



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 6/7/99
Time: 2:55
Rec'd by: [Signature]
Print Name: Laura

Refer to
Legislative Secretary

JUN 07 1999

The Honorable Antonio R. Unpingco
Speaker
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>4:55</u>
Date	<u>6/7/99</u>

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 62 (COR), "AN ACT TO ADD CHAPTER 16 TO DIVISION 2 OF TITLE 7, AND TO REPEAL AND REENACT CHAPTER 13 OF TITLE 16, BOTH OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING CERTAIN PROTECTIONS TO VOLUNTEERS OF GOVERNMENTAL ENTITIES, NONPROFIT ORGANIZATIONS AND OTHER ENTITIES IN LAWSUITS", which I have signed into law today as **Public Law No. 25-38**.

With the South Pacific Games well underway, I can conceive of no more appropriate time for the enactment of this legislation. The spirit of volunteerism, which is the driving force of the 11th South Pacific Games, is in fact, a feature of this community throughout the year. From typhoon emergencies to Presidential visits, our island's people have always risen to the occasion. Establishing minimum liability protection is the least we can do for those who have offered of their own time and energies on behalf of the community.

I would though recommend to the Liheslaturan Guåhan that it revise the new Section 13102 provided in the bill. For the enforcement of certain traffic requirements punishable as misdemeanors, arresting authority is granted to all peace officers. This is unprecedented and may be impractical given that not all peace officers are trained in arrest procedures and the requirements of probable cause. Furthermore, Section 13102 limits the authority for arrest of

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violators to only four hours. Currently, there is no time limit on the enforcement of misdemeanors. In essence, the Liheslaturan Guåhan's attempt to strengthen enforcement in this area may have in fact undermined it. I therefore urge you and your colleagues to revisit this section to clarify legislative intent.

Very truly yours,



Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill
 original attached for vetoed bill

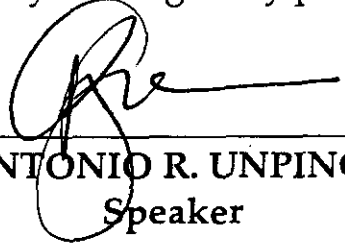
cc: The Honorable Joanne M. S. Brown
 Legislative Secretary

00273

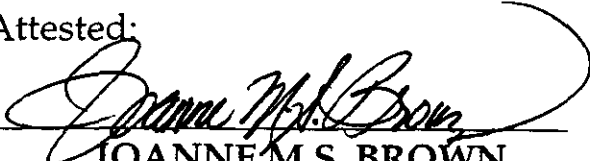
MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

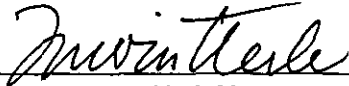
This is to certify that Substitute Bill No. 62 (COR), "AN ACT TO *ADD* CHAPTER 16 TO DIVISION 2 OF TITLE 7, AND TO *REPEAL AND REENACT* CHAPTER 13 OF TITLE 16, BOTH OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING CERTAIN PROTECTIONS TO VOLUNTEERS OF GOVERNMENTAL ENTITIES, NONPROFIT ORGANIZATIONS AND OTHER ENTITIES IN LAWSUITS," was on the 24th day of May, 1999, duly and regularly passed.


ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guahan* this 26th day of May, 1999,
at 5:00 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: 6-7-99

Public Law No. 25-38

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session**

Bill No. 62 (COR)

As substituted by the Committee
on Judiciary, Public Safety,
Consumer Protection and Human
Resources Development and amended
on the Floor.

Introduced by:

V. C. Pangelinan
F. B. Aguon, Jr.
L. F. Kasperbauer
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
E. B. Calvo
M. G. Camacho
Mark Forbes
A.C. Lamorena, V
C. A. Leon Guerrero
K. S. Moylan
J. C. Salas
S. A. Sanchez, II
A. R. Unpingco

**AN ACT TO ADD CHAPTER 16 TO DIVISION 2 OF
TITLE 7, AND TO REPEAL AND REENACT
CHAPTER 13 OF TITLE 16, BOTH OF THE GUAM
CODE ANNOTATED, RELATIVE TO PROVIDING
CERTAIN PROTECTIONS TO VOLUNTEERS OF
GOVERNMENTAL ENTITIES, NONPROFIT
ORGANIZATIONS AND OTHER ENTITIES IN
LAWSUITS.**

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

2 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that the
3 willingness of volunteers to offer their services is deterred by the potential for
4 liability actions against them. As a result, many nonprofit public and private
5 organizations and governmental entities, including voluntary associations,
6 social service agencies, educational institutions and other civic programs,
7 including public and private partnerships, have been adversely affected by
8 the withdrawal of volunteers from boards of directors and service in other
9 capacities. The contributions of these programs to the community are thereby
10 diminished, resulting in fewer and higher cost programs than would be
11 obtainable if volunteers were participating.

12 *I Liheslaturan Guåhan* further finds that although Federal and local funds
13 are expended on useful and cost-effective social service programs, many of
14 which are National in scope, these programs remain heavily dependent on
15 volunteer participation. These programs also represent some of the most
16 successful public-private partnerships. Specifically, the following reasons
17 support the legislative intent to clarify and limit the liability risk assumed by
18 volunteers in connection with such participation:

19 (a) the scope of problems created by the legitimate fears of
20 volunteers about frivolous, arbitrary or capricious lawsuits;

21 (b) the residents of Guam depend on, and both the Federal and
22 local government expend funds on and provide tax exemptions and
23 other consideration to, numerous social programs that depend on the
24 services of volunteers; *and*

1 (c) it is in the interest of both the Federal and local government
2 to encourage the continued operation of volunteer service organizations
3 and contributions of volunteers due to the lack of capacity by the
4 Federal and local government to carry out all of the services provided
5 by such organizations and volunteers.

6 **Section 2. Legislative Intent.** It is the intent of *I Liheslaturan Guåhan*
7 to promote the interests of social service program beneficiaries and taxpayers,
8 and to sustain the availability of programs, nonprofit organizations, and
9 governmental entities that depend on volunteer contributions by reforming
10 the laws to provide certain protections from liability abuses related to
11 volunteers serving nonprofit organizations and governmental entities.

12 **Section 3.** Chapter 16 is hereby *added* to Division 2 of Title 7 of
13 the Guam Code Annotated to read as follows:

14 **"CHAPTER 16.**

15 **VOLUNTEER LIABILITY PROTECTION.**

16 **Section 16101. Short Title.** This Act may be cited as
17 the '*Volunteer Protection Act of 1999.*'

18 **Section 16102. Definitions.** For purposes of this Act:

19 (a) '*Economic loss*' shall mean any pecuniary loss resulting
20 from harm, including the loss of earnings or other benefits related
21 to employment, medical expense loss, replacement services loss,
22 loss due to death, burial costs, and loss of business or employment
23 opportunities, to the extent recovery for such loss is allowed
24 under applicable local law.

1 (b) '*Harm*' shall mean and include physical, nonphysical,
2 economic and non-economic loss.

3 (c) '*Noneconomic loss*' shall mean loss for physical and
4 emotional pain, suffering, inconvenience, physical impairment,
5 mental anguish, disfigurement, loss of enjoyment of life, loss of
6 society and companionship; loss of consortium, other than loss of
7 domestic service; hedonic damages; injury to reputation and all
8 other nonpecuniary losses of any kind or nature.

9 (d) '*Nonprofit organization*' shall mean:

10 (1) any organization which is described in §501(c)(3)
11 of the Internal Revenue Code of 1986, and exempt from tax
12 under §501(a) of such Code; *or*

13 (2) any *not-for-profit* organization which is organized
14 and conducted, pursuant to the laws of Guam, for public
15 benefit and operated primarily for charitable, civic,
16 educational, religious, welfare or health purposes.

17 (e) '*Volunteer*' shall mean an individual performing
18 services for a nonprofit organization or a governmental entity, or
19 for any entity that has entered into an agreement with a nonprofit
20 organization or a government entity to perform public or
21 community services for or on behalf of a nonprofit organization or
22 a government entity, who does *not* receive compensation other
23 than reimbursement or allowance for expenses actually incurred,
24 and as specifically provided by workers' compensation or other

1 law, and such term includes a volunteer serving as a director,
2 officer, trustee or direct service volunteer.

3 **Section 16103. Liability Protection for Volunteers.**

4 Unless otherwise provided by law, no volunteer of a nonprofit
5 organization or governmental entity shall be liable for harm caused by
6 an act or omission of the volunteer on behalf of the organization or
7 entity if:

8 (a) the volunteer was acting within the scope of the
9 volunteer's responsibilities in the nonprofit organization or
10 governmental entity at the time of the act or omission;

11 (b) the appropriate or required volunteer was properly
12 licensed, certified or authorized by the appropriate authorities for
13 the activities or practice on Island, in which the harm occurred,
14 where the activities were, or practice was undertaken, within the
15 scope of the volunteer's responsibilities in the nonprofit
16 organization or governmental entity;

17 (c) the harm was *not* caused by willful or criminal
18 misconduct, gross negligence, reckless misconduct, or a conscious,
19 flagrant indifference to the rights or safety of the individual
20 harmed by the volunteer; *and*

21 (d) the harm was *not* caused by the volunteer operating a
22 motor vehicle, vessel, aircraft or other vehicle for which the
23 operator or the owner of the vehicle, craft or vessel is required to:

- 24 (1) possess an operator's license; *or*
25 (2) maintain insurance.

1 **Section 16104. Limitation on Punitive Damages Based on the**
2 **Actions of Volunteers.** As a general rule, punitive damages may
3 *not* be awarded against a volunteer in an action brought for harm based
4 on the action of a volunteer acting within the scope of the volunteer's
5 responsibilities to a nonprofit organization or governmental entity,
6 *unless* the claimant establishes by clear and convincing evidence that the
7 harm was caused by an action of such volunteer which constitutes
8 willful or criminal misconduct, or a conscious, flagrant indifference to
9 the rights or safety of the individual harmed.

10 **Section 16105. Liability For Non-economic Loss: General**
11 **Rule.** In any civil action against a volunteer based on an action of a
12 volunteer acting within the scope of the volunteer's responsibility to a
13 nonprofit organization or governmental entity, the liability of the
14 volunteer for non-economic loss shall be determined in accordance with
15 §16106 of this Chapter.

16 **Section 16106. Liability For Non-economic Loss: Amount of**
17 **Liability.** Each defendant, who is a volunteer, shall be liable only for
18 the amount of non-economic loss allocated to that defendant in direct
19 proportion to the percentage of responsibility of that defendant for the
20 harm to the claimant with respect to which the defendant is liable. The
21 court shall render a separate judgment against each defendant in an
22 amount determined pursuant to the preceding sentence.

23 For purposes of determining the amount of non-economic loss
24 allocated to a defendant who is a volunteer under this Section, the trier

1 of fact shall determine the percentage of responsibility of that defendant
2 for the claimant's harm.

3 **Section 16107. Application.** This Act applies to any claim
4 for harm caused by an act or omission of a volunteer where that claim is
5 filed on or after the effective date of this Act, but only if the harm that is
6 the subject of the claim or the conduct that caused such harm occurred
7 after such effective date."

8 **Section 4.** Chapter 13 of Title 16 of the Guam Code Annotated is
9 hereby *repealed and reenacted* to read as follows:

10 **"CHAPTER 13.**

11 **SCHOOL CROSSING GUARDS.**

12 **Section 13101. School Crossing Guards.** (a) The Chief of
13 the Guam Police Department is hereby authorized to appoint and equip
14 volunteers and designated employees of the Department of Education,
15 and may provide training to such volunteers as school crossing guards
16 to direct traffic at school crossings, streets and highways in the vicinity
17 of schools and bus stops, by means of lawful orders, signs or
18 semaphores. Such persons shall wear a distinctive garb or insignia
19 indicating such appointment. '*School crossing guard*' shall mean any
20 person eighteen (18) years of age and older acting with or without
21 compensation who is authorized by this Chapter to supervise, direct,
22 monitor, or otherwise assist school children at a street or intersection in
23 the vicinity of a school or bus stops.

1 (b) With the approval of the Chief of Police, a school crossing
2 guard may be authorized, in addition to directing traffic at school
3 crossings, to direct and regulate the flow of traffic in the event of a fire,
4 explosion, hurricane, tornado or other emergency situation. Such
5 volunteer shall *not* have the power of arrest provided to peace officers.

6 (c) Provisions of Chapter 16 of Title 7 of the Guam Code
7 Annotated, which provide liability protection for volunteers shall apply
8 to any volunteer school crossing guard authorized under this Section *if*
9 all requirements set forth in §16103 of Title 7 of the Guam Code
10 Annotated are met.

11 (d) The Guam Police Department shall maintain a list of
12 authorized school crossing guards.

13 **Section 13102. Enforcement.** (a) It shall be unlawful for
14 any person driving or operating any vehicle to willfully fail or refuse:

15 (1) to comply with any lawful order or direction of any
16 peace officer or any individual authorized under §13101, to direct,
17 control or regulate traffic; *or*

18 (2) to stop *not* less than fifty feet (50') from the nearest
19 side of a school pedestrian lane where any signal device, flagman
20 or other person is stationed, giving warning that children are
21 about to cross, or are crossing, the street and it is further declared
22 unlawful to proceed until such signal has stopped, raised or been
23 removed, or the flagman or person stationed at such pedestrian
24 lane has given a signal to go, or has left the locality.

1 (b) A peace officer may arrest the driver of a motor vehicle if the
2 peace officer has probable cause to believe that the driver has operated
3 the vehicle in violation of this Chapter within the past four (4) hours.

4 (c) In addition to any other citation for penalties or fines that
5 may be levied, every person violating this Section shall be issued a
6 citation and shall be guilty of a misdemeanor, and upon conviction,
7 punished by a fine not less than Fifty Dollars (\$50.00), nor more than
8 Two Hundred Dollars (\$200.00) for each violation.”

9 **Section 5. Effective Date.** The provisions of this Act shall take effect
10 ninety (90) days after its enactment.

11 **Section 6. Application.** This Act applies to any claim for harm
12 caused by an act or omission of a volunteer where that claim is filed on or
13 after the effective date of this Act, but only if the harm that is the subject of the
14 claim or the conduct that caused such harm occurred on or after such effective
15 date.



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

May 26, 1999

COPY

The Honorable Carl T.C. Gutierrez
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Bill No. 3 (LS), and Substitute Bill Nos. ~~162~~ (COR), 164 (COR), 175 (COR) and 202 (COR) which were passed by *I Mina' Bente Singko Na Liheslaturan Guåhan* on May 24, 1999.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joanne M.S. Brown".

JOANNE M.S. BROWN
Senator and Legislative Secretary

Enclosure (5)


MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN


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ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga'lahaen Guahan this 26th day of May, 1999,
at 5:00 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: _____

Public Law No. _____

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 62 (COR)

As substituted by the Committee
on Judiciary, Public Safety,
Consumer Protection and Human
Resources Development and amended
on the Floor.

Introduced by:

V. C. Pangelinan
F. B. Aguon, Jr.
L. F. Kasperbauer
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
E. B. Calvo
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4 liability actions against them. As a result, many nonprofit public and private
5 organizations and governmental entities, including voluntary associations,
6 social service agencies, educational institutions and other civic programs,
7 including public and private partnerships, have been adversely affected by
8 the withdrawal of volunteers from boards of directors and service in other
9 capacities. The contributions of these programs to the community are thereby
10 diminished, resulting in fewer and higher cost programs than would be
11 obtainable if volunteers were participating.

12 *I Liheslaturan Guåhan* further finds that although Federal and local funds
13 are expended on useful and cost-effective social service programs, many of
14 which are National in scope, these programs remain heavily dependent on
15 volunteer participation. These programs also represent some of the most
16 successful public-private partnerships. Specifically, the following reasons
17 support the legislative intent to clarify and limit the liability risk assumed by
18 volunteers in connection with such participation:

19 (a) the scope of problems created by the legitimate fears of
20 volunteers about frivolous, arbitrary or capricious lawsuits;

21 (b) the residents of Guam depend on, and both the Federal and
22 local government expend funds on and provide tax exemptions and
23 other consideration to, numerous social programs that depend on the
24 services of volunteers; *and*

1 (c) it is in the interest of both the Federal and local government
2 to encourage the continued operation of volunteer service organizations
3 and contributions of volunteers due to the lack of capacity by the
4 Federal and local government to carry out all of the services provided
5 by such organizations and volunteers.

6 **Section 2. Legislative Intent.** It is the intent of *I Liheslaturan Guåhan*
7 to promote the interests of social service program beneficiaries and taxpayers,
8 and to sustain the availability of programs, nonprofit organizations, and
9 governmental entities that depend on volunteer contributions by reforming
10 the laws to provide certain protections from liability abuses related to
11 volunteers serving nonprofit organizations and governmental entities.

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22 loss due to death, burial costs, and loss of business or employment
23 opportunities, to the extent recovery for such loss is allowed
24 under applicable local law.

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2 economic and non-economic loss.

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4 emotional pain, suffering, inconvenience, physical impairment,
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7 domestic service; hedonic damages; injury to reputation and all
8 other nonpecuniary losses of any kind or nature.

9 (d) '*Nonprofit organization*' shall mean:

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11 of the Internal Revenue Code of 1986, and exempt from tax
12 under §501(a) of such Code; *or*

13 (2) any *not-for-profit* organization which is organized
14 and conducted, pursuant to the laws of Guam, for public
15 benefit and operated primarily for charitable, civic,
16 educational, religious, welfare or health purposes.

17 (e) '*Volunteer*' shall mean an individual performing
18 services for a nonprofit organization or a governmental entity, or
19 for any entity that has entered into an agreement with a nonprofit
20 organization or a government entity to perform public or
21 community services for or on behalf of a nonprofit organization or
22 a government entity, who does *not* receive compensation other
23 than reimbursement or allowance for expenses actually incurred,
24 and as specifically provided by workers' compensation or other

1 law, and such term includes a volunteer serving as a director,
2 officer, trustee or direct service volunteer.

3 **Section 16103. Liability Protection for Volunteers.**

4 Unless otherwise provided by law, no volunteer of a nonprofit
5 organization or governmental entity shall be liable for harm caused by
6 an act or omission of the volunteer on behalf of the organization or
7 entity if:

8 (a) the volunteer was acting within the scope of the
9 volunteer's responsibilities in the nonprofit organization or
10 governmental entity at the time of the act or omission;

11 (b) the appropriate or required volunteer was properly
12 licensed, certified or authorized by the appropriate authorities for
13 the activities or practice on Island, in which the harm occurred,
14 where the activities were, or practice was undertaken, within the
15 scope of the volunteer's responsibilities in the nonprofit
16 organization or governmental entity;

17 (c) the harm was *not* caused by willful or criminal
18 misconduct, gross negligence, reckless misconduct, or a conscious,
19 flagrant indifference to the rights or safety of the individual
20 harmed by the volunteer; *and*

21 (d) the harm was *not* caused by the volunteer operating a
22 motor vehicle, vessel, aircraft or other vehicle for which the
23 operator or the owner of the vehicle, craft or vessel is required to:

- 24 (1) possess an operator's license; *or*
25 (2) maintain insurance.

1 **Section 16104. Limitation on Punitive Damages Based on the**
2 **Actions of Volunteers.** As a general rule, punitive damages may
3 *not* be awarded against a volunteer in an action brought for harm based
4 on the action of a volunteer acting within the scope of the volunteer's
5 responsibilities to a nonprofit organization or governmental entity,
6 *unless* the claimant establishes by clear and convincing evidence that the
7 harm was caused by an action of such volunteer which constitutes
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11 **Rule.** In any civil action against a volunteer based on an action of a
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16 **Section 16106. Liability For Non-economic Loss: Amount of**
17 **Liability.** Each defendant, who is a volunteer, shall be liable only for
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19 proportion to the percentage of responsibility of that defendant for the
20 harm to the claimant with respect to which the defendant is liable. The
21 court shall render a separate judgment against each defendant in an
22 amount determined pursuant to the preceding sentence.

23 For purposes of determining the amount of non-economic loss
24 allocated to a defendant who is a volunteer under this Section, the trier

1 of fact shall determine the percentage of responsibility of that defendant
2 for the claimant's harm.

3 **Section 16107. Application.** This Act applies to any claim
4 for harm caused by an act or omission of a volunteer where that claim is
5 filed on or after the effective date of this Act, but only if the harm that is
6 the subject of the claim or the conduct that caused such harm occurred
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8 **Section 4.** Chapter 13 of Title 16 of the Guam Code Annotated is
9 hereby *repealed and reenacted* to read as follows:

10 **"CHAPTER 13.**

11 **SCHOOL CROSSING GUARDS.**

12 **Section 13101. School Crossing Guards.** (a) The Chief of
13 the Guam Police Department is hereby authorized to appoint and equip
14 volunteers and designated employees of the Department of Education,
15 and may provide training to such volunteers as school crossing guards
16 to direct traffic at school crossings, streets and highways in the vicinity
17 of schools and bus stops, by means of lawful orders, signs or
18 semaphores. Such persons shall wear a distinctive garb or insignia
19 indicating such appointment. '*School crossing guard*' shall mean any
20 person eighteen (18) years of age and older acting with or without
21 compensation who is authorized by this Chapter to supervise, direct,
22 monitor, or otherwise assist school children at a street or intersection in
23 the vicinity of a school or bus stops.

1 (b) With the approval of the Chief of Police, a school crossing
2 guard may be authorized, in addition to directing traffic at school
3 crossings, to direct and regulate the flow of traffic in the event of a fire,
4 explosion, hurricane, tornado or other emergency situation. Such
5 volunteer shall *not* have the power of arrest provided to peace officers.

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7 Annotated, which provide liability protection for volunteers shall apply
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17 control or regulate traffic; *or*

18 (2) to stop *not* less than fifty feet (50') from the nearest
19 side of a school pedestrian lane where any signal device, flagman
20 or other person is stationed, giving warning that children are
21 about to cross, or are crossing, the street and it is further declared
22 unlawful to proceed until such signal has stopped, raised or been
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24 lane has given a signal to go, or has left the locality.

1 (b) A peace officer may arrest the driver of a motor vehicle if the
2 peace officer has probable cause to believe that the driver has operated
3 the vehicle in violation of this Chapter within the past four (4) hours.

4 (c) In addition to any other citation for penalties or fines that
5 may be levied, every person violating this Section shall be issued a
6 citation and shall be guilty of a misdemeanor, and upon conviction,
7 punished by a fine not less than Fifty Dollars (\$50.00), nor more than
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13 after the effective date of this Act, but only if the harm that is the subject of the
14 claim or the conduct that caused such harm occurred on or after such effective
15 date.

6

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

1999 (FIRST) Regular Session

Date: 5/24/99

VOTING SHEET

Bill No. 62 (COR)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT ROLL CALL
AGUON, Frank B., Jr.					✓
BERMUDES, Eulogio C.					✓
BLAZ, Anthony C.	✓				
BROWN, Joanne M.S.	✓				
CALVO, Eduardo B.	✓				
CAMACHO, Marcel G.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V	✓				
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	✓				
PANGELINAN, Vicente C.	✓				
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.	✓				

TOTAL

13 0 0 0 2

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

COPY

April 21, 1999

(DATE)

FILE

Memorandum

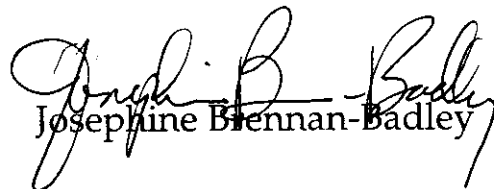
To: Senator V.C. PANGELINAN

From: Clerk of the Legislature

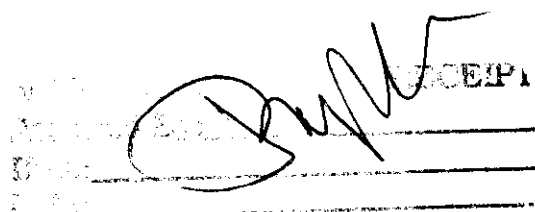
Subject: Report on Bill No. 62 (COR)

Pursuant to §7.04 of Rule VII of the 25th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 62 (COR), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.


Josephine Brennan-Badley

Attachment


RECEIVED



✓

COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

April 20, 1998 *JS*

The Honorable Antonio R. Unpingco
Speaker
Mina' Bente Kuattro na Liheslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Public Safety, Consumer Protection & Human Resources Development to which was referred Bill No. 62, has had the same under consideration and now wishes to report back the same with the recommendation **TO DO PASS**, as substituted.

The Committee votes are as follows:

To Do Pass	<u>4</u>
Not To Pass	<u>0</u>
Abstain	<u>0</u>
Other (Off-Island)	<u>0</u>

A copy of the Committee's report and other pertinent documents are attached for your reference and information.

Sincerely,

Senator John Camacho Salas
Chairman



SENATOR JOHN CAMACHO SALAS

CHAIRMAN

COMMITTEE ON JUDICIARY, PUBLIC SAFETY, CONSUMER PROTECTION AND HUMAN RESOURCES DEVELOPMENT

VOTING SHEET

BILL NUMBER 62

TITLE AN ACT TO ADD A NEW CHAPTER 16 TO TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING CERTAIN PROTECTIONS TO VOLUNTEERS, NONPROFIT ORGANIZATIONS, AND GOVERNMENTAL ENTITIES IN LAWSUITS BASED ON THE ACTIVITIES OF VOLUNTEERS. (AS SUBSTITUTED)

	TO DO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
 John Camacho Salas, Chairman	✓			
 Kaleo S. Moylan, Vice-Chairman	✓			
 Frank B. Aguon, Jr., Member	✓			
Joanne M.S. Brown, Member				
 Mark Forbes, Member	✓			
Alberto C. Lamorena V, Member				
Carlotta A. Leon Guerrero, Member				
Antonio R. Unpingco, Ex-Officio				

Committee on Judiciary, Public Safety, Consumer Protection, and
Human Resources Development
Committee Report on Bill 62
Publicly Heard Friday, February 26, 1999

Bill 62: An act to add a new Chapter 16 to Title 7, Guam Code Annotated, relative to providing certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

I. ATTENDANCE

- Senator John C. Salas, Chairman
- Senator Kaleo S. Moylan, Co-Chairman
- Senator Frank B. Aguon, Jr., Committee Member
- Senator Vicente C. Pangelinan

II. MAIN SPONSORS

Senator Vicente C. Pangelinan
Senator Frank B. Aguon, Jr.

III. SYNOPSIS

This act reforms existing law to allow more protection for volunteers serving nonprofit organizations and government entities so that the liability for any harm caused in the act of volunteering is not the burden of the individual.

IV. TESTIMONY

Senator Pangelinan, sponsor of the bill, provided an overview.

Mr. Dave Lotz, Boonie Stomp Volunteer Guide, provided testimony on behalf of himself in favor of the bill. He attested to the need for liability protection for volunteers, and suggested that worker's compensation be extended to volunteers through this bill as well.

Mr. Bill Pavesic, of Boy Scouts of America, provided testimony in favor of the bill, explaining that the Boy Scouts live and thrive on volunteerism, and this bill would have very positive effects on volunteerism for organizations like his.

Mr. Sonny Shelton, Director of the Department of Parks and Recreation, provided testimony in favor of the bill. He explained that the Parks and Recreation budget has been depending more and more on volunteers, and this protection would make volunteers and sponsors much more willing to serve the community. He asked that liability coverage be extended to corporate entities who are refraining from Adopt-a-Park and Adopt-a-Roadside programs due to the fact the Government cannot offer indemnity.

Judy Jackson, of G.O.R., provided testimony in favor of the bill, saying it is way overdue.

Chairman Salas suggested she provide the Committee with written testimony in the next ten days if she wishes. He said he will look into worker's compensation coverage costs. He's afraid adding volunteers will over extend an already strained fund.

V. COMMITTEE FINDINGS & RECOMMENDATION

The Committee finds that it is important to extend the protection provisions of Bill 62 to the volunteers of Guam. The author offered an amendment to the bill which would include School Crossing Guards under this Act's protection as long as they are trained and properly equipped by the Guam Police Department. The Committee agreed that this inclusion is appropriate. Further, the Committee agreed that Workers Compensation coverage is not be an issue in this Act. Therefore, the Committee recommends **TO DO PASS Bill 62**, as substituted.

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 62 (COR)

As substituted by the Committee on Judiciary,
Public Safety, Consumer Protection & Human Resources
Development

V. C. Pangelinan
F. B. Aguon

**AN ACT TO ADD A NEW CHAPTER 16 TO TITLE 7,
GUAM CODE ANNOTATED, AND TO REPEAL
AND REENACT CHAPTER 13 OF TITLE 16, GUAM
CODE ANNOTATED, RELATIVE TO PROVIDING
CERTAIN PROTECTIONS TO VOLUNTEERS OF
GOVERNMENTAL ENTITIES, NONPROFIT
ORGANIZATIONS AND OTHER ENTITIES, IN
LAWSUITS BASED ON THE ACTIVITIES OF
VOLUNTEERS WITHIN THE SCOPE OF EACH
VOLUNTEER'S RESPONSIBILITIES AT THE TIME
OF THE ACT OR OMISSION.**

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

2 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that the
3 willingness of volunteers to offer their services is deterred by the potential for
4 liability actions against them. As a result, many nonprofit public and private
5 organizations and governmental entities, including voluntary associations,
6 social service agencies, educational institutions, and other civic programs
7 including public and private partnerships, have been adversely affected by the
8 withdrawal of volunteers from boards of directors and service in other
9 capacities. The contributions of these programs to the community are thereby

1 diminished, resulting in fewer and higher cost programs than would be
2 obtainable if volunteers were participating.

3 *I Liheslaturan Guåhan* further finds that although federal and local
4 funds are expended on useful and cost-effective social service programs,
5 many of which are national in scope, these programs remain heavily
6 dependent on volunteer participation. These programs also represent some
7 of the most successful public-private partnerships. Specifically, the following
8 reasons support the legislative intent to clarify and limit the liability risk
9 assumed by volunteers in connection with such participation:

10 (a) The scope of problems created by the legitimate fears of
11 volunteers about frivolous, arbitrary, or capricious lawsuits;

12 (b) The residents of Guam depend on, and both the federal and
13 local government expend funds on and provide tax exemptions and
14 other consideration to, numerous social programs that depend on the
15 services of volunteers; and

16 (c) It is in the interest of both the federal and local government
17 to encourage the continued operation of volunteer service
18 organizations and contributions of volunteers due to the lack of
19 capacity by the federal and local government to carry out all of the
20 services provided by such organizations and volunteers.

21 **Section 2. Legislative Intent.** It is the intent of *I Liheslaturan*
22 *Guåhan* to promote the interests of social service program beneficiaries and
23 taxpayers and to sustain the availability of programs, nonprofit
24 organizations, and governmental entities that depend on volunteer
25 contributions by reforming the laws to provide certain protections from

1 liability abuses related to volunteers serving nonprofit organizations and
2 governmental entities.

3 **Section 3.** A new Chapter 16 is added to 7 GCA to read:

4 **“CHAPTER 16**
5 **VOLUNTEER LIABILITY PROTECTION**

6 **“§16101. Short Title.** This Act may be cited as the
7 *“Volunteer Protection Act of 1999.”*

8 **§16102. Definitions.** For purposes of this Act:

9 (a) *Economic loss* shall mean any pecuniary loss resulting
10 from harm (including the loss of earnings or other benefits related
11 to employment, medical expense loss, replacement services loss,
12 loss due to death, burial costs, and loss of business or employment
13 opportunities) to the extent recovery for such loss is allowed
14 under applicable local law.

15 (b) *Harm* shall mean and include physical, nonphysical,
16 economic, and noneconomic loss.

17 (c) *Noneconomic loss* shall mean loss for physical and
18 emotional pain, suffering, inconvenience, physical impairment,
19 mental anguish, disfigurement, loss of enjoyment of life, loss of
20 society and companionship, loss of consortium (other than loss of
21 domestic service), hedonic damages, injury to reputation and all
22 other nonpecuniary losses of any kind or nature.

23 (d) *Nonprofit organization* shall mean:

24 (1) Any organization which is described in §501(c) (3)
25 of the Internal Revenue Code of 1986 and exempt from tax
26 under §501(a) of such Code; or

1 (2) Any not-for-profit organization which is
2 organized and conducted, pursuant to the laws of Guam,
3 for public benefit and operated primarily for charitable,
4 civic, educational, religious, welfare, or health purposes.

5 (e) *Volunteer* shall mean an individual performing
6 services for a nonprofit organization or a governmental entity, or
7 for any entity that has entered into an agreement with a nonprofit
8 organization or a government entity to perform public or
9 community services for or on behalf of a nonprofit organization
10 or a government entity, who does not receive compensation other
11 than reimbursement or allowance for expenses actually incurred
12 and as specifically provided by workers' compensation or other
13 law, and such term includes a volunteer serving as a director,
14 officer, trustee, or direct service volunteer.

15 **§16103. Liability Protection for Volunteers.** Unless otherwise
16 provided by law, no volunteer of a nonprofit organization or
17 governmental entity shall be liable for harm caused by an act or
18 omission of the volunteer on behalf of the organization or entity if:

19 (a) The volunteer was acting within the scope of the
20 volunteer's responsibilities in the nonprofit organization or
21 governmental entity at the time of the act or omission;

22 (b) The appropriate or required volunteer was properly
23 licensed, certified, or authorized by the appropriate authorities
24 for the activities or practice on island, in which the harm occurred,
25 where the activities were or practice was undertaken within the

1 scope of the volunteer's responsibilities in the nonprofit
2 organization or governmental entity;

3 (c) The harm was not caused by willful or criminal
4 misconduct, gross negligence, reckless misconduct, or a conscious,
5 flagrant indifference to the rights or safety of the individual
6 harmed by the volunteer; and

7 (d) The harm was not caused by the volunteer operating a
8 motor vehicle, vessel, aircraft, or other vehicle for which the
9 operator or the owner of the vehicle, craft, or vessel is required to:

10 (1) Possess an operator's license; or

11 (2) Maintain insurance.

12 **§16104. Limitation on Punitive Damages Based on the Actions**
13 **of Volunteers.** As a general rule, punitive damages may not be
14 awarded against a volunteer in an action brought for harm based on
15 the action of a volunteer acting within the scope of the volunteer's
16 responsibilities to a nonprofit organization or governmental entity
17 unless the claimant establishes by clear and convincing evidence that the
18 harm was caused by an action of such volunteer which constitutes
19 willful or criminal misconduct, or a conscious, flagrant indifference to
20 the rights or safety of the individual harmed.

21 **§16105. Liability For Noneconomic Loss: General Rule.** In any
22 civil action against a volunteer based on an action of a volunteer acting
23 within the scope of the volunteer's responsibility to a nonprofit
24 organization or governmental entity, the liability of the volunteer for
25 noneconomic loss shall be determined in accordance with §16106 of this
26 Chapter.

1 **§16106. Liability For Noneconomic Loss: Amount of Liability.**

2 Each defendant, who is a volunteer, shall be liable only for the
3 amount of noneconomic loss allocated to that defendant in direct
4 proportion to the percentage of responsibility of that defendant for the
5 harm to the claimant with respect to which the defendant is liable. The
6 court shall render a separate judgment against each defendant in an
7 amount determined pursuant to the preceding sentence.

8 For purposes of determining the amount of noneconomic loss
9 allocated to a defendant who is a volunteer under this section, the trier
10 of fact shall determine the percentage of responsibility of that
11 defendant for the claimant's harm.

12 **§16107. Application.** This Act applies to any claim for
13 harm caused by an act or omission of a volunteer where that claim is
14 filed on or after the effective date of this Act, but only if the harm that is
15 the subject of the claim or the conduct that caused such harm occurred
16 after such effective date."

17 **Section 4.** Chapter 13 of 16 GCA is repealed and reenacted to read:

18 **"CHAPTER 13**

19 **SCHOOL CROSSING GUARDS**

20 **§13101. School Crossing Guards.** (a) The Chief of the
21 Guam Police Department is hereby authorized to appoint and equip
22 volunteers and designated employees of the Department of Education
23 and may provide training to such volunteers as school crossing guards
24 to direct traffic at school crossings, streets and highways in the vicinity
25 of schools and bus stops, by means of lawful orders, signs or
26 semaphores. Such persons shall wear a distinctive garb or insignia

1 removed, or the flagman or person stationed at such pedestrian
2 lane has given a signal to go, or has left the locality.

3 (b) A peace officer may arrest the driver of a motor vehicle if
4 the peace officer has probable cause to believe that the driver has
5 operated the vehicle in violation of this Chapter within the past four (4)
6 hours.

7 (c) In addition to any other citation for penalties or fines that
8 may be levied, every person violating this section shall be issued a
9 citation and shall be guilty of a misdemeanor, and upon conviction,
10 punished by a fine not less than fifty dollars (\$50), nor more than two
11 hundred dollars (\$200) for each violation."

12 **Section 5. Effective Date.** The provisions of this Act shall take effect
13 ninety (90) days after its enactment.

14 **Section 6. Application.** This Act applies to any claim for harm
15 caused by an act or omission of a volunteer where that claim is filed on or
16 after the effective date of this Act but only if the harm that is the subject of the
17 claim or the conduct that caused such harm occurred on or after such effective
18 date.

1 indicating such appointment. *School crossing guard* shall mean any
2 person eighteen (18) years of age and older acting with or without
3 compensation who is authorized by this Chapter to supervise, direct,
4 monitor, or otherwise assist school children at a street or intersection in
5 the vicinity of a school or bus stops.

6 (b) With the approval of the Chief of Police, a school crossing
7 guard may be authorized, in addition to directing traffic at school
8 crossings, to direct and regulate the flow of traffic in the event of a fire,
9 explosion, hurricane, tornado, or other emergency situation. Such
10 volunteer shall not have the power of arrest provided to peace officers.

11 (c) Provisions of Chapter 16 of Title 7, Guam Code Annotated,
12 which provides liability protection for volunteers shall apply to any
13 volunteer school crossing guard authorized under this section if all
14 requirements set forth in §16103 of 7 GCA are met.

15 (d) The Guam Police Department shall maintain a list of
16 authorized school crossing guards.

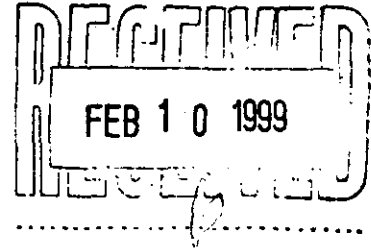
17 **§13102. Enforcement.** (a) It shall be unlawful for any
18 person driving or operating any vehicle to willfully fail or refuse:

19 (1) To comply with any lawful order or direction of any
20 peace officer or any individual authorized under §13101, to direct,
21 control or regulate traffic; or

22 (2) To stop not less than fifty (50) feet from the nearest
23 side of a school pedestrian lane where any signal device, flagman
24 or other person is stationed, giving warning that children are
25 about to cross or are crossing the street and it is further declared
26 unlawful to proceed until such signal has stopped, raised or been



MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asuntion Fidirat
Senator Mark Forbes, Chairman



FEB 10 1999

MEMORANDUM

TO: Chairman
Committee on Judiciary, Public Safety, Consumer Protection
and Human Resources Development

FROM: Chairman ~~X~~
Committee on Rules, Government Reform, Reorganization
and Federal Affairs

SUBJECT: Principal Referral – Bill No. 62

The above bill is referred to your Committee as the Principal Committee. In accordance with Section 6.04.05. of the Standing Rules, your Committee "shall be the Committee to perform the public hearing and have the authority to amend or substitute the bill, as well as report the bill out to the Body." It is recommended that you schedule a public hearing at your earliest convenience.

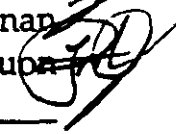
Thank you for your attention to this matter.

MARK FORBES

Attachment

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session**

Bill No. *122 (COA)*
Introduced by:

v. c. pangelinan
F. B. Aguiar 

**AN ACT TO ADD A NEW CHAPTER 16 TO TITLE 7,
GUAM CODE ANNOTATED, RELATIVE TO
PROVIDING CERTAIN PROTECTIONS TO
VOLUNTEERS, NONPROFIT ORGANIZATIONS,
AND GOVERNMENTAL ENTITIES IN LAWSUITS
BASED ON THE ACTIVITIES OF VOLUNTEERS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the willingness of volunteers to offer their services is deterred by the potential for liability actions against them. As a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities. The contributions of these programs to the community are thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating.

I Liheslaturan Guåhan further finds that although federal and local funds are expended on useful and cost-effective social service programs, many of which are national in scope, these programs remain heavily dependent on volunteer participation. These programs also represent some of the most successful public-private partnerships. Specifically, the following reasons support the legislative intent to clarify and limit the liability risk assumed by volunteers in connection with such participation:

1 (a) The scope of problems created by the legitimate fears of
2 volunteers about frivolous, arbitrary, or capricious lawsuits;

3 (b) The residents of Guam depend on, and both the federal and local
4 government expend funds on and provide tax exemptions and other
5 consideration to, numerous social programs that depend on the services of
6 volunteers; and

7 (c) It is in the interest of both the federal and local government to
8 encourage the continued operation of volunteer service organizations and
9 contributions of volunteers due to the lack of capacity by the federal and
10 local government to carry out all of the services provided by such
11 organizations and volunteers.

12 The intent of this Act is to promote the interests of social service program
13 beneficiaries and taxpayers and to sustain the availability of programs, nonprofit
14 organizations, and governmental entities that depend on volunteer contributions
15 by reforming the laws to provide certain protections from liability abuses related
16 to volunteers serving nonprofit organizations and governmental entities.

17 Section 2. A new Chapter 16 is added to Title 7 of the Guam Code
18 Annotated to read:

19 **"CHAPTER 16**
20 **VOLUNTEER LIABILITY PROTECTION**

21
22 **"§16101. Short Title.** This Act may be cited as the "*Volunteer*
23 *Protection Act of 1999.*"

24 **§16102. Definitions.** For purposes of this Act:

25 (a) *Economic loss* shall mean any pecuniary loss resulting from harm
26 (including the loss of earnings or other benefits related to employment,
27 medical expense loss, replacement services loss, loss due to death, burial

1 costs, and loss of business or employment opportunities) to the extent
2 recovery for such loss is allowed under applicable local law.

3 (b) *Harm* shall mean and include physical, nonphysical, economic,
4 and noneconomic loss.

5 (c) *Noneconomic loss* shall mean loss for physical and emotional pain,
6 suffering, inconvenience, physical impairment, mental anguish,
7 disfigurement, loss of enjoyment of life, loss of society and companionship,
8 loss of consortium (other than loss of domestic service), hedonic damages,
9 injury to reputation and all other nonpecuniary losses of any kind or
10 nature.

11 (d) *Nonprofit organization* shall mean:

12 (1) Any organization which is described in §501(c) of the
13 Internal Revenue Code of 1986 and exempt from tax under §501(a)
14 of such Code; or

15 (2) Any not-for-profit organization which is organized and
16 conducted, pursuant to the laws of Guam, for public benefit and
17 operated primarily for charitable, civic, educational, religious,
18 welfare, or health purposes.

19 (e) *Volunteer* shall mean an individual performing services for a
20 nonprofit organization or a governmental entity who does not receive:

21 (1) Compensation other than reimbursement or allowance for
22 expenses actually incurred; or

23 (2) Any other thing of value in lieu of compensation in excess
24 of \$500 per year, and such term includes a volunteer serving as a
25 director, officer, trustee, or direct service volunteer.

26 **§16103. Liability Protection for Volunteers.** Unless otherwise
27 provided by law, no volunteer of a nonprofit organization or governmental

1 entity shall be liable for harm caused by an act or omission of the
2 volunteer on behalf of the organization or entity if:

3 (a) The volunteer was acting within the scope of the
4 volunteer's responsibilities in the nonprofit organization or
5 governmental entity at the time of the act or omission;

6 (b) The appropriate or required volunteer was properly
7 licensed, certified, or authorized by the appropriate authorities for
8 the activities or practice on island, in which the harm occurred,
9 where the activities were or practice was undertaken within the
10 scope of the volunteer's responsibilities in the nonprofit organization
11 or governmental entity;

12 (c) The harm was not caused by willful or criminal
13 misconduct, gross negligence, reckless misconduct, or a conscious,
14 flagrant indifference to the rights or safety of the individual harmed
15 by the volunteer; and

16 (d) The harm was not caused by the volunteer operating a
17 motor vehicle, vessel, aircraft, or other vehicle for which the
18 operator or the owner of the vehicle, craft, or vessel is required to --

19 (1) possess an operator's license; or

20 (2) maintain insurance.

21 **§16104. Limitation on Punitive Damages Based on the Actions**
22 **of Volunteers.** As a general rule, punitive damages may not be
23 awarded against a volunteer in an action brought for harm based on the
24 action of a volunteer acting within the scope of the volunteer's
25 responsibilities to a nonprofit organization or governmental entity unless
26 the claimant establishes by clear and convincing evidence that the harm
27 was caused by an action of such volunteer which constitutes willful or

1 criminal misconduct, or a conscious, flagrant indifference to the rights or
2 safety of the individual harmed.

3 **§16105. Liability For Noneconomic Loss: General Rule.** In any
4 civil action against a volunteer based on an action of a volunteer acting
5 within the scope of the volunteer's responsibility to a nonprofit
6 organization or governmental entity, the liability of the volunteer for
7 noneconomic loss shall be determined in accordance with §16106 of this
8 Chapter.

9 **§16106. Liability For Noneconomic Loss: Amount of Liability.**
10 Each defendant, who is a volunteer, shall be liable only for the amount of
11 noneconomic loss allocated to that defendant in direct proportion to the
12 percentage of responsibility of that defendant for the harm to the claimant
13 with respect to which the defendant is liable. The court shall render a
14 separate judgment against each defendant in an amount determined
15 pursuant to the preceding sentence.

16 For purposes of determining the amount of noneconomic loss
17 allocated to a defendant who is a volunteer under this section, the trier of
18 fact shall determine the percentage of responsibility of that defendant for
19 the claimant's harm.

20 **§16107. Application.** This Act applies to any claim for
21 harm caused by an act or omission of a volunteer where that claim is filed
22 on or after the effective date of this Act, but only if the harm that is the
23 subject of the claim or the conduct that caused such harm occurred after
24 such effective date."

25 **Section 3. Effective Date.** The provisions of this Act shall take effect 90
26 days after its enactment.

70 Pacific Daily News Friday, February 26, 1999

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Benefit: One-way airfare from point of hire. Interested applicants please apply at Guam Employment Service with the One Stop Career Center, 125 Tun Jesus Crisostomo St. Suite 101 Tamuning, Guam 96911 (Sunny Plaza).
(Ref. No. 990116)



GUAM WATERWORKS AUTHORITY

Government Of Guam
P.O. Box 3010, Hagatña, Guam
Phone: (671) 647-7874 Fax: (649) 0369



Notice of Public Hearing

Senator John Camacho Sales
Chairman of the Committee on
Judiciary, Public Safety, Consumer Protection & Human Resources Development

- Bill 47: An act to add Chapter 1 to Division 2 of Title 15 GCA, relative to adopting the Uniform Transfer on Death Security Registration Act. Sponsored by Antonio R. Unpingco.
 - Bill 51: An act to repeal and re-enact §77133, and to add a new Chapter 78, all of Title 10 GCA, relative to establishing the Guam Community Police Review Board, to improve Police-Community relations and to better ensure police accountability. Sponsored by Vicente C. Pangelinan.
 - Bill 52: An act to repeal P.L. 24-288, temporarily establish the Office of Public Prosecutor and permanently establish the Office of the Elected Attorney General. Sponsored by Mark Forbes.
 - Bill 62: An act to add a new Chapter 16 to Title 7, Guam Code Annotated, relative to providing certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers. Sponsored by Vicente C. Pangelinan.
 - Bill 76: An act to amend 22 GCA §49106, relative to inspection of pawnbroker's register by police officers. Sponsored by John C. Sales.
 - Bill 82: An act to amend §8120 and §8120.1, Article 1, Chapter 8 of Title 4 of the Guam Code Annotated, relative to retirement of uniformed personnel. Sponsored by John C. Sales.
- Friday, February 26, 1999, 2:00 pm to 5:00 pm, Legislature Public Hearing Room

address: 777 Sinajana Commercial Building, Route 4, Sinajana, Guam 96928
telephone: 472-3431, fax: 472-3433
website: KUENTOS-http://www.guam.net/sensalas
American Disabilities Association Coordinator:
e-mail: jsalas@sensalas.guam.net
TALAYA-http://www2.ite.net/senators/sensalas
John Meno tel: 472-3431

action of job safety reg. Interpret... Establishes or recommends measures to of prod. & suggest... Analyzes work problems... promotions, transfers... Maintains time & s. requisitions & market to determine... inventory control... site of materials... ghtly, hazardous... codes. Ensures the... tibility & safety of... oning of installed... nts, relocation or... ene: One-way airfare... ne Stop Career, Ctr... GU 96911 (990203)

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 Please apply in person at our Human Resource office located in the San Miguel Building, 2149 Route 16, Harmon
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The Department of Labor is currently seeking individuals with four (4) years experience to fill the following position:

Department of Labor is currently seeking for individuals w/2 yrs. exp. to fill the following positions:
Construction Equipment Mechanics \$13.60/hr
 Analyzes malfunctions and repairs, rebuilds, and construction equipment such as cranes, power scrapers, paving machines, motor graders, trench machines, conveyors, bulldozers, dredges, pumps, and pneumatic tools. Operates and inspects equipment to diagnose defects. Dismantles and reassembles equipment using hoists and handtools. Examines damage or excessive wear using micrometers and replaces defective engines and subassemblies, such as pistons, valves, and overhead equipment, to ensure efficiency. Welds broken parts and structural members. May direct workers engaged in cleaning parts and with assembly and disassembly of equipment.
 Interested applicants please apply at Guam Employment Service at the One Stop Career Center, 125 Tun Jesus Crisostomo St., Suite 101 (Sunny Plaza) Tamuning, Guam. Tel: 990216

NOTICE OF COMPLETION
 Bernard Buena, Bernard Bernadette and Brian Marasigan, 145 Dago Ct. Liguana Terrace, Dededo, Guam 96912, the "Owners", own in fee simple the following "property" Lot No. P15-45-1AB-3-2, Dededo, Guam. The contractor, Sun Woo Corporation on Jan. 25, 1999 has completed construction of a residential unit on said property.
 Owners: /s/ Bernard Buena, /s/ Bernadette Marasigan, /s/ Brian Marasigan

2 KOREAN SPECIALTY COOKS \$10.03/Hr.
 Duties: Plans menus for and cooks traditional Korean style dishes, lunches, dinners, desserts, and other foods according to recipes. Seasons and prepares foods in accordance with traditional Korean style and prescribed Korean methods. Trains, supervises, and coordinates activities of cooks in preparing, seasoning, and cooking traditional Korean style food. Estimates food consumption and requisitions, supplies accordingly. (Must possess a health certificate after hiring).
 Interested applicants please apply at Guam Employment Service at the One Stop Career Center, 125 Tun Jesus Crisostomo St., Ste. 101 Tamuning, Guam 96911 (Sunny Plaza) (Ref. No. 99-0208)

PUBLIC HEARING REMINDER NOTICE
COMMITTEE
 Committee on Judiciary, Public Safety, Consumer Protection, and Human Resources Development
AGENDA:
 Bill 17 - Uniform Transfer on Death Security Registration Act
 Bill 51 - Establishing the Guam Community Police Review Board
 Bill 52 - Establishing the Office of the Chief Attorney General
 Bill 53 - Protection of Volunteers and Non-Profit Organizations
 Bill 54 - Retirement of Uniformed Services University of the Health Sciences
 Bill 72 - Inspection of pay records by the Attorney General
DATE, TIME & LOCATION:
 Friday, February 26, 1999, 9:00 AM - 5:00 PM
 Boardroom, Public Hearing Room

For additional information, contact the Office of Senator John Camacho Salas
 Ph: 472-3431 Fax: 472-3433 e-mail: jsalas@sensalas.gum.net
 http://www.guam.net/sensalas http://www.2.net/senators/sensalas
 American Disabilities Coordinator: John Meng tel: 472-3431

GUAM POWER AUTHORITY
 JURIDATIL ET TRES EDA GUAHAN
 P.O. BOX 2977, AGANA, GUAM U.S.A. 96910-2977
 Telephone Nos. (671) 646-3251/2 or Fax No. (671) 646-3163

INVITATION TO BID

Q. NO.	DUPLICATE	TIME	DESCRIPTION
72-99	03/19/99	2:00PM	Harmon 138KV Substation Expansion Project \$500,000 non-refundable fee

Bids may be picked up at the GPA Procurement Office, GPA Central Office, 1st Floor, 1911 Route 16, Harmon. Non-refundable payment must be made at the GPA Procurement Services Department prior to issuance of documents. **ATTENDANCE IS MANDATORY AT ANY PROPOSED PRE-BID CONFERENCE.**
 Carl T.C. Gutierrez, Governor of Guam; Madeleine Z. Bordallo, Lt. Governor of Guam; Ricardo S. Umpingco, General Manager

GUAM POWER AUTHORITY
 JURIDATIL ET TRES EDA GUAHAN
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 Telephone Nos. (671) 646-3251/2 or Fax No. (671) 646-3163

INVITATION TO BID

BID NO.	DUPLICATE	TIME	DESCRIPTION
73-99	03/19/99	2:00PM	Replacement of 4000 HP Turbine Stage and Diaphragm Assembly

Bid Packages may be picked up and must be submitted before scheduled time and date above to: Attn: Marcy Celis, Procurement Manager, Procurement Office located at the 1st Floor, GPA Central Office, 1911 Route 16, Harmon, Guam 96911.
 Carl T.C. Gutierrez, Governor of Guam; Madeleine Z. Bordallo, Lt. Governor of Guam; Ricardo S. Umpingco, General Manager

COMITEE NA BENTE SINGKO NA LIHESLATURAN GUAHAN
Committee on Natural Resources
Senator Joanne M. S. Brown
Chairperson
Notice of Oversight Hearing on

COMITEE NA BENTE SINGKO NA LIHESLATURAN GUAHAN
 ATIN MARY CELIS, LIAISON
 Procurement Manager, Procurement Office located at the 1st Floor, GPA Central Office, 1911 Route 16, Harmon, Guam 96911.
 Carl T.C. Gutierrez, Governor of Guam; Madeleine Z. Bordallo, Lt. Governor of Guam; Ricardo S. Umpingco, General Manager

the Guam Daily News, Wednesday, February 24, 1999



SENATOR JOHN C. ACHO SALAS CHAIRMAN

COMMITTEE ON JUDICIARY, PUBLIC SAFETY, CONSUMER PROTECTION
AND HUMAN RESOURCES DEVELOPMENT

TESTIMONY SIGN IN SHEET

Friday, February 26, 1999

Bill Number **62**

Title AN ACT TO ADD A NEW CHAPTER 16 TO TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING CERTAIN PROTECTIONS TO VOLUNTEERS, NONPROFIT ORGANIZATIONS, AND GOVERNMENTAL ENTITIES IN LAWSUITS BASED ON THE ACTIVITIES OF VOLUNTEERS.

NAME	ORGANIZATION	TESTIMONY
Dave Lotz	self	<input checked="" type="checkbox"/> FOR <input type="checkbox"/> WRITTEN
B	POB 20721 Benigno, GU 96921	<input type="checkbox"/> AGAINST <input checked="" type="checkbox"/> ORAL
Bill Pavese	Boy Scouts of America	<input checked="" type="checkbox"/> FOR <input type="checkbox"/> WRITTEN
	POB 8793 Tamuning 96934	<input type="checkbox"/> AGAINST <input type="checkbox"/> ORAL
Sonny Shelton	DPR	<input checked="" type="checkbox"/> FOR <input checked="" type="checkbox"/> WRITTEN
Judy Jackson		<input type="checkbox"/> AGAINST <input checked="" type="checkbox"/> ORAL
Judy JACKSON	CO-R-	<input checked="" type="checkbox"/> FOR <input type="checkbox"/> WRITTEN
		<input type="checkbox"/> AGAINST <input checked="" type="checkbox"/> ORAL
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		<input type="checkbox"/> AGAINST <input type="checkbox"/> ORAL



Carl T.C. Gutierrez
Governor

Madeleine Z. Bordallo
Lt. Governor

DEPARTMENT OF PARKS AND RECREATION

GOVERNMENT OF GUAM
BUILDING 13-8, TIYAN
Post Office Box 2950
Agana, Guam 96932
Telephone: (671) 475-6296/7
Facsimile: (671) 472-9626

February 26, 1999



A.J. Sonny Shelton
Director

Franklin J. Gutierrez
Deputy Director

**Committee on Judiciary, Public Safety,
Consumer Protection and Human
Resource Development
Mina Bente Singko Na Lehislaturan Guahan**

Attn: The Honorable John Salas, Chairman

Hafa Adai, Mr. Chairman and Members:

Thank you for the opportunity to provide input on Bill No. 62, "An act to add a new Chapter 16 to Title 7, Guam Code annotated, relative to providing certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers."

This department is highly supportive of the proposed legislation as volunteers and non-profit organizations often provide public service via our department by assisting with park clean-ups, painting, donating additional facilities, and in many other varied ways. As such, passage of Bill No. 62 would provide some measure of liability protection for these civic-minded entities.

We would further request that the committee expand the intended scope of Bill No. 62 to address some pressing needs of this department and provide increased public benefit.

As you are aware, the department has long had an "Adopt-A-Park" program which encourages *corporate entities*, among other groups to "Adopt" park areas and provide much-needed, but unfunded maintenance efforts for these areas. On more than one occasion, the question of liability and indemnification has arisen and the department has lost sorely needed "adoptive" sponsorship as a result. In this regard, we would urge the committee to expand coverage to corporate entities and other businesses who would ordinarily assume these maintenance responsibilities as good neighbors were it not for the question of their inherent liability.



The Way Forward!

Letter to Senator John Salas; re: Bill No. 62, dated 2/26/99, page 2 of 2:

Another example of an area where expansion of the proposed legislation may be warranted is the department's "Boonie Stomp" program which conducts hikes to various points of interest for local residents and newcomers to our island. This program was established by Mr. Dave Lotz, a now retired employee of the department using only volunteer hike leaders. We would ask the committee to include worker's compensation benefits for these volunteers and others in similar capacities to further encourage such unselfish volunteerism.

Additionally, the department has been spearheading an effort to seek "adoptive parents" or sponsors to beautify, upgrade, and maintain roadside areas along major roadways and village streets as impetus for increased public awareness and participation in Island-wide beautification. By expanding Bill No. 62 to include liability protection and other benefits for these potential sponsors, our job will be made much easier.

As you can tell from our comments, we have high hopes for Bill No. 62 and believe that with necessary amendments by the committee, it will prove to be a vehicle which can further the efforts of our community for a bright and beautiful island.

Thank you for your consideration of this testimony.

Si Yuus Maase,

A handwritten signature in black ink, appearing to read "A. J. SONNY SHELTON". The signature is stylized and includes a long horizontal flourish extending to the right.

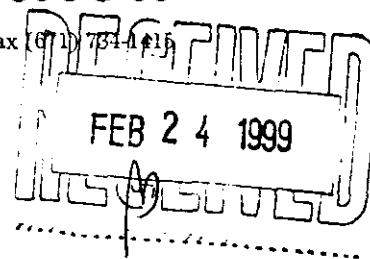
A. J. SONNY SHELTON
Director



Sanctuary, Incorporated

P.O. Box 21030 GMF, GU 96921 • Administrative Office (671) 735-1400 • Fax (671) 731-1415

February 24, 1999



Honorable Senator John C. Salas
Chairperson
Committee on Judiciary, Public Safety
Consumer Protection & Human Resources Development
155 Hesler Street
Agana, Guam 96932

Subject: Bill 62, "AN ACT TO ADD A NEW CHAPTER 16 TO TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING CERTAIN PROTECTIONS TO VOLUNTEERS, NONPROFIT ORGANIZATIONS, AND GOVERNMENTAL ENTITIES IN LAWSUITS BASED ON THE ACTIVITIES OF VOLUNTEERS."

Dear Chairperson Salas:

Thank you for providing Sanctuary, Incorporated with the opportunity to provide testimony on Bill 62. As a non-profit entity operating for the benefit of the public, we are in full support of the measure to provide certain protections to volunteers of organizations such as ours.

Sanctuary, Incorporated is the sole provider of services to runaway, homeless and troubled youth on island. Our organization has a 28 year history of being a moving force to directly counteract juvenile delinquency, familial disunity, child abuse and neglect. Since it's founding in 1971, our organization has been focused on youth advocacy and in providing a comprehensive continuum of services to youth in the community. Our services include among other things a 24 hour Teen Help Line, crisis intervention, supportive counseling, brief therapy, emergency shelter services, a transitional living program, drug/alcohol education and prevention programs, parenting classes, parenting programs and the Home Instruction Program for Preschool Youngsters (HIPPY).

Throughout our history we have relied heavily on the support from the community in providing volunteer services on our Board of Directors and within our programs. In its' inception, Sanctuary was managed solely by volunteers who wanted to contribute to our island. In recent years, we have noticed a decrease in the willingness of persons to volunteer. This has caused a tremendous burden on our resources, as we have to employ people for activities that would have normally been done by a volunteer. We believe that the decrease in volunteerism is in someway attributed to the personal liability on that individual for actions associated with helping the non-profit entity. Employees of these organizations are afforded protections under insurance policies and other such coverages for their conduct that causes losses not attributed to the gross negligence or willful misconduct of that individual. Volunteers are not afforded that same protection despite the fact that they are acting in the same capacity as would a paid employee.

Furthermore, non-profit entities are governed by a Board of Directors. These Directors do not receive any form of compensation for their time, commitment, or effort in supporting the organization. Yet, these individuals may also be held personally liable for the actions of the agency that they are volunteering for. This does a great disservice to the people of Guam as many of these organization that provide public service may not be fortunate enough to secure Board Members who can truly contribute to the positive evolution of these agencies and the solid provision of services designed to meet the needs of the community.

Helping Youth and Families Help Themselves

24-Hour Hotline: 475-7100 • E-mail: sanctuar@ite.net

It is for these reasons, that Sanctuary fully supports the adoption of Bill 62 and hope that your committee will respond favorably to the measure. Should you have any questions, or require additional information, please do not hesitate to contact me at 735-1400.

Sincerely,



Christine Baletto
Executive Director



COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

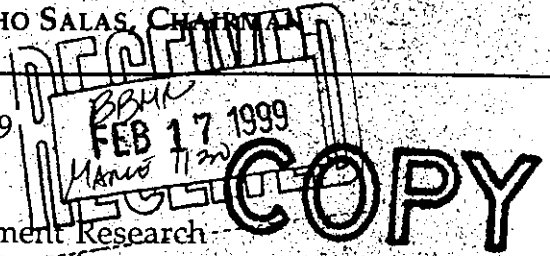
February 17, 1999

Memorandum

To: Director, Bureau of Budget Management Research

From: Senator John Camacho Salas

Subject: Request for Fiscal Notes



Please find attached Committee Bills 47, 51, 62, and 76, for which I respectfully request issuance of Fiscal Notes.

1. Bill 47, "AN ACT TO ADD CHAPTER 1 TO DIVISION 2 OF TITLE 15 OF THE GUAM CODE ANNOTATED, RELATIVE TO ADOPTING THE UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT."
2. Bill 51, "AN ACT TO REPEAL AND REENACT §77133, AND TO ADD A NEW CHAPTER 78, ALL OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM COMMUNITY POLICE REVIEW BOARD, TO IMPROVE POLICE-COMMUNITY RELATIONS AND TO BETTER ENSURE POLICE ACCOUNTABILITY."
3. Bill 62, "AN ACT TO ADD A NEW CHAPTER 16 TO TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING CERTAIN PROTECTIONS TO VOLUNTEERS, NONPROFIT ORGANIZATIONS, AND GOVERNMENTAL ENTITIES IN LAWSUITS BASED ON THE ACTIVITIES OF VOLUNTEERS."
4. Bill 76, "AN ACT TO AMEND 22 GCA §49106, RELATIVE TO INSPECTION OF PAWNBROKER'S REGISTER BY POLICE OFFICERS."

These bills are scheduled to be heard on February 26, 1999. Your issuance of these fiscal notes will be greatly appreciated.

Senator John Camacho Salas, Chairman

Attachments