



Territory of Guam
Territorion Guam

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

JUL 18 1994

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

RECEIVED
OFFICE OF THE GOVERNOR
AGANA, GUAM

RECEIVED
OFFICE OF THE SPEAKER
DATE: 7/19/94
TIME: 1:45
RECD BY: *[Signature]*

Dear Mr. Speaker:

Transmitted herewith is Bill No. 834 , which has been designated as Public Law
No. 22-135.

Sincerely yours,

[Signature]
JOSEPH F. ADA
Governor

Attachment

220800




Commonwealth Now!

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

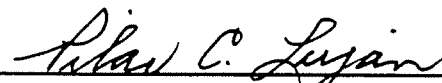
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 834 (LS), "AN ACT TO AMEND §§63801, 63802 AND 63803 OF TITLE 5, GUAM CODE ANNOTATED, TO CHANGE THE AGRICULTURAL BOARD OF COMMISSIONERS FROM AN ADVISORY BOARD TO AN ACTIVE POLICY-DETERMINING BODY," returned to the Legislature without approval of the Governor, was reconsidered by the Legislature and after such reconsideration, the Legislature did, on the 6th day of July, 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 nineteen (19) members.




JOE T. SAN AGUSTIN
Speaker

Attested:



PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 12th day of July,
1994, at 2:20 o'clock P.M.



Assistant Staff Officer
Governor's Office

Public Law No. 22-135

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No. 834 (LS)

As substituted by the Committee on
Economic-Agricultural Development
and Insurance and as further substituted
by the Committee on Rules

Introduced by:

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

AN ACT TO AMEND §§63801, 63802 AND 63803 OF
TITLE 5, GUAM CODE ANNOTATED, TO CHANGE
THE AGRICULTURAL BOARD OF COMMISSIONERS
FROM AN ADVISORY BOARD TO AN ACTIVE POLICY-
DETERMINING BODY.

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

1 **Section 1. Legislative findings.** The nine-member Agricultural Board
2 of Commissioners (the "Board") was established under Public Law 20-176,
3 which law provides the Board with a wide range of duties and
4 responsibilities, including the conservation, development, and utilization of
5 agricultural resources in Guam, and the assistance of farmers and others
6 engaged in agriculture, mariculture and aquaculture by conducting research
7 projects, disseminating information, operating a crop and livestock reporting
8 service and a market news service, and promoting any other means of
9 improving the productivity of the lands. However, under the law, the Board
10 merely serves as an **advisory** body whose authority is limited to making
11 suggestions and recommendations to the Director of Agriculture. The
12 Legislature finds it necessary to amend the law to provide the Board with
13 policy-making authority.

14 **Section 2.** Subsection (b) of §63801, Title 5, Guam Code Annotated, is
15 repealed and reenacted to read:

16 (b) "Bona fide farmer" means a person who is registered with
17 the Department of Agriculture and grows for commercial purposes
18 fruits, vegetables, ornamental plants, livestock, aquacultural
19 products, or similar products."

20 **Section 3.** Subsections (c) and (d) are hereby added to §63801, Title 5,
21 Guam Code Annotated, to read:

22 (c) "Northern Agricultural District" means the farming area
23 consisting of Agaña Heights, Barrigada, Chalan Pago/Ordot,
24 Dededo, Maina, Mangilao, Sinajaña, Tamuning/Tumon,
25 Toto/Mongmong, and Yigo.

26 (d) "Southern Agricultural District" means the farming area
27 consisting of Agat, Inarajan, Malojloj, Merizo, Piti, Santa Rita,
28 Talofof, Umatac, and Yoña."

1 **Section 4.** §63802 of Title 5, Guam Code Annotated, is amended to
2 read:

3 **"§63802. Establishment of Board.** There is established an
4 Agricultural Board of Commissioners composed of nine (9) members
5 who shall be appointed by the Governor subject to the advice and
6 consent of the Legislature. The Governor shall appoint six (6) bona
7 fide farmers, as defined in §63801 of this Article, consisting of three
8 (3) bona fide farmers from the Northern Agricultural District and
9 three (3) bona fide farmers from the Southern Agricultural District,
10 and three (3) representatives from the private business community to
11 serve as the members of the Board."

12 **Section 5.** Subsections (d), (f), and (h) of §63803, Title 5, Guam Code
13 Annotated, are amended to read:

14 "(d) The Board shall be the governing and policy determining
15 body of the Department.

16 (f) The Board shall work with the Director of Agriculture
17 toward the planning and implementation of all agricultural
18 programs.

19 (h) The Director of Agriculture shall serve as the Executive
20 Officer of the Board with the following authority and
21 responsibilities:

22 (1) To attend all meetings of the Board and submit a
23 general report of the affairs of the Department; and

24 (2) To keep the Board advised as to the needs of the
25 Department;

26 **Section 6.** Subsection (i), (j), and (k) are hereby added to §63803, Title 5,
27 Guam Code Annotated, to read:

1 "(i) The Director of Agriculture shall be responsible for the
2 day-to-day operation of the Department of Agriculture and other
3 related duties which include:

4 (1) To administer the Department's programs and
5 policies;

6 (2) To see that all rules and regulations of the Department
7 are enforced; and

8 (3) To select and appoint the employees of the
9 Department except as otherwise provided by law and to plan,
10 organize, coordinate and control the services of such
11 employees in the exercise of the power of the Department
12 under the general direction of the Board; and

13 (j) The Board shall adopt and promulgate reasonable rules
14 and regulations in accordance with the Administrative Adjudication
15 Law, (i) for its own government and (ii) for the purpose of carrying
16 out all other duties, powers, and responsibilities herein conferred.

17 (k) All rules and regulations adopted by the Board pursuant to
18 this section shall be published and distributed to all village mayor's
19 offices, the Department of Agriculture, the Governor's Office and
20 the Legislature."

21 **Section 7. Grandfather provision.** Notwithstanding the provisions of
22 Section 4 of this Act, those members of the Agricultural Board of
23 Commissioners (the "Board") who were duly appointed thereto prior to the
24 enactment of this Act shall remain in office until their terms expire or until
25 they die or resign. All appointments to fill vacancies on the Board shall be in
26 accord with Section 4.

Overridden

TWENTY-SECOND GUAM LEGISLATURE

1993 (FIRST) Regular Session

Date: 7/6/94

VOTING SHEET (AS REVISED)

Vote
Bill No. 834

Resolution No. _____

Question: "Shall Bill 834 be enacted into law
Notwithstanding Governor's objection?"

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

19 1 1 0



Territory of Guam
Territorio Guam

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

Voting File
Wesley
7/6/94
**REFER TO
LEGISLATIVE SECRETARY**

MAY 31 1994

The Honorable Joe T. San Agustin
Speaker, 22nd Guam Legislature
155 Hesler Street
Agana, Guam 96910

RECEIVED
OFFICE OF THE SPEAKER
DATE: 5/31/94
TIME: 5:10
RECD BY: Wesley

Dear Mr. Speaker:

Enclosed herewith is Substitute Bill 834 which I have vetoed in its entirety.

Rather than assisting the Department of Agriculture in fulfilling its program responsibilities, this measure hampers it. For a department to run well, the lines of authority must be clearly set forth. This measure confuses the roles of the Director and of the Board.

In Section 5, the role of the Board is changed from policy-making primarily in the area of agricultural programs to the "governing and policy determining body". Yet, in Subsection (f) it appears the major work of the Board is in planning and implementing all agricultural programs.

The responsibilities of the Department of Agriculture have expanded far beyond its original agricultural programs. The Department's Division of Aquatic and Wildlife manages research projects such as restoration of endangered species and control of the brown tree snake. In addition, this division must enforce various laws which protect our aquatic life and wildlife. There are other non-agricultural divisions: forestry and quarantine and inspection. In addition, the Department enforces some wetlands requirements and makes recommendations on development projects to the Territorial Seashore Protections Commission. What is the Board's role in these technical areas?

The Board has been successful in its advisory role on agricultural programs. Rather than create confusion and muddle lines of authority, let us leave the Department and Board as they presently exist.

As a further note, Mr. Speaker, we really should be looking at streamlining this department, as well as others, to help address efficiency and accountability in government.

Sincerely,

FRANK F. BLAS
Governor,
Acting

220731

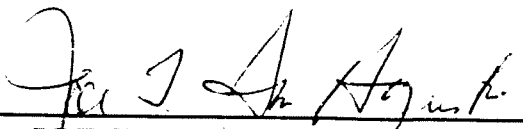


Commonwealth Now!

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

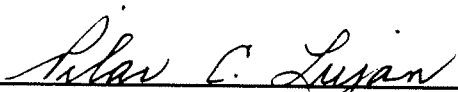
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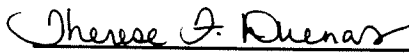
JOE T. SAN AGUSTIN
Speaker

Attested:



PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 19th day of May,
1994, at 3:03 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:

VETO

FRANK F. BLAS
Governor of Guam
Acting

Date: _____

Public Law No. _____

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No. 834 (LS)

As substituted by the Committee on
Economic-Agricultural Development
and Insurance and as further substituted
by the Committee on Rules

Introduced by:

V. C. Pangelinan
M. D. A. Manibusan
T. S. Nelson
T. C. Ada
J. P. Aguon
E. P. Arriola
M. Z. Bordallo
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7 projects, disseminating information, operating a crop and livestock reporting
8 service and a market news service, and promoting any other means of
9 improving the productivity of the lands. However, under the law, the Board
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11 suggestions and recommendations to the Director of Agriculture. The
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23 offices, the Department of Agriculture, the Governor's Office and
24 the Legislature."

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26 Section 4 of this Act, those members of the Agricultural Board of
27 Commissioners (the "Board") who were duly appointed thereto prior to the

1 enactment of this Act shall remain in office until their terms expire or until
2 they die or resign. All appointments to fill vacancies on the Board shall be in
3 accord with Section 4.

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

Date: 5/13/94
Approved by the Commission on the 5/13/94

Bill No. 834 - Passage
Resolution No. _____
Question: _____

VOTING SHEET
(AS REVISED)

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 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 20 0 0 1

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

9 May 1994

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

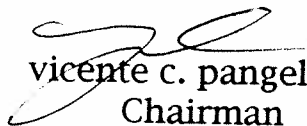
Dear Mr. Speaker,

The Committee on Economic-Agricultural Development and Insurance, to which was referred Bill 834 wishes to report back to the Legislature with its recommendation **TO DO PASS** as substituted by the Committee. The voting record is as follows:

TO PASS	7
NOT TO PASS	0
ABSTAIN	0
TO PLACE IN INACTIVE FILE	0

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

Sincerely,


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

May 4, 1994

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 834. 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.



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 834 • AN ACT TO AMEND §§63801, 63802, and 63803 OF TITLE 5, GUAM CODE ANNOTATED, TO CHANGE THE AGRICULTURAL BOARD OF COMMISSIONERS FROM AN ADVISORY BOARD TO AN ACTIVE POLICY-DETERMINING BODY.

Committee Members	Initial	To Pass	Not to Pass	Abstain	To Place Inactive File
V.C. Pangelinan	✓	✓	_____	_____	_____
T.C. Ada	✓	✓	_____	_____	_____
A.C. Blaz	✓	✓	_____	_____	_____
F.P. Camacho	_____	_____	_____	_____	_____
H.D. Dierking	✓	✓	_____	_____	_____
P.C. Lujan	_____	_____	_____	_____	_____
M.D.A. Manibusan	_____	_____	_____	_____	_____
T. Nelson	✓	✓	_____	_____	_____
E.D. Reyes	✓	✓	_____	_____	_____
J.T. San Agustin	_____	_____	_____	_____	_____
F.E. Santos	✓	✓	_____	_____	_____
T.V.C. Tanaka	_____	_____	_____	_____	_____

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No. 834 (LS)

As substituted by the Committee on
Economic-Agricultural Development
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Introduced by:

V. C. Pangelinan
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8 who shall be appointed by the Governor subject to the advice and
9 consent of the Legislature. ~~[No less than six (6)]~~ The Governor shall
10 appoint six (6) [commercial] bona fide farmers, as defined in §63801
11 of this Article, consisting of three (3) bona fide farmers from the
12 Northern Agricultural District and three (3) bona fide farmers from
13 the Southern Agricultural District, and three (3) representatives
14 from the private business community [shall be] to serve as the
15 members of the Board. [The Governor shall appoint such members
16 to the Board from the various crop and livestock farm cooperatives
17 of Guam.]"

18 Section 5. Subsections (d), (f), and (h) of §63803, Title 5, Guam Code
19 Annotated, are amended to read:

20 "(d) The Board shall ~~[have the power to review and make~~
21 ~~recommendations regarding agricultural zoning, pest control, an~~
22 ~~agricultural development plan, agricultural loans and related~~
23 ~~matters]~~ be the governing and policy determining body of the
24 Department.

25 (f) The Board shall work with the Director of Agriculture
26 toward the planning and implementation of all agricultural
27 programs.

1 (h) The Director of Agriculture shall serve as the Executive
2 Officer of the Board with the following authority and
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20 employees in the exercise of the power of the Department
21 under the general direction of the Board; and

22 (j) The Board shall adopt and promulgate reasonable rules
23 and regulations in accordance with the Administrative Adjudication
24 Law, (i) for its own government and (ii) for the purpose of carrying
25 out all other duties, powers, and responsibilities herein conferred.

26 (k) All rules and regulations adopted by the Board pursuant to
27 this section shall be published and distributed to all village mayor's

1 offices, the Department of Agriculture, the Governor's Office and
2 the Legislature."

3 **Section 7. Grandfather provision.** Notwithstanding the provisions of
4 Section 4 of this Act, those members of the Agricultural Board of
5 Commissioners (the "Board") who were duly appointed thereto prior to the
6 enactment of this Act shall remain in office until their terms expire or until
7 they die or resign. All appointments to fill vacancies on the Board shall be in
8 accord with Section 4.

THE COMMITTEE ON ECONOMIC-AGRICULTURAL DEVELOPMENT &
INSURANCE
Committee Report
on

Bill 834

- AN ACT TO AMEND §§63801, 63802, and 63803 OF TITLE 5, GUAM CODE ANNOTATED, TO CHANGE THE AGRICULTURAL BOARD OF COMMISSIONERS FROM AN ADVISORY BOARD TO AN ACTIVE POLICY-DETERMINING BODY.

I. OVERVIEW

The Committee on Economic-Agricultural Development and Insurance having jurisdiction on matters concerning agricultural development, oversight responsibilities over the Department of Agriculture, and been referred Bill 834, conducted a public hearing on February 8, 1994. Chairman, Vicente C. Pangelinan presided and the following members were present: Vice-Chairman Tom Ada, and Sens. Ted Nelson and Marilyn Manibusan. Subsequently, a mark-up hearing was held on April 28, 1994 in which the following members were present: Chairman Vicente C. Pangelinan, Vice-Chairman Tom Ada and Sens. Herminia Dierking, Pilar Lujan, Felix Camacho, and Thomas Tanaka.

A. Background. The nine-member Agricultural Board of Commissioners was established on May 18, 1990 under Public Law 20-176. The Board is charged with a wide range of duties and responsibilities including the conservation, development, and utilization of agricultural resources in Guam, and assisting farmers and others engaged in agriculture, mariculture and aquaculture by conducting research projects, disseminating information, operating a crop and livestock reporting service and a market news service, and by promoting any other means of improving the productivity of the lands. Under PL 20-176, the Board serves in an advisory position whose duties are limited to making suggestions and recommendations to the Director of the Department of Agriculture. Bill 834 seeks to amend the law to provide the Agricultural Board of Commissioners with oversight authority on agricultural policy.

II. SUMMARY OF TESTIMONY

A. From oral testimonies submitted before the Committee

Benny San Nicolas, chairman of the Southern Soil and Water Conservation District, testified in favor of the bill stating that the Department of Agriculture should be held more accountable to the people that they were set up to serve. He added that in the future the Board members should be elected by the farmers rather than being appointed by the Governor.

Rita Santos Cruz, a farmer from the southern region, testified that she is very much in favor of the bill and suggested that the Board should have better representation by including members from all sectors of the agricultural industry.

Dale Murphy, a farmer, conveyed some of his thought on what the general concerns and needs are of the local farming communities. He stated that many farmers feel that there is a general lack of support from the government and that there needs to be a change in the way the Department of Agriculture allocates its resources. He expressed strong concern over the fact that only a small percentage of the Department's total budget is being used to directly assist the farmers. He added that the needs of the small farmers need to be address by a Board that has some authority over the Department's policies and programs. He reaffirmed his support for bill 834 stating that the government should try something new and that a change is needed at the Department to improve its services to the farmers.

Dr. Jeff Barcinas, associate dean of cooperative extension at UOG/CALS, stated that he is not testifying for or against the bill 834 but provided some general comments on the bill and the present structure of the Agricultural Board of Commissioners. He acknowledged that the under the current structure of the government, Board of Commissioners is not taken seriously and that it is not utilized to its full potential. He added that the Board can play an important role in assisting the farming communities and in developing the agriculture industry in the territory.. He emphasized though that the Board should be careful as to not overstep beyond their role and to usurp the Director's day-to-day management role.

Sen. Thomas Tanaka reiterated Dr. Barcinas' concern over the role of the Board and suggested that the day-to-day management of the Department should be carried out by the Director and that it should not fall under the role of the Board. He also recommended that the Board establish

its official policies for the agriculture industry on Guam as to prioritize the areas of need and to provide a mission statement to request the Department to focus on those priorities.

Jose Manibusan, Director of Department of Agriculture, stated that in his review of the bill, he finds it in-"Organic". He went on to state that if it is the intent of the bill to have the Department of Agriculture become a public corporation, it should state so and that it should provide him with the funding, authority and everything else. He stated the board is currently acting in an advisory capacity and it is a very essential part of the Department's program to have the farmers involved in reviewing programs and advising the Department on their needs and recommended changes.

Sen. Manibusan questioned whether the Department of Agriculture's contention that Bill 834 is in-"Organic" is based on the idea that the bill usurps the Governor's authority over the Department and that the bill would be vetoed. She also stated that it's probably not the intent of the bill to usurp the authority of the Governor and that its intent is to see how the Department can be proactive and be a very viable instrumentality of the government without having to be under the so called "ceiling" of the government.

She went on to state that the legislature needs to address the difference between a line department and a autonomous agency and whether it would be "Organic" to give that kind of maximum power to empower the board. She further stated that it is not the consensus of both the authors of the bill to have members of the board who are in effect having 50 acres of land being leased from the Department of Agriculture, just like it would be very improper for a board member of GTA to have his company to be the winner of a bid for automobiles. She added that she does not want anyone to think that we are trying to usurp the power of the Governor or that we don't have faith and trust in the Department but the bill intends to say we want to equip you with every human resources, with every other resources available and empower our board to help the Department.

Sen. Nelson stated that a very similar objection was raised by Director Quitugua during several of the meetings that were held prior to the passage of the original bill which subsequently became P.L. 20-176, which established the Agricultural Board of Commissioners. Sen. Nelson recounted that Director Quitugua wrote a letter to the Attorney General trying to get P.L. 20-176 null and void on the grounds that it was in-

"Organic" but apparently the AG ruled against him. He further stated that in spite of the objection of the Director, the Governor went ahead and signed it into law. He went on to state that the appointing authority, the Governor, and the powers and duties of the board is very specific and that there is no question about it. He added that it has been tried already, it's there now and that we have been implementing this law since 1990, four years ago. Sen. Nelson concluded by stating that by establishing this board and giving them the power will enable the farmers to be more responsible and to better express their interests and ideas.

Chairman Pangelinan stated that the introduction of bill 834 is in no way a reflection of his confidence on the Director's ability to be able to manage the Department of Agriculture nor is it a lack of confidence in the Director's ability to work with the farmers. He continued by stating that what we are trying to do is to set a policy direction that will transcend directorships and personnel at the Department and to set a philosophical approach towards how the farmers are to be represented in the management of resources at the Department. The Chairman went on to explain that in discussions with the farmers as well as with some members of the Department under Director Quitugua's leadership, the situation with regards to the advisory capacity of the board members was not adequate and that the advice of the farmers were not heeded by the management under the directorship of the Department.

He further stated that the intent of the bill is to give some authority to the board in terms of managing , planning and implemenating of policies of the Department to ensure that the programs at the Department meet the needs of the farmers and that the resources flow directly to the farmers. He reiterated that this is in no way a reflection of his confidence and the confidence of the Committee in the Director's ability to work and cooperate with the farmers in making sure that the farmers get the services that they deserve from the Department. The Chairman concluded by stating that it is terms of looking into the future, looking past ourselves, to the next people that will come and the next Chairman and Director that this bill was introduced -- to ensure that we continue to be able to give the farmers the services and resources that they deserve.

B. From written testimony submitted to the Committee.

Jose Manibusan, Director of the Department of Agriculture, stated that the purpose and intent of the bill may be commendable but, it is contrary to the Organic Act of Guam and that the Department of

Agriculture is a line Department under the direct supervision of the Governor of Guam. He also stated that, as written, bill 834 would provide the mechanisms for the establishment of an autonomous agency and that the Agricultural Board of Commissioners would have direct supervision over the Director of Agriculture, displacing the Governor of Guam's authority under the Organic Act of Guam. He further objected by stating that the authority of the Director would change from being responsible for the Department to that of an Executive Director, functioning at the direction of Board. The Director added that both the Board and the Department should work together when planning agricultural programs and has no objection to serving as the Executive Officer of the Board.

Charles Crisostomo, Administrator of the Guam Economic Development Authority, expressed the Authority's full support for bill 834 and stated that the bill would be a vehicle to support the objectives of GEDA and the Department of Agriculture -- to provide more responsive government interaction with the agriculture industry on Guam. He further stated that the bill would create a fair representation of people involved in the agricultural business and provide practical guidance to the Department and the public. In addition, he stated that the bill would empower the Board to have a more vital and important role in creating programs to assist farmers.

Joaquin Naputi, a farmer from the village of Malesso, wrote in favor of the bill and suggested that the bill go further to amend the make-up of the Board. He stated that a more equitable representation is needed on the Board from the various sectors of the agriculture industry including the financial institutions, aquaculture farmers, ornamental growers, livestock farmers, fruit tree growers, and truck farmers. He argued that by having the various sectors of the agricultural industry well represented, the interests of the whole industry will be better addressed. He added that based on his experience, people in the industry know best what is good for the industry and that we need them to set policies and govern the direction of the industry. He closed by stating that bill 834 would shape the industry and make agriculture a major contributor to the economy.

III. FINDINGS AND RECOMMENDATIONS

The Committee finds it necessary to change the Board of Agricultural Commissioners from an advisory board to an active policy-determining body. Presently, the Board's authority is limited to making suggestions and recommendations to the Director of Agriculture. This limitation has

seriously undermined the effectiveness of the Board in providing input to the Department of Agriculture that is representative of the views and more importantly, the needs of Guam's farming community. The lack of an effective means of getting the industry's input in the Department's policy-making process has resulted in policies being implemented without much regard to the industry's concerns. As an active policy-determining body, the Board will have the authority to guide the Department of Agriculture in setting policy directions that will directly benefit the members of the agriculture industry. The Board will be able to set policies that would reflect the needs and concerns of the industry.

The Committee also finds that it is necessary to change the make-up of the Board to allow a more equitable representation of the farming communities on island as well as to include representation from the business community. By dividing the island into two farming districts and having equal membership from each district, it would ensure that the Board has a geographic representation of the island's farming communities. Furthermore, the Committee finds it necessary to expand membership on the Board to include representatives from the private business community in order to better address the financial and marketing needs of the industry. These changes are necessary to achieve the Territory's long-term agricultural policy goals and to help improve the commercial viability of the industry.

The Committee further finds that it is necessary to change the eligibility requirement for membership to the Board by replacing the term, "commercial farmer", with "bona fide farmer". Presently, the only persons allowed to serve as members on the Board are "commercial farmers" who by definition are required to have no less than 95% of their income derived from farming, and (1) whose gross farm income from crops and livestock is at least \$5,000 per annum or (2) who have made substantial investment toward the immediate realization of at least \$5,000 gross income per annum from farming. This definition severely restricts the number of competently knowledgeable and experienced individuals that the Governor could potentially appoint and does not reflect a realistic view of the majority of farmers who make-up the island's farming community. "Bona fide farmer" defined as, "a person who is registered with the Department of Agriculture and commercially grows fruits, vegetables, ornamentals, livestock, aquacultural products, and/or similar products for profit" would be a better representation of majority of the farmers on Guam and would allow greater number of farmers to become eligible for the appointment as a member of the Board.

The Committee does hereby wish to report Bill 834 out of Committee with a recommendation TO DO PASS as substituted.



February 7, 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

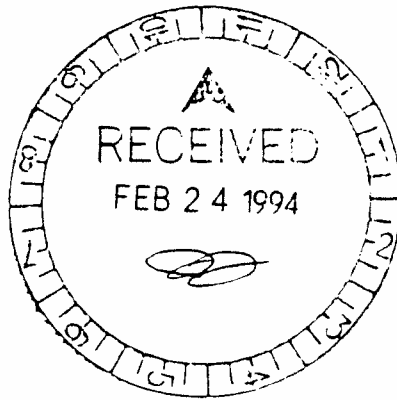
Youth, Senior
Citizens and
Cultural Affairs

TO: Chairperson, Committee on Economic-Agricultural
Development and Insurance

FROM: Chairperson, Committee on Rules

SUBJECT: Referral - Bill No. 834

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
HERMINIA D. DIERKING

Attachment

TWENTY SECOND GUAM LEGISLATURE
(FIRST) REGULAR SESSION

BILL NO. 834
Introduced by:

V.C. Pangelinan
M.D.A. Manibus

AN ACT TO AMEND CERTAIN SECTIONS OF ARTICLE I,
CHAPTER I OF TITLE XIII OF THE GOVERNMENT CODE
RELATING TO THE AGRICULTURAL BOARD OF
COMMISSIONERS.

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

1 SECTION 1. Subsections (d), (f), and (h) of §12003 of Article I,
2 Chapter I of Title XIII of the Guam Code is amended to read:

3 "(d) The Board shall ~~[have the power to review and make~~
4 ~~recommendations regarding agricultural zoning, pest control, an~~
5 ~~agricultural development plan, agricultural loans, and related matters.]~~ be
6 the governing and policy determining body of the Department.

7 (f) The Board shall work with the Director of Agriculture
8 toward the planning and implementation of all agricultural programs.

9 (h) The Director of Agriculture shall serve as the Executive
10 Officer of the Board with the following authority and responsibility:

11 (1) To see that all rules and regulations of the
12 Department are enforced;

13 (2) To attend all meetings of the Board and submit a
14 general report of the affairs of the Department;

15 (3) To keep the Board advised as to the needs of the
16 Department;

17 (4) To select and appoint the employees of the
18 Department except as otherwise provided by law and to plan, organize,
19 coordinate and control the services of such employees in the exercise of

1 the power of the Department under the general direction of the Board;
2 and

3 (5) To perform such other additional duties as the Board
4 may require.

5 SECTION 4 New subsections (i), (j), and (k) are hereby added to
6 §12003 of Article I, Chapter I of Title XIII of the Government Code:

7 "(i) The Board shall adopt reasonable rules and regulations,
8 not inconsistent with the laws of the United States and Territory (a) for its
9 own government, (b) for the government of the Department of
10 Agriculture, and (c) for the purpose of carrying out all other duties,
11 powers, and responsibilities herein conferred.

12 (j) All rules and regulations adopted by the Board pursuant to
13 this Section shall be published and distributed to all village mayor's
14 offices, the Department of Agriculture, the Governor's Office and the
15 Legislature.

16 (k) The Board shall hear all appeals from commercial farmers
17 who have been denied compensation under the Crop Compensation
18 Program."

;

February 3, 1994


Senator Vicente Pangelinan
Chairman, Committee on Economic Development
Agriculture and Banking
22nd Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Chairman:

I am submitting written testimony as a farmer from the village of Malesso. I am in favor of Bill 834 but I recommend that the Bill go further to amend the makeup of the Board. We need representation from the financial institution, we need representation for aquaculture, ornamentals, livestock, fruit tree growers, truck farming. This will provide equity representation and a greater understanding of the needs of each agricultural sector. Bill No. 834 proposed to give the Board policy and governing responsibilities. If the agricultural industry is well represented, then the interest of the whole industry will be addressed. Presently, that is not the case.

People from the industry knows best what is good for the industry. We need them to set policy and governing direction. In 1987, as the Director of Agriculture, without statutory authority, I solicited the assistance of all the cooperatives on Guam to advise me on matters affecting the industry. Surprisingly enough, it was at this time frame that the industry was highly visible. Why? The answer was simple. Programs being implemented are those set forth by each sector of the industry. This gave me the insights which otherwise will be lacking to make good wise decisions. Bill 834, based on my experience, will shape the industry and make agriculture a major contribution to our economy. We need people with the foresights, with insights, with the experience in the industry to move ahead. Bill 834 when amended will accomplish that.

Thank you for the opportunity to comment on Bill 834.


JOAQUIN N. NAPUTI
P.O. Box 24097
GMF, Guam 96921

TESTIMONY

ON BILL NO. 834 AN ACT TO AMEND CERTAIN SECTIONS OF TITLE V, SECTION 63801, SECTION 63802, AND SECTION 63803 OF THE GUAM CODE ANNOTATED TO REDEFINE THE ROLE OF THE AGRICULTURAL BOARD OF COMMISSIONER FROM AN ADVISORY POSITION TO AN ACTIVE POLICY DETERMINING BODY.

GOOD MORNING MR. CHAIRMAN; ESTEEMED MEMBERS OF THE COMMITTEE ON ECONOMIC-AGRICULTURE DEVELOPMENT AND INSURANCE; LADIES AND GENTLEMAN; MY NAME IS CHARLES P. CRISOSTOMO, ADMINISTRATOR OF THE GUAM ECONOMIC DEVELOPMENT AUTHORITY. I AM HERE TODAY TO SUBMIT TESTIMONY ON BILL 834, AN ACT TO AMEND CERTAIN SECTIONS OF TITLE V OF THE GUAM CODE ANNOTATED TO REDEFINE THE ROLE OF THE AGRICULTURAL BOARD OF COMMISSIONER FROM AN ADVISORY POSITION TO AN ACTIVE POLICY DETERMINING BODY.

THE GUAM ECONOMIC DEVELOPMENT AUTHORITY FULLY SUPPORTS THE AMENDMENTS TO SECTIONS OF THE GUAM CODE ANNOTATED TO REDEFINE THE ROLE OF THE AGRICULTURAL BOARD OF COMMISSIONER FROM AN ADVISORY POSITION TO AN ACTIVE POLICY DETERMINING BODY. LIKE THE DEPARTMENT OF AGRICULTURE, GEDA ASSISTS FARMERS WITH FINANCIAL ASSISTANCE. WE BELIEVE THIS BILL WOULD PROVIDE FOR A MORE RESPONSIVE GOVERNMENT INTERACTION WITH THE AGRICULTURAL INDUSTRY OF GUAM. THUS TO ASSIST TO FACILITATE THE PROCESSES AND PROCEDURES WITHIN THE DEPARTMENT OF AGRICULTURE, THIS BILL WOULD BE A VEHICLE TO SUPPORT SUCH OBJECTIVE. FURTHER, THIS BILL WOULD CREATE A FAIR REPRESENTATION OF PEOPLE INVOLVED IN AGRICULTURAL BUSINESS AND PROVIDE PRACTICAL GUIDANCE TO

THE DEPARTMENT OF AGRICULTURE AND THE PUBLIC. AS THIS BILL WOULD EMPOWER THE AGRICULTURAL BOARD OF COMMISSIONERS TO BE THE GOVERNING AND POLICY DETERMINING BODY OF THE DEPARTMENT OF AGRICULTURE, SUCH BOARD WOULD HAVE A MORE VITAL AND IMPORTANT ROLE IN CREATING PROGRAMS TO ASSIST FARMERS.

GEDA REMAINS COMMITTED TO WORK WITH THIS COMMITTEE, OTHER DEPARTMENTS AND FARM ORGANIZATIONS IN SUPPORT OF AN EXPANDED AGRICULTURAL INDUSTRY ON GUAM. THANK YOU FOR THIS OPPORTUNITY TO PROVIDE THE AUTHORITY'S COMMENTS ON BILL 834.

A handwritten signature in black ink, appearing to read 'Charles P. Crisostomo', with a stylized flourish at the end.

CHARLES P. CRISOSTOMO
Administrator

February 3, 1994


Senator Vicente Pangelinan
Chairman, Committee on Economic Development
Agriculture and Banking
22nd Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Chairman:

I am submitting written testimony as a farmer from the village of Malessso. I am in favor of Bill 834 but I recommend that the Bill go further to amend the makeup of the Board. We need representation from the financial institution, we need representation for aquaculture, ornamentals, livestock, fruit tree growers, truck farming. This will provide equity representation and a greater understanding of the needs of each agricultural sector. Bill No. 834 proposed to give the Board policy and governing responsibilities. If the agricultural industry is well represented, then the interest of the whole industry will be addressed. Presently, that is not the case.

People from the industry knows best what is good for the industry. We need them to set policy and governing direction. In 1987, as the Director of Agriculture, without statutory authority, I solicited the assistance of all the cooperatives on Guam to advise me on matters affecting the industry. Surprisingly enough, it was at this time frame that the industry was highly visible. Why? The answer was simple. Programs being implemented are those set forth by each sector of the industry. This gave me the insights which otherwise will be lacking to make good wise decisions. Bill 834, based on my experience, will shape the industry and make agriculture a major contribution to our economy. We need people with the foresight's, with insights, with the experience in the industry to move ahead. Bill 834 when amended will accomplish that.

Thank you for the opportunity to comment on Bill 834.


JOAQUIN N. NAPUTI
P.O. Box 24097
GMF, Guam 96921

TESTIMONY

on

Bill No. 834

JOSE A.E. MANIBUSAN
Director (Acting), Department of Agriculture

Committee
on
Economic-Agricultural Development and Insurance

22nd Guam Legislature

February 8, 1994

*Testimony on Bill No. 834
Jose A. E. Manibusan
Director (Acting)
Department of Agriculture
February 8, 1994*

Good Morning, Mr. Chairman and Honorable Committee Members. I am here to present my testimony on Bill No. 834.

Bill No. 834 seeks to amend Subsections (d), (f), and (h), and to add new Subsections (i), (j), and (k) of §12003 of Article I, Chapter I of Title XIII of the Government Code of Guam, now codified at Title 5 GCA §63803.

The purpose and intent of the bill may be commendable but, it is contrary to the Organic Act of Guam. The Department of Agriculture is a line Department under the direct supervision of the Governor of Guam.

As written, Bill No. 834 would provide the mechanisms for the establishment of an autonomous agency. The Agricultural Board of Commissioners would have direct supervision of the Director of Agriculture, displacing the Governor of Guam's authority under the Organic Act of Guam. The amended subsection (h) would change the Director of Agriculture's authority from being responsible for the Department to that of an Executive Director, functioning at the direction of the Board.

Let me delineate my objections section by section.

Section 1 (d)

For the reason above, the Department is controlled by the Governor -- It is not an autonomous agency or a public corporation. Thus, the Agricultural Board cannot govern and determine policy for the Department as other Boards do who are mandated to appoint its Executive Managers, General Managers, etc. -- who in turn, are answerable to its Boards.

Section 1 (f)

I have no objection to including the word planning which is the reason for amending this section. I feel that both the Agricultural Board and the Department should work together when planning agricultural programs.

Section 1 (h)

I have no objections to serving as the Executive Officer of the Board. I realize that when serving as one, I am responsible for attending the meetings. What I do object to, is the Board giving the Department "the authority and responsibility to see that all rules and regulations of the Department are enforced," when this is already clearly stated in the Department's mandates. Since the Department's creation, and as found in current law, the Department is already authorized to formulate rules and regulations with respect to certain activities and programs it conducts. Along with this, the Department was given the enforcement powers and has since been exercising it.

In regards to selecting and appointing the employees, the Department does not stray or deviate from the provisions on selecting employees which is governed in Title 4 GCA Public Officers and Employees.

Section 4 (i), (j), (k)

These new Subsection (i), (j), and (k), usurps the authority of the Director of Agriculture. These Subsections grant policy making authority to the Board of Commissioners displacing the Governor's authority under the Organic Act of Guam.

The new Subsection (k), provides the potential for a direct conflict of interest by the Agricultural Board of Commissioners in that the Board may be hearing their own appeals. Even if a board member was to excuse himself or herself from acting on his or her own appeal, there is that appearance of impropriety. I would recommend that any appeals body created be comprised of non-farmer members.

Thank you for providing me the opportunity to testify on this bill.

NUMBER OF FARMERS BY VILLAGES

NORTHERN

Agana Heights	- 4
Barrigada	20
Chalan Pago/Ordot	- 8
Dededo	118
Maina	- 1
Mangilao	408
Sinajana	- 6
Tamuning/Tumon	- 4
Toto/Mongmong	- 7
Yigo	170
Total	278

SOUTHERN

Agat	- 28
Inarajan	49
Malojloj	- 14
Merizo	69
Piti	- 9
Santa Rita	- 17
Talofono	89
Umatac	- 8
Yona	- 47
Total	330

278

330

Grand Total 608 Farmers

**AGRICULTURAL BOARD
OF COMMISSIONERS**

NAME	VILLAGE	EXPIRE
MARIQUITA TAITAGUE	Yona	8/9/94
VICENTE CRISOSTOMO	Inarajan	8/9/94
FELIX P. QUAN	Dededo	8/9/96
GEORGE S. PANGELINAN	Yigo	8/9/96
RAMON A. TORRES	Yigo	8/9/96
LUIS PAULINO	Malojloj	5/14/99
RAMON SAN AGUSTIN	Dededo	5/14/99
JESUS F. TERLAJE	Dededo	5/14/99
VACANT		

Trade firms blast Japan on imports

TOKYO (ASAHI NEWS SERVICE) — Trading companies criticized Japan's Food Agency for turning down their requests to import rice last month, the Asahi Shimbun, a leading Japanese newspaper, learned over the weekend.

The Food Agency rejected more than 10 applications from trading companies to import grains such as rice and wheat submitted during a 10-day period starting March 1, the companies said.

The agency has not explained exactly why the requests were rejected, but some applicants said it was protecting the interests of companies already authorized to import grains, at a time when grain trade is becoming more lucrative because of the partial opening of the rice market.

The agency said only that the rejections were handed down on the basis of "internal regulations."

Currently, 26 companies are authorized to import wheat and

"The reviewing of applications was over when I assumed my post, but I am confident that there was no arbitration and there is a legitimate reason."

— KYUZO SAITO
chief of the Food Agency's Import Division

20 companies can import rice. Most are large trading houses, such as Mitsubishi Corp. and Mitsui & Co.

The ongoing system, under which grain imports are limited to a handful of registered trading companies, was instituted in the 1950s when large quantities of rice were imported to cope with the postwar food shortage.

In the late 1960s, as Japan became self-sufficient in rice production, imports dropped to little more than that used in certain alcoholic beverages.

There have been few applications in recent years because newcomers were shut out, but anticipating more trade follow-

ing the opening of the rice market under the Uruguay Round of trade talks, the number of applications grew.

"The reviewing of applications was over when I assumed my post, but I am confident that there was no arbitration and there is a legitimate reason," said Kyuzo Saito, chief of the Food Agency's Import Division. He offered no alternative explanation, however.

Another high-ranking agency official, speaking anonymously, suggested there was strong opposition from already-registered trading companies to allow newcomers as grain importing becomes more profitable.

Toyota settles safety flaw claim

WASHINGTON (GNS) — Toyota Motor Corp. will pay \$250,000 to settle claims the automaker misled federal safety regulators about fire safety related flaws in its 1981-89 Land Cruisers.

More than two years after insisting publicly that it did nothing wrong, Toyota conceded Monday that it failed to conduct a timely recall of 38,500 vehicles and agreed to pay the civil penalty to settle a Justice Department lawsuit filed in Washington.

The department cited eight instances in which Toyota allegedly failed to give regulators at the National Highway Traffic Safety Administration full and accurate information about the faulty Land Cruisers.

For example, Toyota told the agency in March 1991 that it was exploring an "unknown problem" — though it already had received scores of warranty claims and reports of fuel tank leaks.

Toyota denied that it misled regulators. The company settled the case "to avoid protracted and expensive litigation," spokesman Tim Andree said. "As far as NHTSA's contention that we were anything but cooperative, we pointedly disagree."

No accidents, injuries or deaths have been reported on the flawed Land Cruisers and current models have no defect, Andree said.

The agency "confused" Toyota data on different types of Land Cruisers, "which led to its misunderstanding" of the company's responses, he said.

Toyota is the second Japanese automaker to succumb recently to government demands after

contending it was right. Nissan North America Inc. recently agreed to buy back thousands of minivans after four recalls failed to solve a problem with fires in the engines.

The Toyota fine is the fourth largest the agency has collected. The biggest fine was \$500,000 paid in 1990 by Firestone Tire and Rubber Co. to settle charges that certain Firestone tires were faulty.

The government accused Toyota of violating a federal law requiring automakers to notify the government and the public if they become aware of a potential safety problem.

The Land Cruiser defect involved a part welded to the inside of the fuel tanks.

The agency said the part could break off and leave a hole through which fuel could escape, creating a fire risk.

Toyota recalled the vehicles in June 1991.

The company had told the agency it didn't know of leaks before the agency began investigating in July 1990.

But the agency later learned that scores of consumers had complained of leaks before the investigation. By August 1990, Toyota had received 680 complaints of leaks.

The agency believed that Toyota had quietly repaired some vehicles in a "secret warranty" program, without giving the notification required by law.



INVENTORY CLEARANCE!

SAVE!

EAGLE GA RADIAL <small>The Steady Steer That Combines Luxury With Performance</small>		CORSA RADIAL <small>For Today's Best Handling Cars</small>	
\$120.00	\$119.00*	2 For \$99.00	
225/70R15	215/65R16	175/70R13	165/60R13
\$129.00	\$109.00	185/70R13/59.00 185/70R14/67.00	
215/60R16	205/60R14		

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195/70R15	215/70R18	215/75R15	205/70R14
\$199.00	\$199.00	\$80.00	\$85.00
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275/60R15	EAGLE ST	\$169.50
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650-16LT	WORKHORSE	\$119.50




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Notice of Public Hearing

Committee on Economic-Agricultural Development & Insurance

8:00 am Thursday, April 28, 1994
Public Hearing Room
Guam Legislature Temporary Building
155 Healer St. Agana, Guam

AGENDA

- Bill 836 An act to add a new chapter to Title 17 of the Guam Business Code Annotated relative to the establishment of a business incubator program within the Guam Economic Development Authority.
- Bill 948 An act to amend §43166 (c) of the Government Code relative to investments of insurer's capital.
- Mark-up
- Bill 834 An act to amend certain sections of Title V, §63801, §63802, and §63803 of the GCA relating to the Agricultural Board of Commissioners.

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

February 12, 1994

MEMORANDUM

TO: Andy Gayle, Legislative Counsel
FROM: Joe Kim, Legislative Researcher
RE: Bill 834

A question was raised during the public hearing on our Bill 834 which redefines the role of the Agricultural Board of Commissioners and assigns policy making authority in the Department of Agriculture. Mr. Jose Manibusan, acting director of the Dept. of Agriculture, objected to the Bill and testified that providing the Board with such authority is "inorganic".

As per the Chairman's instructions, we are requesting your opinion on the legality of our Bill as it pertains to the Organic Act and your assistance in codifying our draft of the Bill. For your review, I have enclosed the draft of our Bill and the testimony of Mr. Manibusan.

Thank you and feel free to call me if you have any question concerning Bill 834.

Sincerely,

Joe Kim

Legislative Researcher

Enclosure.

TWENTY SECOND GUAM LEGISLATURE
(FIRST) REGULAR SESSION

BILL NO. 834
Introduced by:

V.C. Pangelinan

M.D. A. Mendez

T. SIMAO

AN ACT TO AMEND CERTAIN SECTIONS OF ARTICLE I,
CHAPTER I OF TITLE XIII OF THE GOVERNMENT CODE
RELATING TO THE AGRICULTURAL BOARD OF
COMMISSIONERS.

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

1 SECTION 1. Subsections (d), (f), and (h) of §12003 of Article I,
2 Chapter I of Title XIII of the Guam Code is amended to read:

3 "(d) The Board shall [~~have the power to review and make~~
4 ~~recommendations regarding agricultural zoning, pest control, an~~
5 ~~agricultural development plan, agricultural loans, and related matters.] be
6 the governing and policy determining body of the Department.~~

7 (f) The Board shall work with the Director of Agriculture
8 toward the planning and implementation of all agricultural programs.

9 (h) The Director of Agriculture shall serve as the Executive
10 Officer of the Board with the following authority and responsibility:

11 (1) To see that all rules and regulations of the
12 Department are enforced;

13 (2) To attend all meetings of the Board and submit a
14 general report of the affairs of the Department;

15 (3) To keep the Board advised as to the needs of the
16 Department;

17 (4) To select and appoint the employees of the
18 Department except as otherwise provided by law and to plan, organize,
19 coordinate and control the services of such employees in the exercise of

1 the power of the Department under the general direction of the Board:
2 and

3 (5) To perform such other additional duties as the Board
4 may require.

5 SECTION 4 New subsections (i), (j), and (k) are hereby added to
6 §12003 of Article I, Chapter I of Title XIII of the Government Code:

7 "(i) The Board shall adopt reasonable rules and regulations,
8 not inconsistent with the laws of the United States and Territory (a) for its
9 own government, (b) for the government of the Department of
10 Agriculture, and (c) for the purpose of carrying out all other duties,
11 powers, and responsibilities herein conferred.

12 (j) All rules and regulations adopted by the Board pursuant to
13 this Section shall be published and distributed to all village mayor's
14 offices, the Department of Agriculture, the Governor's Office and the
15 Legislature.

16 (k) The Board shall hear all appeals from commercial farmers
17 who have been denied compensation under the Crop Compensation
18 Program."

;

TESTIMONY

on

Bill No. 834

JOSE A.E. MANIBUSAN

Director (Acting), Department of Agriculture

Committee

on

Economic-Agricultural Development and Insurance

22nd Guam Legislature

February 8, 1994

*Testimony on Bill No. 834
Jose A. E. Manibusan
Director (Acting)
Department of Agriculture
February 8, 1994*

Good Morning, Mr. Chairman and Honorable Committee Members. I am here to present my testimony on Bill No. 834.

Bill No. 834 seeks to amend Subsections (d), (f), and (h), and to add new Subsections (i), (j), and (k) of §12003 of Article I, Chapter I of Title XIII of the Government Code of Guam, now codified at Title 5 GCA §63803.

The purpose and intent of the bill may be commendable but, it is contrary to the Organic Act of Guam. The Department of Agriculture is a line Department under the direct supervision of the Governor of Guam.

As written, Bill No. 834 would provide the mechanisms for the establishment of an autonomous agency. The Agricultural Board of Commissioners would have direct supervision of the Director of Agriculture, displacing the Governor of Guam's authority under the Organic Act of Guam. The amended subsection (h) would change the Director of Agriculture's authority from being responsible for the Department to that of an Executive Director, functioning at the direction of the Board.

Let me delineate my objections section by section.

Section 1 (d)

For the reason above, the Department is controlled by the Governor -- It is not an autonomous agency or a public corporation. Thus, the Agricultural Board cannot govern and determine policy for the Department as other Boards do who are mandated to appoint its Executive Managers, General Managers, etc. -- who in turn, are answerable to its Boards.

Section 1 (f)

I have no objection to including the word planning which is the reason for amending this section. I feel that both the Agricultural Board and the Department should work together when planning agricultural programs.

Section 1 (h)

I have no objections to serving as the Executive Officer of the Board. I realize that when serving as one, I am responsible for attending the meetings. What I do object to, is the Board giving the Department "the authority and responsibility to see that all rules and regulations of the Department are enforced," when this is already clearly stated in the Department's mandates. Since the Department's creation, and as found in current law, the Department is already authorized to formulate rules and regulations with respect to certain activities and programs it conducts. Along with this, the Department was given the enforcement powers and has since been exercising it.

In regards to selecting and appointing the employees, the Department does not stray or deviate from the provisions on selecting employees which is governed in Title 4 GCA Public Officers and Employees.

Section 4 (i), (j), (k)

These new Subsection (i), (j), and (k), usurps the authority of the Director of Agriculture. These Subsections grant policy making authority to the Board of Commissioners displacing the Governor's authority under the Organic Act of Guam.

The new Subsection (k), provides the potential for a direct conflict of interest by the Agricultural Board of Commissioners in that the Board may be hearing their own appeals. Even if a board member was to excuse himself or herself from acting on his or her own appeal, there is that appearance of impropriety. I would recommend that any appeals body created be comprised of non-farmer members.

Thank you for providing me the opportunity to testify on this bill.

TWENTY SECOND GUAM LEGISLATURE
(FIRST) REGULAR SESSION

Introduced

FEB 14 '94

BILL NO. 834 (LS)
Introduced by:

94 FEB -1 PM 12:57

V.C. Pangelinan
M.D.A. Manibusan

AN ACT TO AMEND CERTAIN SECTIONS OF ARTICLE I,
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