



Territory of Guam
Territorio de Guam

OFFICE OF THE GOVERNOR
URFINAN I MAGA LAH
AGANA, GUAM 96910

COMMITTEE ON RULES

Rec'd by BC Date 4/21/94 Time 11:40 am

Routing: _____ Date _____ Sent to _____

Jackie Blas _____

Action: _____

APR 20 1994

Handwritten notes:
Frank
Blas
20

The Honorable Herminia D. Dierking
Acting Speaker, Twenty-Second Guam Legislature
155 Hessler Street
Agana, Guam 96910

Dear Madame Speaker:

Transmitted herewith is Bill No. 529, which has been designated as Public Law
No. 22-112.

Sincerely yours,

Handwritten signature of Frank F. Blas
FRANK F. BLAS
Governor of Guam
Acting
220641

Attachment



Commonwealth Now!

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. 529 (LS), "AN ACT TO ADD A NEW §3127 TO CHAPTER 3, TITLE 5, GUAM CODE ANNOTATED, TO CREATE A CUSTOMS AND QUARANTINE AGENCY SEPARATE FROM THE DEPARTMENT OF COMMERCE, THE DIRECTOR OF THE CUSTOMS AND QUARANTINE AGENCY TO BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE LEGISLATURE; AND TO AMEND SUBSECTION (b) OF SECTION 6, PUBLIC LAW NO. 19-45, TO EXTEND THE TIME TO COMPLETE A PEDRO ("DOC") SANCHEZ SCHOLARSHIP PROGRAM," returned to the Legislature without the approval of the Governor, was reconsidered by the Legislature and after such reconsideration, the Legislature did, on the 11th day of April, 1994, agree to pass said bill notwithstanding the objection of the Governor by a vote of two-thirds or more of all the members thereof, to wit: by a vote of fourteen (14) members.



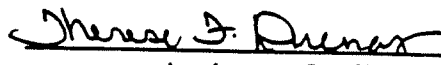
JOE T. SAN AGUSTIN
Speaker

Attested:



HERMINIA D. DIERKING
Senator and Acting Legislative Secretary

This Act was received by the Governor this 15th day of April, 1994, at
5:15 o'clock P.M.



Theresa J. Duenas
Assistant Staff Officer
Governor's Office

Public Law No. 22-112

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

Bill No. 529 (LS)
As substituted by the Committee on
Ways and Means and as further
substituted by the Committee on Rules

Introduced by:

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

AN ACT TO ADD A NEW §3127 TO CHAPTER 3, TITLE 5,
GUAM CODE ANNOTATED, TO CREATE A CUSTOMS
AND QUARANTINE AGENCY SEPARATE FROM THE
DEPARTMENT OF COMMERCE, THE DIRECTOR OF
THE CUSTOMS AND QUARANTINE AGENCY TO BE
APPOINTED BY THE GOVERNOR WITH THE ADVICE
AND CONSENT OF THE LEGISLATURE; AND TO
AMEND SUBSECTION (b) OF SECTION 6, PUBLIC

LAW NO. 19-45, TO EXTEND THE TIME TO
COMPLETE A PEDRO ("DOC") SANCHEZ
SCHOLARSHIP PROGRAM.

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

2 **Section 1. Legislative findings.** The Legislature finds that the Division
3 of Customs and Quarantine (the "Division") of the Department of Commerce
4 (the "Department") has outgrown its current subordinate portion within the
5 Department. As in the cases of the Guam Airport Authority and the
6 Commercial Port of Guam, both of which used to be part of the Department
7 and were subsequently created as independent authorities, the time has come
8 for the Division to be separated from the Department and established as a
9 separate agency. This is necessary in order that the mission of the current
10 Division be more directly addressed. The Legislature finds that establishing a
11 separate Customs and Quarantine Agency will facilitate the mission of
12 customs and quarantine regulation at the ports of entry of Guam.

13 The Legislature further finds that the separation of the Division will
14 also be beneficial to the Department. The Department's mission is set out in
15 §47060 of the Government Code, which section does not include the
16 regulation of customs and quarantine. Separation of the Division from the
17 Department will allow the Department to concentrate on the promotion of
18 those business and economic goals which are vital to the island and which are
19 stated in said §47060.

20 **Section 2.** A new §3127 is added to Chapter 3, Title 5, Guam Code
21 Annotated, to read:

22 "§3127. **Customs and Quarantine Agency.** There is hereby
23 established within the government of Guam, the Customs and

1 Quarantine Agency (the "Agency"). The Director of the Agency, who
2 is the head of the Agency, shall be appointed by the Governor with
3 the advice and consent of the Legislature. The senior classified
4 employee within the Agency shall act as deputy director of the
5 Agency with all the powers of such a deputy but without additional
6 compensation. The compensation of the Director of the Agency and
7 of such Director's personal secretary shall be set by the Civil Service
8 Commission."

9 **Section 3. (a) Transfer of personnel, property, and equipment from the**
10 **Division to the new Customs and Quarantine Agency.** All personnel of the
11 Division shall be transferred to the Agency established in §3127, Title 5, Guam
12 Code Annotated, as set out in Section 2 of this Act, with all duties,
13 responsibilities, and compensation intact, and with no lapse in service to the
14 government of Guam. In addition, all the property and equipment of the
15 Division shall be transferred to the Agency.

16 (b) **Enforcement of laws relative to customs and quarantine.** The
17 Agency is authorized to implement and enforce the provisions of Chapter II of
18 Title XLIV of the Government Code and all rules, regulations, and executive
19 orders relative to customs and quarantine functions of the government of
20 Guam.

21 (c) **Reports to the Legislature: The Department of Law, the**
22 **Department, the Division, and the Bureau of Budget and Management**
23 **Research.** The Department of Law shall review the laws, rules, regulations,
24 and executive orders now in effect on the customs and quarantine functions
25 of the government of Guam and shall make a report with recommendations
26 for updating and improving these laws, rules, regulations, and executive

1 orders to the Legislature and to the Governor no later than June 1, 1994. The
2 Department, the Division, and the Bureau of Budget and Management
3 Research shall each review the impact of the creation of the Agency on the
4 custom and quarantine responsibilities of the government of Guam and shall
5 each submit a report on such impact to the Legislature and to the Governor
6 no later than June 1, 1994.

7 **Section 4. Extension of time necessary to complete Pedro "Doc"**
8 **Sanchez Scholarship degrees.** Subsection (b) of Section 6, Public Law No. 19-
9 45, is hereby amended to read:

10 " (b) Each scholarship grantee shall enroll for not less than six
11 (6) academic units and not more than eighteen (18) academic units
12 per regular semester at the University of Guam during the period of
13 his or her study grant. In no case, however, shall scholarship
14 grantee be allowed more than seven (7) consecutive years, from the
15 date of original enrollment, to finish the undergraduate degree in
16 Public Administration (BSPA), or more than four (4) consecutive
17 years, from the date of original enrollment, to finish the graduate
18 degree in Public Administration (M.P.A.)."

19 **Section 5. Effective dates.** Section 2 of this Act and subsections (a) and
20 (b) of Section 3 of this Act shall take effect on October 1, 1994. All other
21 sections and subsections of this Act shall take effect on enactment.

TWENTY-SECOND GUAM LEGISLATURE

1993 (FIRST) Regular Session

Date: 4/11/94

VOTING SHEET (AS REVISED)

Bill No. _____

Resolution No. _____

Question: shall B 529 be enacted into law, notwithstanding the Government obligation

NAME	AYE	NO	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George				✓
BLAZ, Anthony C.			✓	
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	✓			
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 4 2 1



Territory of Guam
Territorion Guam

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

April 1, 1994

Overridden 4/1/94 Recd. by Peter C. Lujan April 1, 1994 7:00 pm.

RECEIVED
OFFICE OF THE SPEAKER
DATE: 4/1/94
TIME: 8:20am
RECD BY: Tony

The Honorable Joe T. San Agustin
Speaker
Twenty Second Guam Legislature
Agana, Guam 96910

**REFER TO
LEGISLATIVE SECRETARY**
[Signature]

Dear Mr. Speaker:

Enclosed herewith is Substitute Bill No. 529 which I have vetoed in its entirety.

There is a public outcry to make the government of Guam less bureaucratic and more efficient. Creation of a new agency to do exactly what a division does now runs contrary to current public sentiment and common sense.

The bill does not address any of the issues facing the customs and quarantine service. Rather it makes an expensive cosmetic change by creating a new agency, the Customs and Quarantine Agency. At least Two Hundred Fifty Thousand Dollars (\$250,000) additionally will be required annually to run the Agency without any changes in its organization or mandate. As you know the government has been holding down expenses and sacrificing programs during this time of lower revenues. Now is not the time for extravagance.

The Legislature has not taken any substantive action with respect to the mission of the proposed agency, its organization and its powers. Rather, the body has passed the buck to the Department of Law and the Budget of Bureau and Management to make recommended changes.

This measure is incomplete. There are no changes in operations except to add administrative personnel. There is no appropriation of funds for operations in fiscal year 1995. The bill also circumvents the merit system by appointing the senior classified employee the Deputy Director. In the two other agencies with deputies in the classified service, competition is used to make selections.

I ask that you and your colleagues reconsider this measure and leave the customs and quarantine service as a division of the Department of Commerce.

Cordially,
Joseph F. Ada
JOSEPH F. ADA,
Governor of Guam

220602



TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

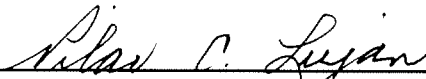
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 529 (LS), "AN ACT TO ADD A NEW §3127 TO CHAPTER 3, TITLE 5, GUAM CODE ANNOTATED, TO CREATE A CUSTOMS AND QUARANTINE AGENCY SEPARATE FROM THE DEPARTMENT OF COMMERCE, THE DIRECTOR OF THE CUSTOMS AND QUARANTINE AGENCY TO BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE LEGISLATURE; AND TO AMEND SUBSECTION (b) OF SECTION 6, PUBLIC LAW NO. 19-45, TO EXTEND THE TIME TO COMPLETE A PEDRO ("DOC") SANCHEZ SCHOLARSHIP PROGRAM," was on the 14th day of March, 1994, duly and regularly passed.



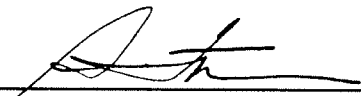
JOE T. SAN AGUSTIN
Speaker

Attested:



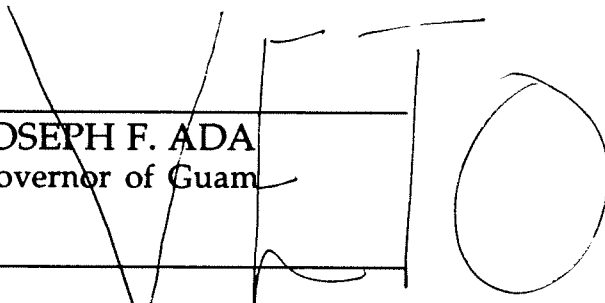
PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 21st day of March, 1994, at
11:09 o'clock A.M.



Assistant Staff Officer
Governor's Office

APPROVED:



JOSEPH F. ADA
Governor of Guam

Date: _____

Public Law No. _____

Overridden
4/11/94

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

Bill No. 529 (LS)

As substituted by the Committee on
Ways and Means and as further
substituted by the Committee on Rules

Introduced by:

J. T. San Agustin
T. C. Ada
V. C. Pangelinan
C. T. C. Gutierrez
H. D. Dierking
J. P. Aguon
E. P. Arriola
P. C. Lujan
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AN ACT TO ADD A NEW §3127 TO CHAPTER 3, TITLE 5,
GUAM CODE ANNOTATED, TO CREATE A CUSTOMS
AND QUARANTINE AGENCY SEPARATE FROM THE
DEPARTMENT OF COMMERCE, THE DIRECTOR OF
THE CUSTOMS AND QUARANTINE AGENCY TO BE
APPOINTED BY THE GOVERNOR WITH THE ADVICE
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2 **Section 1. Legislative findings.** The Legislature finds that the Division
3 of Customs and Quarantine (the "Division") of the Department of Commerce
4 (the "Department") has outgrown its current subordinate portion within the
5 Department. As in the cases of the Guam Airport Authority and the
6 Commercial Port of Guam, both of which used to be part of the Department
7 and were subsequently created as independent authorities, the time has come
8 for the Division to be separated from the Department and established as a
9 separate agency. This is necessary in order that the mission of the current
10 Division be more directly addressed. The Legislature finds that establishing a
11 separate Customs and Quarantine Agency will facilitate the mission of
12 customs and quarantine regulation at the ports of entry of Guam.

13 The Legislature further finds that the separation of the Division will
14 also be beneficial to the Department. The Department's mission is set out in
15 §47060 of the Government Code, which section does not include the
16 regulation of customs and quarantine. Separation of the Division from the
17 Department will allow the Department to concentrate on the promotion of
18 those business and economic goals which are vital to the island and which are
19 stated in said §47060.

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21 Annotated, to read:

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1 Quarantine Agency (the "Agency"). The Director of the Agency, who
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3 the advice and consent of the Legislature. The senior classified
4 employee within the Agency shall act as deputy director of the
5 Agency with all the powers of such a deputy but without additional
6 compensation. The compensation of the Director of the Agency and
7 of such Director's personal secretary shall be set by the Civil Service
8 Commission."

9 **Section 3. (a) Transfer of personnel, property, and equipment from the**
10 **Division to the new Customs and Quarantine Agency.** All personnel of the
11 Division shall be transferred to the Agency established in §3127, Title 5, Guam
12 Code Annotated, as set out in Section 2 of this Act, with all duties,
13 responsibilities, and compensation intact, and with no lapse in service to the
14 government of Guam. In addition, all the property and equipment of the
15 Division shall be transferred to the Agency.

16 (b) **Enforcement of laws relative to customs and quarantine.** The
17 Agency is authorized to implement and enforce the provisions of Chapter II of
18 Title XLIV of the Government Code and all rules, regulations, and executive
19 orders relative to customs and quarantine functions of the government of
20 Guam.

21 (c) **Reports to the Legislature: The Department of Law, the**
22 **Department, the Division, and the Bureau of Budget and Management**
23 **Research.** The Department of Law shall review the laws, rules, regulations,
24 and executive orders now in effect on the customs and quarantine functions
25 of the government of Guam and shall make a report with recommendations
26 for updating and improving these laws, rules, regulations, and executive

1 orders to the Legislature and to the Governor no later than June 1, 1994. The
2 Department, the Division, and the Bureau of Budget and Management
3 Research shall each review the impact of the creation of the Agency on the
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10 (b) Each scholarship grantee shall enroll for not less than six
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13 his or her study grant. In no case, however, shall scholarship
14 grantee be allowed more than seven (7) consecutive years, from the
15 date of original enrollment, to finish the undergraduate degree in
16 Public Administration (BSPA), or more than four (4) consecutive
17 years, from the date of original enrollment, to finish the graduate
18 degree in Public Administration (M.P.A.)."

19 **Section 5. Effective dates.** Section 2 of this Act and subsections (a) and
20 (b) of Section 3 of this Act shall take effect on October 1, 1994. All other
21 sections and subsections of this Act shall take effect on enactment.

TWENTY-SECOND GUAM LEGISLATURE

1994 (SECOND) Regular Session

Date: 3/14/94

VOTING SHEET (AS REVISED)

Bill No. 529

Resolution No. _____

Question: _____

NAME	AYE	NO	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P. 11	✓			
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George 1	✓			
BLAZ, Anthony C. 11		✓		
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 17 4 0 _____

Office of



The People

Senator Vicente C. Pangelinan
Twenty-Second Guam Legislature

Chairman, Committee on Economic-Agricultural Development and Insurance
130 Aspinall Avenue • Suite 101 • Agana Guam • 96910 Phone (671) 472-3552-4 Fax (671) 472-3556

November 12, 1993

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

Dear Mr. Speaker,

The Committee on Economic-Agricultural Development and Insurance, to which was referred Bill 529 wishes to report back to the Legislature with its recommendation **TO DO PASS** as amended by the Committee. The voting record is as follows:

TO PASS	<u>09</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>2</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached. Your attention to this matter is appreciated.

Sincerely,


VICENTE C. PANGELINAN

Attachments.

Office of



The People

Senator Vicente C. Pangelinan
Twenty-Second Guam Legislature

Chairman, Committee on Economic-Agricultural Development and Insurance
130 Aspinall Avenue • Suite 101 • Agana Guam • 96910 Phone (671) 472-3552-4 Fax (671) 472-3556

November 8, 1993

MEMORANDUM

TO: Members, Committee on
Economic-Agricultural Development & Insurance


FROM: Sen. Vicente C. Pangelinan

SUBJECT: Committee Report and Voting Sheet

Transmitted herewith for your information and action is the Committee Report concerning Bill 529. The narrative report is accompanied by the following:

1. Committee Voting Sheet
2. Written Testimony
3. Evidentiary Materials

Should you have any questions on the narrative report or the accompanying documents, I would be happy to answer any of them. Please take the appropriate action on the attached voting sheet and return the documents to my office for transmittal to the other members. Your prompt attention and cooperation in this matter is greatly appreciated.


VICENTE C. PANGELINAN
Chairman

attachments.

Office of



The People

Senator Vicente C. Pangelinan

Twenty-Second Guam Legislature

Chairman, Committee on Economic-Agricultural Development and Insurance
130 Aspinall Avenue • Suite 101 • Agana Guam • 96910 Phone (671) 472-3552-4 Fax (671) 472-3556

COMMITTEE VOTING SHEET


SUBJECT: Committee Report on Bill 529 as amended by the Committee on Economic-Agricultural Development and Insurance.


Committee Members	Initial	To Pass	Not to Pass	Abstain	To Place InInactive File
V.C. Pangelinan	<i>[Signature]</i>	✓			
T.C. Ada	<i>[Signature]</i>	✓			
A.C. Blaz	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	✓	
F.P. Camacho	<i>[Signature]</i>	✓			
H.D. Dierking	<i>[Signature]</i>	✓			
P.C. Lujan	<i>[Signature]</i>	✓			
M.D.A. Manibusan	<i>[Signature]</i>			✓	
T. Nelson	<i>[Signature]</i>				
E.D. Reyes	<i>[Signature]</i>	✓			
J.T. San Agustin	<i>[Signature]</i>	✓			
F.E. Santos	<i>[Signature]</i>	✓			
T.V.C. Tanaka					

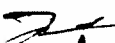
TWENTY-SECOND GUAM LEGISLATURE
1993 (First) Regular Session

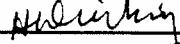

Bill No. 529

As amended by the Committee on
Economic-Agricultural Dev. & Insurance
Introduced by:


J.T. San Agustin

T.C. Ada 

V.C. Pangelinan 

AN ACT TO AMEND 5GCA, CHAPTER 3, BY ADDING SECTION
3127 TO CREATE A SEPARATE CUSTOMS AND QUARANTINE
AGENCY; WITH THE DIRECTOR OF CUSTOMS AND QUARANTINE
TO BE APPOINTED BY THE GOVERNOR OF GUAM WITH THE
CONSENT OF THE LEGISLATURE.

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

2 **Section 1.** Legislative Findings. The Legislature find that the
3 Customs and Quarantine Division has outgrown it's current subordinate
4 portion within the Department of Commerce. As in the case of the Airport
5 Authority and the Commercial Port, both of which used to be part of the
6 Commerce Department and which were subsequently created as an
7 independent authorities; the time has come for the Customs & Quarantine
8 Division to be separated from the Commerce Department and established
9 as a separate agency. This is necessary in order that the mission of the
10 current Customs and Quarantine Division may be more wholly addressed.
11 In this regard, the Legislature finds that establishing a separate Customs &
12 Quarantine Agency will facilitate the appropriate development of this
13 entity as an effective regulatory agency.

1 The Legislature further finds that the separation of the Customs &
2 Quarantine Division will also be beneficial to the Commerce Department, as
3 a whole. The Commerce Department's stated mission is clearly outlined in
4 Section 47060, Chapter I, Title XLIV of the Government Code. In no part of
5 this section is customs regulation mentioned as part of the Department's
6 mission. In line with this statutory intent, the Legislature further finds
7 that divorcing customs responsibilities from the Commerce Department
8 will allow the Department to more fully concentrate on it's business
9 promotion and economic development goals which are so vital to our island
10 and which are clearly stated in Section 47060. Separation of the Customs
11 & Quarantine Division will also remove any potential conflicts between the
12 Commerce Department's overall business promotion goals and the Customs
13 & Quarantine Divisions' regulatory responsibilities.

14 **Section 2.** A new Section 3127 of 5GCA, Chapter 3 is hereby added
15 to read:

16 "Section 3127. Customs & Quarantine Agency.

17 There is hereby established, within the Government of Guam, a
18 Customs & Quarantine Agency. The Director of Customs & Quarantine is
19 the head of the agency. The Director is appointed by the Governor with
20 the advice and consent of the Legislature. All property, equipment, and
21 funding for the Customs & Quarantine Division of the Department of
22 Commerce are hereby transferred to the Customs & Quarantine Agency.
23 All personnel of the Customs & Quarantine Division of the Department of
24 Commerce are hereby transferred to the Customs & Quarantine Agency
25 with all duties, responsibilities, and compensation intact and with no lapse
26 in service to the Government of Guam."

1 Section 3. The Customs and Quarantine Agency, established in
2 Section 2 of this Act, is authorized to implement and enforce the provisions
3 of Chapter II of Title XLIV of the Government Code.

4 Section 4. The Director of the Customs & Quarantine Agency shall
5 submit to the Legislature an organization plan ninety (90) days after the
6 enactment of this Act.

7 Section 5. The Customs & Quarantine Agency may develop and
8 implement a plan, subject to review and approval by the Legislature, to
9 charge and collect user's fees for customs services. Upon Legislative
10 approval of such a plan, such fees shall be deposited into the Customs
11 Inspection Fund, established by PL 20-25 for the use in the enforcement of
12 Chapter II, Title XLIV of the Government Code. Such Fund shall continue
13 to remain separate and apart from the General Fund.



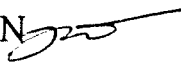
14 Section 6. Effective date. This Act shall take effect sixty (60) days
15 after its enactment.
16

AUG 19 '93

TWENTY-SECOND GUAM LEGISLATURE
1993 (First) Regular Session

Bill No. 529 (LS)

Introduced by:


J.T. SAN AGUSTIN
T.C. ADA 
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AN ACT TO AMEND 5GCA, CHAPTER 3, BY ADDING SECTION 3127 TO
CREATE A SEPARATE CUSTOMS AND QUARANTINE AGENCY; WITH
THE DIRECTOR OF CUSTOMS AND QUARANTINE TO BE APPOINTED
BY THE GOVERNOR OF GUAM WITH THE CONSENT OF THE
LEGISLATURE.

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

1 Section 1. Legislative Findings. The Legislature finds that the Customs and
2 Quarantine Division has outgrown it's current subordinate portion within the
3 Department of Commerce. As in the case of the Airport Authority and the
4 Commercial Port, both of which used to be part of the Commerce Department and
5 which were subsequently created as independent authorities, the time has come for
6 the Customs & Quarantine Division to be separated from the Commerce
7 Department and established as a separate agency. This is necessary in order that the
8 mission of the current Customs & Quarantine Division may be more wholly
9 addressed. In this regard, the Legislature finds that establishing a separate Customs
10 & Quarantine Agency will facilitate the appropriate development of this entity as
an effective regulatory agency.

1 The Legislature further finds that the separation of the Customs & Quarantine
2 Division will also be beneficial to the Commerce Department, as a whole. The
3 Commerce Department's stated mission is clearly outlined in Section 47060,
4 Chapter I, Title XLIV of the Government Code. In no part of this section is
5 customs regulation mentioned as part of the Department's mission. In line with this
6 statutory intent, the Legislature further finds that divorcing customs responsibilities
7 from the Commerce Department will allow the Department to more fully
8 concentrate on it's business promotion and economic development goals which are
9 so vital to our island and which are clearly stated in Section 47060. Separation
10 of the Customs & Quarantine Division will also remove any potential conflicts
between the Commerce Department's overall business promotion goals and the
12 Customs & Quarantine Division's regulatory responsibilities.

13 Section 2. A new Section 3127 of 5GCA, Chapter 3 is hereby added to read:

14 "Section 3127. **Customs & Quarantine Agency.**

15 There is hereby established, within the Government of Guam, a Customs &
16 Quarantine Agency. The Director of Customs & Quarantine is the head of the
17 agency. The Director is appointed by the Governor with the advice and consent
18 of the Legislature. All property, equipment, and funding for the Customs &
19 Quarantine Division of the Department of Commerce are hereby transferred to the
20 Customs & Quarantine Agency. All personnel of the Customs & Quarantine

1 Division of the Department of Commerce are hereby transferred to the Customs &
2 Quarantine Agency with all duties, responsibilities, and compensation intact and
3 with no lapse in service to the Government of Guam."

4 Section 3. The Customs and Quarantine Agency, established in Section 2 of
5 the Act, is authorized to implement and enforce the provisions of Chapter II of
6 Title XLIV of the Government Code.

COMMITTEE REPORT
on
Bill 529

An Act to amend 5GCA, Chapter 3, by adding Section 3127 to create a separate Customs and Quarantine Agency; with the Director of Customs and Quarantine to be appointed by the Governor of Guam with the consent of the Legislature.

I. OVERVIEW

The Committee on Economic-Agricultural Development and Insurance having oversight responsibilities concerning the Department of Commerce and been referred Bill 529, conducted a public hearing on Monday, July 19, 1993 at 7 p.m. in the Legislative Public Hearing Room in Agana. Chairman Ben Pangelinan presided and the following members were present: Vice Chair Tom Ada, Speaker Joe T. San Agustin, and Sens. Ted Nelson and Felix Camacho.

A. Intent. The intent of Bill 529 is to establish a separate Customs and Quarantine Agency to provide the Territory with a regulatory agency singularly charged with the enforcement of federal and local customs regulations. The Bill calls for removing the Customs & Quarantine Division from the auspices and administration of the Department of Commerce.

II. SUMMARY OF TESTIMONY

Mr. Peter Barcinas, Director of Commerce, provided written testimony opposing Bill 529, stated the bill would ultimately lead to the deterioration of economic development and hurt Commerce's ability to provide important trade and commerce information and reports to prospective businesses. Rather than being at odds with the goals of Commerce, customs role in regulating cross-border trade is intrinsically complementary to the goals of Commerce. He stated Customs supports Commerce with its law enforcement functions and providing access to specialized types of commercial information, shipping documents for imported and exported goods.

Without the access and timely reports to trade regulations, tariffs and quotas, documentation requirements and dozens of other important details, Commerce would be unnecessarily hardpressed to maintain its effectiveness. Under the current system, The Economic Research Center works closely with Customs in the economic and legal aspects of our trade preference programs with the U.S. and other nations. Without this interaction it would be difficult to provide local firms and investors with accurate and timely information regarding economic opportunities in the market. The impact of separating the agencies would adversely the economic goals of the territory and the services it provides to assist commercial and economic development.

Mr. Barcinas stated he fully recognizes the current problems and that the needs of the division have grown. However, he believes these can and are being addressed by the Reorganization Plan currently underway which will firstly, restructure the division and secondly, provide for customs legislation to enact necessary reforms. Budgetary constraints have slowed the purchase and replacement of needed supplies and equipment. Commerce has had to seek out federal funding to meet some of these needs and has had to work under restrictions attached to these funds. Mr. Barcinas stated, DOA is currently reviewing its desk audits, Civil Service Commission is currently evaluating the hazardous pay issue, and plans are underway to establish a computer link to DOA to correct problems of timely payment of overtime payroll. Additionally, because he believes customs operations are hampered by several outdated statutory requirements, Mr. Barcinas has directed the Department to draft legislation to reform these Customs statutes. In opposition to Bill 529, Mr. Barcinas also expressed his concern that the transfer of Customs before first updating the Division's underlying authority would be merely moving inadequacies of the Customs law rather than correcting them. Mr. Barcinas further stated the problems at Customs can better be resolved by supporting the reorganization plan and by providing them with the needed resources rather than creating a separate agency altogether.

The Committee received a petition (attached) from the officers of the Customs and Quarantine Division, the number of officers in favor or against Bill 529 are as follows:

<u>In favor</u>	<u>Against</u>	<u>Blank</u>	<u>Total</u>
64	1	13	78

Customs Officer Paul J. Toves has been with the Division of Custom and Quarantine for ten years, states, "most of our problems originate at the management level of our division. These concerns come in the form of low morale resulting from the lack of equality, lack of merit system, lack of equipment, and lack of leadership. Our problems stem from inadequacy, and not necessarily by being a Division under the Department of Commerce." Officer Toves further states, "Merely separating the division from Commerce will not improve conditions within the Division. The absence of the essential structural, legal, and administrative frame work necessary to effectuate a smooth and successful transformation leaves the Division unprepared for that step into sovereignty." In conclusion Officer Toves states, "I ask that bill 529 be returned into Committee for the reassessment of all alternative solutions to our dilemma, and to amend the bill accordingly. Under these conditions, I would support Bill 529."

Mr. Jim Miles submitted oral testimony in support of the bill and stated the work of Customs and Quarantine has grown to the point where it should be a separate line agency. He reminded the Committee that this was not a new idea.

In its first term, the Ada Administration had called for the re-alignment of departments and agencies; to consolidate certain departments and agencies, and to eliminate others. Mr. Miles observed neither the Governor, the present Administration nor the Department of Commerce has dealt realistically with the issue of separating Customs.

Mr. Miles stated he saw the role of the division to be more akin to law enforcement and that the mission of this division, if it should become an agency, has to be to stop the flow of drugs into Guam. Mr. Miles stated under the current system, Dept. of Commerce is a statistics gathering operation, a mission that he believes is incompatible with the mission of the Customs Division. Mr. Miles suggested once Customs is separated from the Dept. of Commerce, the Committee might also consider the Ada Administration's initial goal to re-align various government agencies: I.E. consolidating Commerce with Agriculture or perhaps, GEDA.

He stated the bill does not detail staffing qualifications, qualifications for the head of the agency. He said the Police Department is the only agency that has some of the most restrictive regulations, qualifications for a Chief of Police then any place in the nation. Under the present qualifications to be Chief of Police even the Director of the FBI wouldn't be qualified to be the Chief of Police on Guam. He stated he was not advocating making the qualifications so restrictive that, that would fall in line with the, to be Chief of Police, however, the head of a separate customs agency should have some qualifications mandated by law and remain a uniformed classified position.

Mr. Miles said Customs should be given as expanded role, authority, and allowed the use of narcotics dogs and other more sophisticated drug detection equipment. This division has suffered from lack of funding and lack of equipment. He stated his support for the passage of Bill 529.

Customs Officer Luis L. Duenas submitted written testimony in favor of Bill 529, in his testimony Officer Duenas feels that the timing of the creation of a new and separate Department of Customs and Quarantine is perfect. Officer Duenas states "The current reorganization of the Division will aptly serve as a foundation of the basic frame work of the Department. The bill in its present form needs to be reinforce with fines as a deterrent to curb entry of contraband."

Customs Officer J.T. McDonald expressed his support for Bill 529. Officer McDonald strongly states "The Customs Officers are looking at Bill 529 as a long term plan. For too many years we have been neglected in funding and capitol outlay." He said most of the equipment and supplies for the division has come from U.S. Customs Asset Profit Sharing and grants from the Bureau of Justice. Officer McDonald further stated that because of the limited funds, Customs Officers find that they have to dig into their own pockets or use their own vehicles for daily operations. He said the focus of the Customs and Quarantine Division should not be that of a statistical agency, but rather a law enforcement division. He stated despite the current government-wide austerity program, a separate Customs agency could generate revenues for the territory through the

imposition of fines or auctions on confiscated merchandise and items. A flat fee could also be imposed for issuing clearances for vessels i.e.: shippers export declarations, bills of lading, airway bills and other custom related documentation.

Mr. Brian Wessling, Director of Airport Services Continental Micronesia stated providing Customs with additional resources and funding would more appropriately address their needs rather than separating it from the Dept. of Commerce. He said airlines now have an appeal process to challenge exceptional circumstances in customs services. If a separation is made, airlines would be faced with a duplication of expenses.

Assistant Chief of Customs, Ike Q. Peredo, also submitted written testimony stating, the majority of officers are in favor of Bill 529. The bill would provide Customs with a Director who will focus 100 percent of his time in the Administration of customs enforcement programs unlike the current system in which the Director of Commerce divides his attention between four other divisions relating to business and commerce other than the Customs Division. Officer Peredo further states, "the Customs Division has out grown the Department of Commerce and will continue to expand because of the economic prosperity." He cites the airport expansion as a way to measure the growth of Customs. By 1995, he reminded the Committee the airport will double its size allowing for an additional 30 primary and 14 secondary inspection counters that will need to be manned.

Mr. Peredo stated over the last 6 years, all of Customs budget requests for capital outlay has been denied due to budget constraints. Training requests, specifically the need for a Training Specialist has also been denied. Proposed amendments to the division's rules and regulations have yet to be acted upon. Mr. Peredo stated this situation cannot improve because of the difference in objectives between the Dept. of Commerce and the Customs division.

Speaker San Agustin stated there appears to be no apparent reason for him to debate the issue as the bill's author. With over seventy-five percent of Customs officers favoring the separation, as well as supporting testimonies from high ranking customs officers, Speaker San Agustin said this indicated a very strong condemnation of the administration of Customs under the Commerce department in itself - that leadership seems to be lacking. Speaker San Agustin said he has been studying this particular issue for more than two years and is experienced with government reorganization. i.e.: the reorganization in setting up Department of Revenue and Taxation; Department of Administration; Department of Corrections which was at one time a part of GPD of Public Safety, along with the now Guam Police Department; separating GMH from the public health agencies; and helping to create and organize the Gov Guam Civil Service Commission. He stated nearly his entire government career has been in the reorganization of Gov. Guam, where he has played a part under Gov. Guerrero, Gov. Camacho, Gov. Daniels and Gov. Flores.

Speaker San Agustin stated he has observed the administration and development of Commerce and Customs and its response to the changing needs

of the community over the years and now believes it is time for Commerce to let go. Multi-million dollar investments made to expand Guam's airport and port facilities based on the growth and anticipated needs of the community and the economy must be accompanied with a Customs division that can adequately provide inspections and support services. Speaker San Agustin further stated the expected transfer of NAS Agana to the Airport Authority, coupled with the Territory's efforts to eliminate the application of the Jones Act to Guam's shipping industry also provide for a compelling need for a separate customs agency. Airport estimates indicate by 1995, Guam can anticipate well over a million visitors. He said this will require Customs and Quarantine to become more of a law enforcement agent rather than merely a statistical gatherer of imports and exports. As front line gatekeepers, Guam needs an agency that can protect the community against the importation of disease, drugs, illegal contraband, and other goods as well as the illegal entry of passengers.

Speaker San Agustin stated Guam's customs and quarantine needs now and in the future can no longer be adequately met and administered by Commerce. Commerce can no longer continue to juggle the need to gather and produce timely statistical reports with administering to custom and quarantine services. In the same way the Territory dismantled the former Dept. of Public Safety and established the fire and police departments, he said he believed Bill 529 would allow the Territory to better respond to the community's needs.

Speaker San Agustin dismissed the Director's argument that Bill 529 would hurt the Department's ability to gather its statistics because Customs would no longer be a part of Commerce. Establishing a separate Revenue and Taxation Department did not effect the transfer and communication of information between other government departments. He said he found it more disturbing that the Guam Visitors Bureau was compelled to establish its own research department to compile visitors statistics because they were unable to get that information from the Dept. of Commerce.

Speaker San Agustin stated although he is well aware of the potential fiscal impact of establishing a new government agency, he questioned whether the Territory could afford not to implement Bill 529. He stated passage of Bill 529 would also require subsequent reforms in the operations of the Dept. of Commerce, wherein other agencies could also perhaps be consolidated, such as GEDA. Agriculture also is coming to the point that with the implementation of the Chamorro Land Trust Commission, Guam may also have to reorganize the Dept. of Agriculture as well as Land Management. Priorities need to be made based on the effectiveness of every public organization. He stated if 75 percent of an organization's workforce are forcibly lobbying for change, he believe it would then be incumbent upon the organization's administrator to either move on, have someone else take over or you let go. He stated Guam needs a strong Customs and Quarantine Division now, because it needs to sustain its growing tourist and service economy which will ultimately translate in increased passenger and cargo traffic.

Guam's customs needs have experienced tremendous growth that requires this agency to be managed and operated properly. Speaker San Agustin stated the testimonies received by the Committee clearly supports the need to implement Bill 529. He stated the testimony received by Director Barcinas has not changed from 2 years ago, nor has it provided any indication that the reorganization plan for Customs has been effective. The Legislature has provided Commerce sufficient time to correct the deficiencies at Customs and can no longer afford to delay implementing an alternative policy to improve customs and quarantine services. Speaker San Agustin stated with his experience in government reorganizing, Guam should establish a separate Customs agency.

Senator Ada stated the majority of the testimony provided clearly indicates a separation is appropriate because under the current system, there is insufficient emphasis to properly manage the Customs Division under the Dept. of Commerce. He stated Mr. Toves' testimony seems to indicate, however, that the problems that are being experienced in Customs is more of an internal problem such that by creating a separate department, the same problems may also arise. He stated notwithstanding his observation, he also believed the reorganization was necessary and recommended the Committee to support Bill 529.

Senator Camacho stated his experience in working at the Civil Service Commission he is well aware of how personnel issues and personality conflicts can adversely effect operations. He then asked how much funding under the Commerce budget is allocated for the operations of Customs and Quarantine? Director Barcinas stated just under \$2.7 million or \$2.6 plus.

Senator Camacho asked if any estimates have been made to determine what amount of money or revenues would be required to establish a new Customs and Quarantine Agency? Director Barcinas estimated over a half a million dollars would be needed to set up a separate agency, supporting a staff of Director, Deputy, Secretary, and office space in addition, to the transfer of the \$2.6 million budget allocation. A conservative total estimate for transfer and operations, it would require \$3 million to operate and run a separate Customs and Quarantine.

Senator Camacho stated customs officers have previously expressed their there was no opportunity for one to move through the ranks because of the way that the positions were established. In response, Commerce requested the Dept. of Administration to do a desk audit two years ago, to determine the duties and responsibilities of all the officers. What is the status of that audit?

Mr. Barcinas stated if Commerce had the authority to complete such an audit it would have been completed. However, the complexity of the process and priorities of DOA and the Civil Service Commission via the implementation of the Hays Study - to conduct a government wide evaluation of compensation and job descriptions in the public sector - put the request on the back burner. However, Commerce has continued to work with DOA and expects the desk audit to be forthcoming.

Senator Camacho stated many customs officers have also lobbied to receive the same pay as other employees designated as peace officers. DOA is looking at that matter, but these questions all lead to the fact that it can't be denied that through the years there's been a certain amount of frustration that's grown because they have waited for things to work through the system. Things have not occurred, many of their hopes have been dashed. Senator Camacho expressed caution to customs officers present, that a separate customs division will not resolve these problems immediately; Civil Service Commission, Department of Administration will still have to review requests for new career positions, complete desk audits, etc. He stated, however, the change may offer more hope in that a separate director would concentrate more fully on those requests and work towards getting quicker action.

Gordon Mailloux provided oral testimony in support of Bill 529. As a former senator and chairman of this committee, Mr. Mailloux stated he concurred with Speaker San Agustin that Commerce has a large responsibility aside from administering the Customs division and has considerable problems in accomplishing their goals. Their records and reports that are designed to monitor the growth of the economy are not properly updated, nor do they seem to have the proper equipment to keep up with these reports. These statistical reports are suppose to provide prospective businesses with facts and figures needed for business planning but they are not readily available at Commerce. Mr. Mailloux Bill 529 would allow customs and commerce to each concentrate on their areas of responsibility and would help each become more effective in meeting their goals. Mr. Mailloux stated past personality issues will require the appointment of a strong director. Officers under a separate customs agency will require additional training, and equipment to assist them in enforcing the customs laws.

Customs Officer II, Darlene R. Merfalen, submitted testimony stating, the reason for the on going problems and low morale of the Officers in the Customs Division is Failure to recognize the constructive capabilities of each officer which results in the lack of proper utilization of Customs personnel in their work assignments; Special preference given to a select group in duty work assignments, and off island training. The Customs Division is currently being audited by the Department of Administrations Personnel Division in conjunction with the Reorganization Plan. Established policies and procedures are vague and confusing that their implementation and application lacks consistency, uniformity, and continuity. . Regulations enforced by Guam Customs need to be deleted or amended through legislation for proper execution and enforcement. Memorandum of Understanding between Government agencies and Guam Customs needs to be revised in order to achieve effective enforcement.

Officer Merfalen stated the Reorganization Plan, expected to be implemented at the end of 1993, may resolve some of these problems. The Reorganization Plan defines the duties and responsibilities of each section and branch of the Customs Division through its functional chart, provides a complete illustration of requirements for an officer to move up the rank and pay within

the Division, and provides flexibility for growth expansion as the demand for services increases.

She stated her expectation of Bill 529 would be to afford the opportunity for Guam Customs to expand in an overwhelming rate to meet the heavy demands of our island's economic growth. It is inevitable to stop this economic progress. Customer service will increase, importation of commodities into our island will double, the expansion of our airport and seaport will require more customs service. Governor Ada Governor Joseph Ada has reassured the Guam Customs officers that Guam Customs will be his priority whether Bill 529 is passed or not. He is aware of our problems and he is supportive to several recommendations that were addressed to him.

Officer Merfalen stated she believed Bill 529 would benefit Guam Customs. because Customs needs a transition that is long overdue. However, she questioned if the transition was possible in light of the government's current financial situation. Government agencies are required by law to streamline their budget to an 8% cut. If Bill 529 is passed by the Legislature what will the customs budget be like? Will the dollar amount increase or will the budget be status quo? Officer Merfalen further stated, if Customs is separated and allowed to operate with its existing budget, then Customs services would improve under Bill 529. However, if Guam Customs is to be left out in the cold and survive each fiscal year through creative financing then Guam Customs is better off remaining with the Dept. of Commerce.

Senator Nelson asked how long has the reorganization plan been going on? Ms. Merfalen stated she was appointed as a subcommittee member for the reorganization plan in the middle of last year. Senator Nelson asked if the division's officers supported the plan? Ms. Merfalen stated the officers were not fully informed that a plan was still being formulated. The subcommittee met on a periodic basis, headed by Capt. Peredo and several other officers. Ideas were drafted, compiled and forwarded to the director and screened, then went out to the field office for comments.

Senator asked is if the governor is opposed to Bill 529, why has the situation dragged on without any improvements? He asked if the separation would resolve the personal problems that the division or the department have been facing? Director Barcinas stated he proposed using a 9 point plan as an interim solution before conducting a system wide reorganization of the division and the department as a whole was an appropriate approach in order better manage any changes needed to address the problem areas. Notwithstanding budgetary constraints to implement needed changes, the Dept. was able to get 12 additional customs positions. Two years ago, notice was given to the personnel and the public that Commerce was reorganizing the Customs division.. In order to allow full participation by customs employees, the subcommittee's efforts took considerable time.

Senator Nelson asked how would Continental be affected by Bill 529? Mr. Wessling stated although Continental has been at odds with the Customs division over the issue of overtime charges, it does not see how establishing a new