, I would like to review the activities associated with the development of the Territorial Aquarium. Public Law 21-101 created the GAC and mandated it to "administer and oversee the feasibility study, site selection and development of the Guam Aquarium project". As you are well aware, the Study was conducted in three stages: Stage I. Initial Concept and Feasibility Study. Stage II. Site Analysis and Selection and, Stage III. Final Concept and Feasibility Appraisal.

Stage I developed a conceptual aquarium design and looked at the feasibility of building and operating such a facility. The findings were encouraging and resulted in the GAC authorizing the consultants to proceed with Stage II, Site Analysis and Selection.

In Stage II the consultants reviewed a short list of six potential sites identified by the GAC and selected Tagachang Bay as the most appropriate location for the proposed Aquarium. This selection was favorably reviewed by the Mayor of Yona and the members of the Yona Municipal Planning Council. The consultants and representatives of the GAC, visited the Yona MPC on two separate occasions appraising them of the progress of the project and the selection of a site within their village limits. Mayor Bernardo and members of the MPC were extremely supportive of the project and contributed heavily by

TESTIMONY ON BILL 874

March 4, 1994

Page 2

making suggestions on how the Aquarium could add to the village of Yona and result in a true jewel to the island of Guam as a whole, while having significant economic benefits for the community of Yona in particular. Thoughtful suggestions regarding traffic control, and the operation of concessions within the Aquarium were voiced and have been incorporated into the project.

Stage III findings are now before you. In summary, the consultants have come up with a conceptual design for the Tagachang Bay site. This design consists of a series of separate buildings and outdoor exhibits that combine aspects of an aquarium, a botanical garden, a cultural center and a museum. Seawater exhibits will use water from saltwater wells in a flow-through configuration while the brackish water and freshwater exhibits will be based on recirculation systems. The facility will have standby power and water supplies to allow operation after major storm events. Within the grounds there will be food and gift concessions. Adjacent to the grounds, a restaurant has been noted but not included in the cost estimates or revenue projections.

The consultants are recommending that a " Core Facility " be built first, then develop in stages, the Open Sea, Restless Sea, and Lowland Strand exhibits. These exhibits may well be planned to open up in the near future as the first expansion of the Aquarium. The financial projections and market analysis conclude that the proposed development would meet all the criteria required by the GAC, such as, providing an enhancement to our educational resources, creating Guam's first major tourist and local entertainment attraction, providing a center for the advancement of cultural preservation and as a community resource for the Territory.

The GAC concurs with the recommendations of the consultants which call for further development to be handled in three new stages: Pre-Design Stage, Design Stage and Construction Stage. As with the Feasibility Study, the proposed staging allows for the Territory to proceed systematically without having to commit to a complete development schedule and the associated costs. As stages are completed, they are reviewed in depth and a rational decision is then made as to whether or not to proceed with the next stage. This methodology allows for constant review and analysis throughout, while protecting the Territory's assets by not committing them up front. After any of the first two stages, if a situation presents itself which would adversely affect the Aquarium's success, the Territory's financial exposure is limited to the extent of the existing stage of work.

TESTIMONY ON BILL 874
March 4, 1994
Page 3

This project has been a labor of love for all those involved. I would like to take time to thank the members of the GAC for their enthusiasm throughout this study, the Office of the Governor for their continued staunch support of a project truly worthy of undertaking. And finally, I would like to personally, and on behalf of the GAC, recognize Senator Aguon for his diligent and un-dying efforts to turn a dream of some into a reality to be enjoyed by many. Senator Aguon, Si Yu'us Ma'ase.

Respectfully submitted,



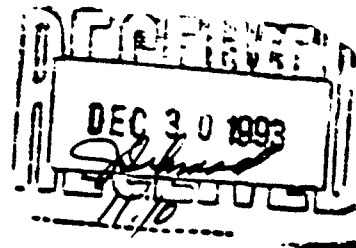
CHARLES P. CRISOSTOMO



GUAM ECONOMIC DEVELOPMENT AUTHORITY

ATURIDAT INADILANTON IKUNUMIHA GUAHAN

GEDA



December 28, 1993

the Honorable John Perez Aguon
Chairman, Committee on Tourism and Transportation
22nd Guam Legislature
155 Hessler St.
Agana, Guam 96910

Hafa Adai Senator Aguon:

As the Chairman and on behalf of the Guam Aquarium Council (GAC), I am pleased to present to you the "Guam Territorial Aquarium Study: Final Concept and Feasibility Appraisal Report".

The GAC was mandated under Public Law 21-101 to "administer and oversee the feasibility study, site selection and development of the Guam Aquarium project". As you are well aware, the Study was conducted in three stages: Stage I. Initial Concept and Feasibility Study. Stage II. Site Analysis and Selection and, Stage III. Final Concept and Feasibility Appraisal.

Stage I developed a conceptual aquarium design and looked at the feasibility of building and operating such a facility. The findings were encouraging and resulted in the GAC authorizing the consultants to proceed with Stage II, Site Analysis and Selection.

In Stage II the consultants reviewed all six sites given them for consideration by the GAC and selected Tagachang Bay as the most appropriate location for the proposed Aquarium. This selection was endorsed further by the members of the Yona Municipal Planning Council. The consultants and representatives of the GAC, visited the Yona MPC on two separate occasions appraising them of the progress of the project and the selection of a site within their village limits. Mayor Bernardo and members of the MPC were extremely supportive of the project and contributed heavily by making suggestions on how the Aquarium could add to the village of Yona and result in a true jewel to the island of Guam as a whole, while having significant economic benefits for the community of Yona in particular. Thoughtful suggestions regarding traffic control, and the operation of concessions within the Aquarium were voiced and have been incorporated into the project.

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GUAM:
HONG KONG:
TAIWAN:

ITC Building, Suite 911, 590 South Marine Dr., Tamuning, GU 96911 • Ph: (671) 649-4141 • Fax: (671) 649-4146
Rm. 2609, Harcourt House, 39 Gloucester Road, Wanchai, Hong Kong • Ph: (852) 804-2000 / 1 • Fax: (852) 866-0770
Showroom 7B-17, Taipei World Trade Center, 5 Shin Yi Rd., Sec. 5, Taipei, Taiwan ROC • Ph: (866) 2-723-2734 • Fax: (866) 2-723-2735

Stage III findings are now before you. In summary, the consultants have come up with a conceptual design for the Tagachang Bay site. This design consists of a series of separate buildings and outdoor exhibits that combine aspects of an aquarium, a botanical garden, a cultural center and a museum. Seawater exhibits will use water from seawater wells in a flow-through configuration while the brackish water and freshwater exhibits will be based on recirculation systems. The facility will have standby power and water supplies to allow operation after major storm events. Within the grounds there will be food and gift concessions. Adjacent to the grounds, a restaurant has been noted but not included in the cost estimates or revenue projections.

The consultants are recommending that a " Core Facility " be built first which deletes the Open Sea, Restless Sea, and Lowland Strand exhibits. These exhibits may well be planned to open up in the near future as the first expansion of the Aquarium. The financial projections and market analysis conclude that the proposed development would meet all the criteria required by the GAC, such as, providing an enhancement to our educational resources, creating Guam's first major tourist and local entertainment attraction, providing a center for the advancement of cultural preservation and as a community resource for the Territory.

The GAC concurs with the recommendations of the consultants which call for further development to be handled in three new stages: Pre-Design Stage, Design Stage and Construction Stage. As with the Feasibility Study, the proposed staging allows for the Territory to proceed systematically without having to commit to a complete development schedule and the associated costs. As stages are completed, they are reviewed in depth and a rational decision is then made as to whether or not to proceed with the next stage. This methodology allows for constant review and analysis throughout, while protecting the Territory's assets by not committing them up front. After any of the first two stages, if a situation presents itself which would adversely affect the Aquarium's success, the Territory's financial exposure is limited to the extent of the existing stage of work.

The proposed cost for the Pre-Design Stage is \$750,000.00. Thus the GAC would request that appropriate legislation be introduced to allow for the continuance of this most worthy endeavor. The GAC also concurs with the recommendation of creating a permanent body within GEDA to oversee the development of the Territorial Aquarium.



This project has been a labor of love for all those involved. I would like to take time to thank the members of the GAC for their enthusiasm throughout this study and continued staunch support of a project truly worthy of undertaking. I especially would like to thank you Sen. Aguon for continuing to championing the cause towards making this dream come true.

Please feel free to contact me at your convenience should I be able to provide you with any additional information.

Sincerely,



Charles P. Crisostomo
Chairman
Guam Aquarium Council





UNIVERSITY OF GUAM
UNIBETSEDAT GUAHAN

MARINE LABORATORY

UOG Station · Mangilao, Guam 96923
Tel: (671) 734-2421 · Fax: (671) 734-6767

March 3, 1994

Twenty-Second Guam Legislature
Committee on Tourism and Transportation
Agana, Guam 96910

Dear Chairman Aguon and Committee Members,

I am submitting the following testimony in support of Bill 874

AN ACT TO REPEAL AND REENACT SECTION 2 OF PUBLIC LAW 21-101 RELATIVE TO CREATING THE GUAM TERRITORIAL AQUARIUM FOUNDATION TO OVERSEE THE PRE-DESIGN STAGE AND CONTINUED DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM; TO REPEAL SECTION 10 OF PUBLIC LAW 18-6 AND TO APPROPRIATE SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) FROM THE TOURIST ATTRACTION FUND TO THE GUAM TERRITORIAL AQUARIUM FOUNDATION FOR THE PRE-DESIGN STAGE OF THE AQUARIUM.

As the past Chair of the Territorial Aquarium Advisory Committee (TAAC), I am very pleased to see the progress that has been made towards the establishment of a world class aquarium facility for Guam. This project will be a valuable asset to the tourism industry and the community as a major attraction and educational experience. I would like to commend the members of the Guam Aquarium Council (GAC), under the leadership of GEDA, for bringing the project to its present stage, and support Bill 874 in establishing the Guam Territorial Aquarium Foundation (GTAF).

During the initial planning stages carried out by the TAAC, representatives of the Department of Agriculture Division of Aquatic and Wildlife Resources, the Guam Environmental Protection Agency, and the Department of Commerce all made valuable contributions. I believe it is in the best interests of the project to include these agencies on the GTAF, perhaps reducing the Chamber of Commerce and At-Large members to one each. Many of the ideas incorporated into the present plan originated from the three agencies mentioned, and their continued input and support will be valuable in seeing the project through.

The Territorial Aquarium will certainly be something everyone residing on or visiting Guam can enjoy and benefit from. I commend the Legislature for their continued support for this project.

Respectfully submitted,

Robert H. Richmond
Robert H. Richmond, Ph.D.
Past Chair, TAAC

Valerie J. Paul
Valerie J. Paul, Ph.D.
Member GAC



GUAM HOTEL & RESTAURANT ASSOCIATION

4 March 1994

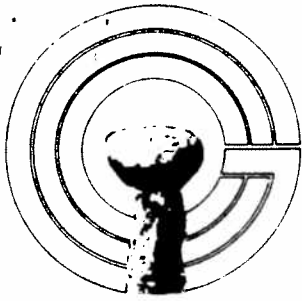
Senator John Perez Aguon
Chairman, Committee on Tourism & Transportation
22nd Guam Legislature
155 Hesler Place
Agana, GU 96910

Dear Senator Aguon:

The Guam Hotel & Restaurant Association delights in the prospect of having an aquarium as an additional tourist attraction in the territory of Guam. Thus, we wish to testify in favor of Bill 874 and urge the 22nd Guam Legislature to take favorable action on the proposal as soon as possible.

Sincerely yours,

Kenneth L. Carriveau
President



GUAM CHAMBER OF COMMERCE
PARTNERS IN PROGRESS

173 Aspinall Avenue, Ada Plaza Center, Suite 102 • P.O. Box 283 Agana, GU 96910 • TEL: 472-6311/8001 • FAX: 472-6202

March 4, 1994

Vice Speaker John Perez Aguon
Chairman
Committee on Tourism & Transportation
22nd Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Chairman and Committee Members:

The Guam Chamber of Commerce would like to state its support of Bill No. 874 relative to the creation of the Guam Territorial Aquarium Foundation to oversee the pre-design and ultimate establishment of an aquarium for Guam. We have no objections to the use of funds from the Tourist Attraction Fund (TAF) since the TAF was created for this type of effort.

An aquarium will provide island residents with a facility conducive to pleasurable family outings and create new opportunities for educational field trips for school children. It will also represent a quality attraction beneficial to our tourism industry.

We are pleased that the aquarium will be used to showcase our potential in the aquaculture industry. As the aquarium will complement the Guam aquaculture hatchery at Fadian Point and vice versa, we are requesting that the bill be amended to include the Guam Department of Commerce among members of the Guam Territorial Aquarium Foundation.

We thank you for the opportunity to submit our comments on Bill No. 874 and look forward to our participation in in the work of the Foundation.

Sincerely yours,

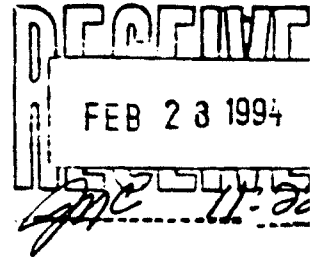
ELOISE R. BAZA
President



Guam Visitors Bureau
Setbision Bisitan Guahan



February 28, 1994



Senator John P. Aguon
Chairman, Committee on Tourism
& Transportation
22nd Guam Legislature
155 Hesler Place
Agana, Guam 96910

Dear Mr. Chairman:

HAFA ADAI! The Guam Visitors Bureau (GVB) supports the intent of Bill No. 874 and urges its prompt passage.

As a member of the Territorial Aquarium Advisory Council, GVB has been privy to each step in the development of this major attraction. It has been ascertained in discussions with tour wholesalers that the addition to the present inventory of attractions will greatly add to Guam's ability to influence the selection of our island as a resort destination for leisure travelers. And, just as importantly, the Aquarium will certainly be a must-see item on the agendas of our school children, their parents and every other local resident.

Again, the Bureau urges the prompt passage of this legislation. Dangkolo na si Yu'os Ma'ase para I suppote-mu ni tourism.

Sincerely,

JOEY B. CEPEDA
General Manager

Bill
COPY
00 2473



Public Hearing Notice

Friday, March 4, 1994 9 a.m.

Public Hearing Room, Guam Legislature
Pacific Arcade Building, 155 Hesler Street, Agana

SEN. JOHN PEREZ AGUON

CHAIRMAN, COMMITTEE ON
TOURISM & TRANSPORTATION

BILL 874 - AN ACT TO REPEAL AND REENACT SEC. 2 OF P.L. 21-101 RELATIVE TO CREATING THE GUAM TERRITORIAL AQUARIUM FOUNDATION TO OVERSEE THE PRE-DESIGN STAGE AND CONTINUED DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM; TO REPEAL SECTION 10 OF P.L. 18-6 AND TO APPROPRIATE \$750,000 FROM THE TAF TO THE GUAM TERRITORIAL AQUARIUM FOUNDATION FOR THE PRE-DESIGN STAGE OF THE AQUARIUM

BILL 900 - AN ACT TO REPEAL SECTION 1 OF P. L. 15-141, SECTION 4 OF P. L. 18-6, AND SECTION 85 OF P. L. 19-5; AND TO DEAPPROPRIATE THE UNEXPENDED SUMS REMAINING IN APPROPRIATIONS FOR COMPLETED PROJECTS CONTAINED IN SECTION 17 OF P. L. 16-105, SECTION 1 OF P. L. 16-113, SECTION 2 OF P. L. 16-113, AND SECTION 35 OF P. L. 21-136; AND TO APPROPRIATE THE UNEXPENDED FUNDS ORIGINALLY APPROPRIATED IN THOSE SECTIONS TO THE DEPARTMENT OF PUBLIC WORKS TO SUPPLEMENT THE APPROPRIATION CONTAINED IN P. L. 21-24 FOR THE CONSTRUCTION OF NIMITZ BEACH PARK.

The Public is Invited to Express their Views



**OFFICE OF THE VICE-SPEAKER
 Twenty-Second Guam Legislature
 Senator John Perez Aguon**

Chairman, Committee on Tourism & Transportation

155 Hessler St., Agana, Guam USA 96910 • (671) 472-3435 • 472-3497 • 472-3570/1/2 • Facsimile: (671) 477-8358

February 22, 1994

Honorable Joseph F. Ada
 Governor of Guam
 P. O. Box 2950
 Agana, Guam 96910

ACKNOWLEDGEMENT RECEIPT

Received By [Signature]
 Time 3:00
 Date 2/23/94

Dear Governor Ada:

Hafa adai! Please be advised that I have schedule a public hearing for 9 a. m. Friday, March 4, 1994, in the Legislative Public Hearing Room, Pacific Arcade Building, 155 Hessler Place in Agana, to receive testimonies on the following:

BILL 874 – AN ACT TO REPEAL AND REENACT SECTION 2 OF PUBLIC LAW 21-101 RELATIVE TO CREATING THE GUAM TERRITORIAL AQUARIUM FOUNDATION TO OVERSEE THE PREDESIGN STAGE AND CONTINUED DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM; TO REPEAL AND REENACT SECTION 10 OF PUBLIC LAW 18-6 AND TO APPROPRIATE SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) FROM THE TOURIST ATTRACTION FUND TO THE GUAM TERRITORIAL AQUARIUM FOUNDATION FOR THE PREDESIGN STAGE OF THE AQUARIUM.

I invite your testimony should you wish to comment. Please bring twenty (20) copies of your written testimony to the hearing.

Sincerely yours,

[Signature]
 JOHN PEREZ AGUON

BILL 874 - List of Invitees

Eloise Baza, President
Chamber of Commerce
P.O. Box 283
Agana, Guam 96910

Joey Cepeda, General Manager
Guam's Visitor Bureau
P.O. Box 3520
Agana, Guam 96910

Raymond Laguana, President
Mayor's Council
P.O. Box 789
Agana, Guam 96911

Peter Ada, Chairman
Guam's Visitor Bureau
P.O. Box 3520
Agana, Guam 96910

Anthony Mariano, Director
Department of Parks and Recreation
490 Naval Hospital Road
Agana Hts, Guam 96910

Peter Barcinas, Director
Department of Commerce
590 S. Marine Suite 601
Tamuning, Guam 96911

Valerie Paul, Director
Marine Laboratory U.O.G.
University of Guam
Mangilao Guam 96923

Robert Richmond, Professor
Marine Laboratory U.O.G.
University of Guam
Mangilao, Guam
96923

Peter Leon Guerrero, Director
Bureau of Planning
P.O. 2950
Agana, Guam 96910

Rufo Lujan, Chief Aquatic &
Wildlife
Department of Agriculture
P.O. 2950
Agana, Guam 96910

BILL 874 - List of Invitees

Anthony Leon Guerrero, Board
Chairman
Guam Economic Development
Authority
P.O. Box 3280
Agana, Guam 96910

Vincente Bernardo, Mayor
Mayor of Yona
P.O. Box 789
Agana, Guam 96911

Manfred Pieper, Board Chairman
Guam Hotel & Restaurant
Association
P.O. Box 11199
Tamuning, Guam 96911

Robert Klitzkie, Director
Department of Education
P.O. DE
Agana, Guam 96911

Joseph F. Ada, Governor
Governor of Guam
Adelup Complex
Agana, Guam 96910

Charles Crisostomo, Director
Guam Economic Development
Authority
P.O. Box 3280
Agana, Guam 96910



OFFICE OF THE VICE-SPEAKER
Twenty-Second Guam Legislature
Senator John Perez Aguon

Chairman, Committee on Tourism & Transportation

155 Hesler St., Agana, Guam USA 96910 • (671) 472-3435 • 472-3497 • 472-3570/1/2 • Facsimile: (671) 477-8358

2-23-94
014

February 22, 1994

MEMORANDUM

TO: Members, Committee on Tourism & Transportation
FROM: Chairman, Committee on Tourism & Transportation
SUBJECT: Public Hearing

Please be advised that I have scheduled a public hearing for 9 a. m. Friday, March 4, 1994, in the Legislative Public Hearing Room, Pacific Arcade Building, Agana, to receive testimonies on the following:

BILL 874 – AN ACT TO REPEAL AND REENACT SECTION 2 OF PUBLIC LAW 21-101 RELATIVE TO CREATING THE GUAM TERRITORIAL AQUARIUM FOUNDATION TO OVERSEE THE PREDESIGN STAGE AND CONTINUED DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM; TO REPEAL SECTION 10 OF PUBLIC LAW 18-6 AND TO APPROPRIATE SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) FROM THE TOURIST ATTRACTION FUND TO THE GUAM TERRITORIAL AQUARIUM FOUNDATION FOR THE PREDESIGN STAGE OF THE AQUARIUM.

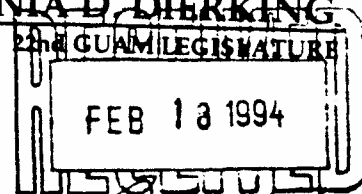
Your participation and input is sincerely appreciated.


JOHN PEREZ AGUON

c: All Senators
All Media



Senator HERMINIA D. DIERKING



February 13, 1994

MEMORANDUM

Committees:

CHAIRPERSON:

Rules

VICE CHAIRPERSON:

Ways & Means

MEMBER:

Economic-
Agricultural
Development,
and Insurance

Education

Electrical
Power and
Consumer
Protection

Federal and
Foreign Affairs

General
Governmental
Operations and
Micronesian Affairs

Health,
Ecology and
Welfare

Judiciary
and
Criminal Justice

Tourism and
Transportation

Youth, Senior
Citizens and
Cultural Affairs

TO: Chairperson, Committee on Tourism and Transportation

FROM: Chairperson, Committee on Rules

SUBJECT: Referral - Bill No. 874

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.

HERMINIA D. DIERKING

Attachment

Bill No.: 874

Introduced By:

J. P. AGUON
C. T. C. GUTIERREZ
E. E. SANTOS

AN ACT TO REPEAL AND REENACT SECTION 2 OF PUBLIC LAW 21-101
RELATIVE TO CREATING THE GUAM TERRITORIAL AQUARIUM
FOUNDATION TO OVERSEE THE PRE-DESIGN STAGE AND CONTINUED
DEVELOPMENT OF THE GUAM TERRITORIAL AQUARIUM; TO REPEAL
SECTION 10 OF PUBLIC LAW 18-6 AND TO APPROPRIATE SEVEN HUNDRED
AND FIFTY THOUSAND DOLLARS (\$750,000) FROM THE TOURIST
ATTRACTION FUND TO THE GUAM TERRITORIAL AQUARIUM
FOUNDATION FOR THE PRE-DESIGN STAGE OF THE AQUARIUM.

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

2 Section 1. Legislative findings and intent. The Legislature finds
3 that the Guam Aquarium Council (GAC) has completed its task as mandated
4 by Public Law 21-101 and has submitted its report and recommendations to
5 the Legislature to create an oversight authority, to be referred to as the
6 Guam Territorial Aquarium Foundation Board to oversee the pre-design stage
7 and continued development of the proposed Guam Territorial Aquarium.
8 GAC also recommended that funding in the amount of Seven Hundred and
9 Fifty Thousand Dollars (\$750,000) be provided for the pre-design stage.

10 It is therefore the intent of the Legislature to approve the GAC report
11 and recommendations and to repeal Section 10 of Public Law 18-6, which
12 provided funding from the Tourist Attraction Fund for the micro-dredging
13 project of Tumon Bay of which Seven Hundred Ninety Seven Thousand
14 Dollars (\$797,000) remain unexpended and unneeded, and to reprogram the
15 funds necessary for the pre-design stage of the Guam Territorial Aquarium.

16 Section 2. Section 2 of Public Law 21-101 is repealed and reenacted to
17 read:

18 "Creation of the Guam Territorial Aquarium Foundation. There is
19 hereby created within the Guam Economic Development Authority (GEDA)

1 the Guam Territorial Aquarium Foundation (GTAF) Board, a non-profit
 2 corporation, which shall oversee the continued development and
 3 administration of the proposed Guam Territorial Aquarium. The Board shall
 4 seek to establish funding arrangements from both public and private sources
 5 sufficient to maintain the quality of facilities and meet expectations for the
 6 on-going management, operations and expansion of the Guam Territorial
 7 Aquarium in a cost effective and efficient manner.

8 The Chairman of the Board of Directors of GEDA shall chair the GTAF
 9 Board to include the following:

- 10 (a) The Director or his designee of the Marine Laboratory of the
 11 University of Guam;
- 12 (b) The Mayor or his designee of the Municipality of Yona;
- 13 (c) The President or his designee of the Guam Mayors Council;
- 14 (d) Two appointed at large from the community by the Governor of
 15 Guam;
- 16 (e) Two representatives from the Guam Chamber of Commerce
 17 selected by its Board of Directors;
- 18 (f) The Chairman or his designee of the Board of Directors of the
 19 Guam Visitors Bureau;
- 20 (g) The Chairman or his designee of the Board of Directors of the
 21 Guam Hotel and Restaurant Association;
- 22 (h) The Director or his designee of the Department of Education.

23 Section 3. Upon the creation of the GTAF, GAC shall transfer all
 24 accounts, records and materials pertaining to the Guam Territorial
 25 Aquarium.

26 Section 4. Section 10 of Public Law 18-6 is hereby repealed.

27 Section 5. **Appropriation.** Seven Hundred and Fifty Thousand
 28 Dollars (\$750,000) are hereby appropriated from the Tourist Attraction
 29 Fund to the GTAF to be expended for the pre-design stage of the Guam
 30 Territorial Aquarium.

1 Section 6. The GTAF Board shall report the status and findings of the
2 pre-design stage of the aquarium to the Speaker of the Legislature no later
3 than four hundred and twenty (420) days after the effective date of this Act.

YEAR	TOTAL ARRIVALS	COCOS VISITORS	% OF ARRIVALLS TO COCOS
1989	668,827	110,000	16
1990	780,404	100,000	13
1991	737,260	0	0
1992	876,742	0	0
1993	784,018	47,450	6
1994	84,992	14,050	17
TOTALS	3,932,243*	271,500**	7

NOTES: *PROVIDED BY GVB

 **PROVIDED BY LARRY MULLIGAN, DIR OF
ADMINISTRATION, COCOS ISLAND RESORT

AIR & SEA ARRIVAL STATISTICS - 12-YEAR SUMMARY

	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
January	26,575	28,368	32,504	31,015	29,231	40,195	52,599	57,748	66,424	66,553	83,322	76,633
February	30,657	32,246	32,699	36,139	35,384	41,868	51,473	55,679	71,516	45,277	86,617	74,349 **
March	35,027	35,811	35,721	39,917	38,375	42,868	55,716	55,049	66,306	47,574	90,364	77,668
April	24,144	25,803	26,716	29,949	28,542	30,142	38,400	42,700	53,875	50,998	74,805	55,396
May	23,759	23,155	27,808	25,351	26,793	33,354	40,831	48,009	60,538	59,796	72,959	65,237
June	25,840	27,419	33,415	31,874	34,069	41,773	53,394	60,573	65,991	66,665	78,763	65,786
July	30,999	28,833	34,438	32,092	38,603	52,336	61,326	63,902 *	66,500	65,662	79,357	75,625
August	30,409	32,751	35,406	35,961	43,569	45,225	48,587	66,407 *	73,000	68,769	73,640 **	53,324
September	29,366	36,140	31,850	34,117	37,891	38,266	54,763	60,126	70,231	70,032	50,180 **	48,530
October	21,920	25,463	22,998	23,042	27,797	36,317	40,151	50,881	61,115	62,100	59,359 **	59,602
November	23,273	26,491	26,394	26,793	30,986	37,190	43,957	49,708	60,837	62,703	58,078 **	59,415
December	24,420	28,607	28,671	31,891	35,821	44,422	44,862	59,045	64,271	72,131	67,298 **	72,453
TOTAL	326,389	351,067	368,628	377,941	467,061	483,956	585,799	668,827 *	780,404	737,260	876,742 **	784,018
Peak Month:	March	Sept	March	March	August	July	July	August *	August	December	March	March
Peak Figure:	35,027	36,140	35,721	39,917	43,569	52,336	61,326	66,407	73,000	72,131	90,364	77,668
Low Month:	Oct	May	Oct	Oct	May	April	April	April	April	February	Sept	Sept
Low Figure:	21,920	23,155	22,998	23,042	26,793	30,142	38,400	42,700	53,875	45,277	50,180	48,530
FY Total:	331,178	340,139	371,118	374,478	393,983	460,631	574,958	638,963	753,015	726,349	888,941	777,283

AIR & SEA ARRIVAL STATISTICS - 1992-1993

	Air Arrivals (a)			Sea Arrivals (b)			Air & Sea Arrivals (a+b)		
	1992	1993	% Change	1992	1993	% Change	1992	1993	% Change
January	80,960	76,058	-6%	2,362	575	-76%	83,322	76,633	-8%
February	87,266	73,142	-16%	1,351	1,207	-11%	88,617	74,349 **	-16%
March	88,675	75,296	-15%	1,689	2,372	40%	90,364	77,668	-14%
April	74,208	55,396	-25%	597	0	-100%	74,805	55,396	-26%
May	71,966	64,596	-10%	993	641	-35%	72,959	65,237	-11%
June	78,277	64,716	-17%	486	1,070	120%	78,763	65,786	-16%
July	78,253	75,155	-4%	1,104	470	-57%	79,357	75,625	-5%
August	72,633 **	52,462	-28%	1,007	862	-14%	73,640 **	53,324	-28%
September	49,191 **	48,530	-1%	989	0	-100%	50,180 **	48,530	-3%
October	59,359 **	59,602	0%	0	0	-	59,359 **	59,602	0%
November	58,074 **	59,415	2%	4	0	-	58,078 **	59,415	2%
December	64,212 **	70,747	10%	3,066	1,706	-44%	67,278 **	72,453	8%
TOTAL	863,074 **	775,115	-10%	13,548	8,903	-35%	876,722 **	784,018	-11%

*Includes official estimates for July and August 1990. **Revised.

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To: Sam Hall From: JWH

cc: Sen Rankensen, Co. GUB

Dept: CU Logistics Phone #

Fax # 477-5795

It is apparent that, in the exercise of jurisdiction, no official, state or federal, historically paid any attention to any exterior boundary. Their interest was whether a particular area was in trust status.

The very nature of the 60% of the Reservation which was opened for settlers by the Act of 1890 suggests that only hunting and fishing could be a "justifiable expectation" of use by Indians and non-Indians alike. The Congressman for that area described the opened lands as "rugged and mountainous and hardly habitable for human beings". While post-opening jurisdictional history of reservation lands opened to non-Indians is a factor usually considered, such as in *Rosebud* and *DeCouteau* where "justifiable expectations" on the part of non-Indians were upheld, this case presents no such "justifiable expectation" as there has never been a demand for the rugged and mountainous land which was opened to settlers in 1890.

At best, the exercise of jurisdiction by California has been essentially limited to occasional visits by a game warden in the surrounding hills. While it may be conceded that this exceeds the exercise of jurisdiction by federal authorities, it is extremely doubtful whether this is sufficient in law to have any bearing on this case, especially since this case involved hunting rights. *Menominee Tribe v. United States*, 391 U.S. 404, 88 S.Ct. 1705, 20 L.Ed.2d 697 (1968); *Kimball v. Callahan*, 493 F.2d 564 (9th Cir. 1974).

As noted, by the order of 1947, a total of 7531 acres, in random small parcels of 140 acres each, were restored to Indian use in 1947. This presents the problem of "check-board jurisdiction" which was denounced in *Seymour*, 368 U.S. at 358, 82 S.Ct. at 428, and *Moe v. Confederated Salish & Kootenai Tribes*, 425 U.S. 463, 478, 96 S.Ct. 1634, 1643, 48 L.Ed.2d 96 (1976). In *Long Elk*, 565 F.2d at 1039 (8th Cir. 1977), the court observed that law enforcement officers would be required to consult tract books to determine the locus of a criminal act, and "such an impractical result is not to be imputed to Congress without specific language to that effect."

I do not now believe that the surrounding circumstances are sufficient, despite the limited post-1890 exercise of jurisdiction, to establish a clear congressional intent of disestablishment.

VII

Mindful of the fact that there are statements found in letters and documents tending to show that there are persons who believed that a portion of the Round Valley Indian Reservation had been disestablished by the Act of 1890, I nevertheless submit that confusion existed at that time, and continues to exist, as to the true congressional intent. Certainly, as stated in *Long Elk*, 565 F.2d at 1040, there was no "hard evidence necessary to overcome the general presumption against an intent to disestablish a reservation." I respectfully dissent.



Ricardo J. BORDALLO, Governor of
Guam, Plaintiff-Appellant,

v.

George W. BALDWIN, Jr., et al.,
Defendants-Appellees.

No. 78-2163.

United States Court of Appeals,
Ninth Circuit.

Submitted June 11, 1980, 800-50

Decided Aug. 4, 1980, 800-50

The Governor of Guam appeals from judgment entered by the District Court of Guam, Cristobal C. Duenas, under the provision of Guam Government Code, consistent with Guam Organic Act. The Court of Appeals, Schnacke, District Judge, sitting by designation, held that the Guam Legislature could not, within the

Guam Organic Act which specifically charged Governor with responsibility for establishing, maintaining and operating hospitals, reduce his function with respect to governance of Guam hospital to mere ministerial function of validating appointments made by others to governing body of the hospital.

Reversed.

Territories ⇐ 22

The Guam Legislature could not, within terms of Guam Organic Act which specifically charged Governor with responsibility for establishing, maintaining and operating hospitals, reduce his function with respect to governance of Guam hospital to mere ministerial function of validating appointments made by others to governing body of the hospital. Organic Act of Guam, 48 U.S.C.A. §§ 1421-1428e, 1421g(a), 1422, 1422c(a), 1423a; Government Code Guam, § 49004(a).

Philip H. Jacobsen, Agana, Guam, for plaintiff-appellant.

Donald C. Williams, Carlsmith, Carlsmith, Wichman & Case, Honolulu, Hawaii, for defendants-appellees.

Appeal from the District Court of Guam.

Before CHOY and NELSON, Circuit Judges, and SCHNACKE, District Judge.*

SCHNACKE, District Judge.

Plaintiff, the Governor of Guam, appeals from a judgment of the District Court of Guam, declaring that Guam Government Code § 49004(a), in its present form, is consistent with the Guam Organic Act (48 U.S.C. §§ 1421-1428(e)).

The controversy arises over the governance of the Guam Memorial Hospital

* Honorable Robert H. Schnacke, United States District Judge, Northern District of California, sitting by designation.

(hereinafter, "the Hospital"). From the time of its first authorization in 1952 until 1977, when the legislation in dispute was adopted, the Board of Trustees of the Hospital was appointed by the Governor with the consent of the Legislature.

Prior to 1977, the Hospital was declared by the Legislature to be within the Executive Branch of the Government of Guam. By Guam Public Law 14-29, adopted May 27, 1977, the Hospital was described as "within, and a public corporation and autonomous instrumentality of, the Government of Guam."

In December of 1977, Guam Public Law 14-91 was enacted, amending Guam Government Code § 49004(a) to read in pertinent part as follows:

"All powers vested in the hospital, except as provided herein, shall be exercised by the Board which shall consist of thirteen (13) members, called Trustees. The Governor shall appoint one (1) member each to be chosen from among their number by the Chamber of Commerce, the Guam Medical Society, the Guam Bar Association, the Guam Business and Professional Women's Club, the Guam Association of Retired People, the District Government Council, the Ministerial Association of Guam, the Guam Nurses Association, the Labor Council of the Western Pacific, the Guam Certified Public Accountants Association, the Pacific Chapter of JCI, the Young Men's League of Guam and the Pharmaceuticals Association and their respective successors" (Dist.Ct. No. CV 78-077.)

The parties agree that the effect of this amendment was to eliminate all discretion over appointments by the Governor and to require that he appoint the various persons designated by the several private organizations. There is no requirement that the Governor, the Legislature, or any other public official consent to, approve, or have veto power over, these private selectees,

except that the Governor concededly has the power under Section 1422 of Title 48 U.S.C. to remove Board members once they have been appointed, if good cause for removal can be shown.

It is the contention of the Governor that the method of appointment of trustees of the Hospital adopted in 1977 is prohibited by the Organic Act of Guam, and is beyond the authority of the Legislature.

The Organic Act of Guam is properly described by the parties as Guam's Constitution. In general, it provides for the three branches of government consistent with the constitutional structure of the United States and the powers of each branch flow from, and are limited by the Organic Act. The powers of the Legislature are derived from 48 U.S.C. § 1423a, which reads in part as follows:

"The legislative power of Guam shall extend to all subjects of legislation of local application not inconsistent with the provisions of this chapter and the United States applicable to Guam. . . ."

As pertinent hereto the powers of the Governor are set forth as follows:

"The executive power of Guam shall be vested in an executive officer whose official title shall be the 'Governor of Guam'."

"The Governor shall have general supervision and control of all the departments, bureaus, agencies, and other instrumentalities of the executive branch of the government of Guam."

"He shall appoint, and may remove, all officers and employees of the executive branch of the government of Guam, except as otherwise provided in this or any other Act of Congress, or under the laws of Guam, and shall commission all officers that he may be authorized to appoint." (48 U.S.C. § 1422)

"The Governor shall, except as otherwise provided in this chapter or the laws of Guam, appoint, by and with the advice and consent of the legislature, all heads of executive agencies and instrumentalities. The legislature shall establish a merit system and, as far as practicable,

appointments and promotions shall be made in accordance with such merit system." (48 U.S.C. § 1422c(a))

"Subject to the laws of Guam, the Governor shall establish, maintain, and operate public-health services in Guam, including hospitals" (48 U.S.C. § 1421g(a))

The question presented to us then is whether, when the Governor is specifically charged by Section 1421g(a) of the Organic Act with the responsibility for establishing, maintaining, and operating hospitals, the Legislature may, within the terms of that act, reduce his function with respect to the governance of the Hospital to the mere ministerial function of validating the appointments made by others to the Hospital's governing body. We think it cannot.

Defendants argue that the Governor's general appointive power as set forth in Section 1422c(a), was clearly intended to be subject to legislative action, otherwise Congress would not have included the phrase "except as otherwise provided in this chapter or the laws of Guam", and that his specific responsibility with respect to hospitals is restricted by the inclusion in Section 1421g(a) of the phrase "subject to the laws of Guam". But they failed to recognize that legislative power is limited by Section 1423a to subjects "not inconsistent with the provisions of this chapter". The legislature may, of course determine whether a hospital shall exist at all, where and how large it shall be, the size and qualifications for appointment to the governing body, and a wide variety of other matters establishing the laws of Guam "subject to" which the Governor perform his function with respect to the hospital, but it may not negate the command of the Organic Act that the ultimate responsibility for the governance of the Hospital be in the Governor. This is what it has purported to do by the disputed legislation. The Legislature has in effect, taken over the entire power to establish, maintain and operate the Hospital by dictating who the governing trustees shall be. The Governor is stripped of all power to have any voice in the policies, management

or procedures of the Hospital, despite the mandate of the Organic Act to the contrary. The Legislature has exceeded its power.

Plaintiff further urges that the legislation before us is also violative of 48 U.S.C. § 1471 which provides as follows:

"The legislatures of the Territories of the United States, now or hereafter to be organized shall not pass local or special laws in any of the following enumerated cases, that is to say: . . . granting to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise whatever. . . ."

The authority of legislatures to limit executive power by restricting the appointment of some or all members of boards, commissions, etc., to those nominated by private organizations has been addressed by a number of state courts with varying results. Some courts have approved the practice in certain circumstances. (*Sturgis v. Spofford*, 45 N.Y. 446 (1871); *Lanza v. Wagner*, 11 N.Y.2d 317, 229 N.Y.S.2d 380, 183 N.E.2d 670 (1962); *Yeilding v. State*, 232 Ala. 292, 167 So. 580 (1936); *Re Bulger*, 45 Cal. 553 (1873); *Miller v. El Paso County*, 146 S.W.2d 1027 (Tex.Civ.App.1940); *Marks v. Frantz*, 179 Kan. 638, 298 P.2d 316 (1956); *Ashmore v. Greater Greenville Sewer Dist.*, 211 S.C. 77, 44 S.E.2d 88 (1947).)

Other courts have rejected such legislation. (*State v. Schorr*, 45 Del. (6 Terry) 18, 65 A.2d 810, 813 (1949); *Lasher v. People*, 183 Ill. 226, 55 N.E. 663, 666 (1899); *Opinion of the Justices*, 337 Mass. 777, 150 N.E.2d 693, 698 (1958); *Rouse v. Thompson*, 228 Ill. 522, 81 N.E. 1109, 1113-1114 (1907); *Winters v. Hughes*, 3 Utah 443, 24 P. 759 (1861).)

The decisions of the various state courts seem to turn largely on special circumstances, such as the nature of the board or body to be appointed and the relationship between it and the private organizations with power to nominate.

While the question of the applicability of Section 1471 was before the District Court, it does not appear to have been ruled upon.

We may assume that the tenor of the declaratory judgment suggests that, *sub silentio*, Section 1471 was found to be inapplicable. Since we have determined that Section 3 of Guam Public Law 14-91 violates the mandate of the Organic Act, we find it unnecessary to consider whether it violates 48 U.S.C. § 1471 as well.

The judgment of the District Court is reversed.



Peter L. HERNANDEZ,
Plaintiff-Appellant,

v.

CITY OF LOS ANGELES; Edward M. Davis, Chief of Police of the City of Los Angeles; Officer Thomas Bradford; Officer Robert Pixler; and Officer Gregory Schwien, Defendants-Appellees.

No. 77-1458.

United States Court of Appeals,
Ninth Circuit.

Submitted Dec. 6, 1979.

Decided Aug. 6, 1980.

In a civil rights action against a city, chief of police and three named police officers, summary judgment was granted to the defendants by the United States District Court for the Central District of California, Jesse W. Curtis, J., and plaintiff appealed. The Court of Appeals, Fletcher, Circuit Judge, held that a jury in previously finding plaintiff, as a defendant, guilty on a resisting-arrest charge while acquitting him of resisting arrest and of battery on police officer could have found either that self-defense instruction was irrelevant to resisting arrest charge or that both defendant and police officers used excessive force, and rejection of self-defense theory did not mean