



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAY 20 2001

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Sais na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature
Suite 200
130 Aspinal Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>JS</u>
Time	<u>10:15 a.m.</u>
Date	<u>05/21/01</u>

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 022 (COR) entitled: "AN ACT TO ADD §§3(i) AND 3(j); TO AMEND §5 AND TO REPEAL §8, ALL OF P.L. NO. 24-37; AND TO ADD §§1-104(18), 1-104(19), 1-104(20) AND 4-104; TO REPEAL AND REENACT §2-103 AND CHAPTER 3 OF §2; TO AMEND §§4-101, 4-103.2, 5-101, 5-102, 5-103, 5-104, 5-106.1, 5-107.1, AND 5-109 OF §2; TO REPEAL CHAPTER 6 OF §2 AND §§4 AND 5, ALL OF P.L. NO. 24-294, RELATIVE TO AUTHORIZING GWA TO UTILIZE THE "BUILD-OPERATE-TRANSFER" PROCEDURE" which I have signed into law as Public Law No. 26-14.

Thank you for the interest and involvement expressed by i Liheslatura Guåhan, the Guam Legislature, in improving and upgrading the infrastructure of the waterworks system on our island. By way of compromise between the Executive and Legislative branches, this legislation is now signed, and the involvement of i Liheslatura Guåhan is welcome in improving our water and wastewater operations and infrastructure. The willingness on the part of the legislative body to directly involve itself in the budget process of this autonomous agency now places the responsibility for the needs of the agency where funding can be addressed. This responsibility is now removed from the Executive Branch. Daily operations and future planning of the agency will now be addressed by the Legislative Branch. Please note some concerns below for consideration in making amendments in future legislation.

The following are some of the changes in the prior Build-Operate-Transfer law that is on the books. The daily operations of the agency are now included within the listing of priority projects of the agency. This implies that i Liheslatura Guåhan considers the daily operational activities of the waterworks system to be as important as future projects. I agree.

0197

This legislation also increases the amount of public notice that is given to advertise for any potential developers to upgrade our water and sewer infrastructure. I also agree that wide notice should be given in order to obtain interest from as many potential developers as possible.

This legislation repeals the ability of the Guam Waterworks Authority to enter into any negotiations with potential developers prior to the issuance of requests for proposals. This may mean that the agency will be limited to accepting the lowest bid without adequate communication and investigation of the backgrounds and intentions of potential developers.

It needs to be pointed out that the provisions of this legislation interact with the provisions of Substitute Bill No. 47, which modifies the enabling statute governing the functioning of the Guam Waterworks Authority. In Substitute Bill No. 47, the GWA is restricted from entering into any contracts for longer than Two (2) years. This will impact on the willingness of any potential developer to look at contracting with the GWA for any major projects or long term projects. Companion Bill No. 47 also indicates that any contracts entered into must be fully budgeted by i Liheslatura Guåhan in the annual budget of the agency.

Direct interaction of the Public Utilities Commission (PUC) is inserted into any future Build-Operate-Transfer contracts in this legislation. This may compromise the role of the PUC as an independent rate-making body over this utility. The PUC is now tasked with several duties involving the Commission with potential developers entering into a Build-Operate-Transfer contract. The PUC is to review and approve any request for proposal for projects prior to the request for proposal being placed for public notice. The PUC is also put in the position of appointing an observer to the Build-Operate-Transfer (BOT) Committee, as well as replacing the members of the BOT Committee. Apparently, the PUC is empowered to replace any or all of the members of the BOT Committee, at will. Hopefully, this portion of the legislation will be amended in the future to eliminate this direct compromise of the PUC's independent role as a rate-setting watch dog.

Thank you, again, for the full involvement of i Liheslaturan Guåhan in addressing the needs of the water and wastewater systems. We look forward to future interaction on this issue.

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 Antonio R. Unpingco
Speaker

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 022 (COR) "AN ACT TO ADD §§3(i) AND 3(j); TO AMEND §5 AND TO REPEAL §8, ALL OF P.L. NO. 24-37; AND TO ADD §§1-104(18), 1-104(19), 1-104(20) AND 4-104; TO REPEAL AND REENACT §2-103 AND CHAPTER 3 OF §2; TO AMEND §§4-101, 4-103.2, 5-101, 5-102, 5-103, 5-104, 5-106.1, 5-107.1, AND 5-109 OF §2; TO REPEAL CHAPTER 6 OF §2 AND §§4 AND 5, ALL OF P.L. NO. 24-294, RELATIVE TO AUTHORIZING GWA TO UTILIZE THE "BUILD-OPERATE-TRANSFER" PROCEDURE," was on the 16th day of May, 2001, duly and regularly passed.




ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 17th day of May, 2001,
at 1:55 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guåhan

Date: 5-20-01

Public Law No. 26-14

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 22 (COR)

As substituted by the
Committee on Natural Resources
and amended on the Floor.

Introduced by:

T. C. Ada
J. M.S. Brown
J. F. Ada
F. B. Aguon, Jr.
E. B. Calvo
F. P. Camacho
M. C. Charfauros
Mark Forbes
L. F. Kasperbauer
L. A. Leon Guerrero
K. S. Moylan
V. C. Pangelinan
A. L. G. Santos
A. R. Unpingco
J. T. Won Pat

AN ACT TO ADD §§3(i) AND 3(j); TO AMEND §5 AND TO REPEAL §8, ALL OF P.L. NO. 24-37; AND TO ADD §§1-104(18), 1-104(19), 1-104(20) AND 4-104; TO REPEAL AND REENACT §2-103 AND CHAPTER 3 OF §2; TO AMEND §§4-101, 4-103.2, 5-101, 5-102, 5-103, 5-104, 5-106.1, 5-107.1, AND 5-109 OF §2; TO REPEAL CHAPTER 6 OF §2 AND §§4 AND 5, ALL OF P.L. NO. 24-294, RELATIVE TO AUTHORIZING GWA TO UTILIZE THE "BUILD-OPERATE-TRANSFER" PROCEDURE.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
2 finds that the Guam Waterworks Authority (“GWA”) has *not*, to date,
3 implemented the provisions of Public Law Number 24-37 for the purpose
4 of undertaking needed capital improvements of its public water and
5 wastewater system. Due to the quickly deteriorating condition of the
6 public water and wastewater system, timely action must be taken to begin
7 addressing these problems effectively.

8 **Section 2.** Section 3(i) is hereby *added* to Public Law Number 24-37
9 to read as follows:

10 “(i) **Master Plan.** A list of water and wastewater
11 infrastructure projects, which is annually updated by the BOT
12 Committee and approved by the Guam Waterworks Authority Board
13 of Directors and the GPUC. The engineering basis for the
14 development of a Guam-wide water system for the government of
15 Guam which is periodically reviewed and revised as necessary to
16 reflect changing conditions; trends; new goals and objectives; and
17 technological developments. The master plan is generally based
18 upon population projection, per capita water demands and ground
19 water supply estimates.”

20 **Section 3.** Section 3(j) is hereby *added* to Public Law Number 24-37
21 to read as follows:

22 “(j) **GPUC.** GPUC means the Guam Public Utilities
23 Commission or its successor.”

1 **Section 4.** Section 5 of Public Law Number 24-37 is hereby *amended*
2 to read as follows:

3 **“Section 5. Priority Projects.**

4 **(a) Project List.** The GWA Board of Directors shall
5 develop and maintain a list of water and wastewater
6 infrastructure projects or operational activities to be financed,
7 designed, constructed, renovated, operated and maintained
8 under the provisions of this Act. Said list shall be a part of
9 GWA’s water and wastewater infrastructure master plans,
10 which shall establish priorities for said projects. Similarly, said
11 operational activities shall pertain to the production;
12 transmission; distribution; and collection, treatment and
13 disposal of wastewater.

14 **(b) Publication of Project List.** GWA shall widely
15 publicize this list of potential BOT projects through publication
16 in *at least* two (2) local newspapers of general circulation *at least*
17 twice: once at the beginning and a second publication at the
18 mid-point of a thirty (30) day period. Any project valued at or
19 in excess of Twenty-five Million Dollars (\$25,000,000) shall be
20 publicized in a publication with a wide national distribution at
21 the beginning of each month over a three (3) month period *prior*
22 *to any award being made.”*

23 **Section 5.** Section 8 of Public Law Number 24-37 is hereby *repealed*.

1 **Section 6.** Section 1-104(18) is hereby *added* to §2 of Public Law
2 Number 24-294 to read as follows:

3 “18. ‘*BOT Committee*’ means the committee formed to evaluate
4 BOT proposals under §3-101 and make recommendations in
5 accordance with §3(i) of Public Law Number 24-37.”

6 **Section 7.** Section 1-104(19) is hereby *added* to §2 of Public Law
7 Number 24-294 to read as follows:

8 “19. ‘*Master Plan*’ is a list of water and wastewater
9 infrastructure projects, which is annually updated by the BOT
10 Committee and approved by the Guam Waterworks Authority Board
11 of Directors and the GPUC. The engineering basis for the
12 development of a Guam-wide water system for the government of
13 Guam which is periodically reviewed and revised as necessary to
14 reflect changing conditions, trends, new goals and objectives, and
15 technological developments. The master plan is generally based
16 upon population projection, per capita water demands and ground
17 water supply estimates.”

18 **Section 8.** Section 1-104(20) is hereby *added* to §2 of Public Law
19 Number 24-294 to read as follows:

20 “20. ‘*GPUC*’ means the Guam Public Utilities Commission or
21 its successor.”

22 **Section 9.** Section 2-103 of §2 of Public Law Number 24-294 is
23 hereby *repealed and reenacted* to read as follows:

1 The members should be individuals experienced in the
2 development, financing, construction, or operation of water or
3 wastewater infrastructure projects. The GPUC shall have the right to
4 appoint an observer representative, who shall serve in a non-voting,
5 *ex-officio* capacity. Each BOT Committee member shall serve until
6 replaced by the Board or the GPUC. The General Manager shall *not*
7 appoint himself. Each Committee member shall serve for a two (2)
8 year term, and said terms shall be staggered in a manner to be
9 determined by the Board. The concurrence of four (4) Committee
10 members shall be necessary to establish a quorum and make any
11 decision.”

12 **Section 11.** Section 4-101 of §2 of Public Law Number 24-294 is
13 hereby *amended* to read as follows:

14 **“Section 4-101. Use.** The Request for Proposal is used to
15 initiate the competitive public bidding for water and wastewater
16 infrastructure projects suitable under the ‘Build-Operate-Transfer’
17 concept, or variants thereof.”

18 **Section 12.** Section 4-103.2 of §2 of Public Law Number 24-294
19 is hereby *amended* to read as follows:

20 **“Section 4-103.2. Repayment Scheme.** The repayment
21 scheme shall be included in the contract terms accompanying the
22 Request for Proposals. For the financing, design, construction,
23 operation and maintenance of any infrastructure project undertaken
24 through the ‘Build-Operate-Transfer’ arrangement, or any of its

1 variations, the project proponent shall be repaid by authorizing it to
2 charge and collect from GWA, its sole wholesale consumer,
3 reasonable tolls, fees and rentals for the use of the project facility *not*
4 *exceeding* those incorporated in the contract and, where applicable,
5 the proponent may likewise be repaid in the form of a share in the
6 revenue of the project. For projects which have been granted a
7 natural monopoly, or where the public has no access to alternative
8 facilities, the Guam Public Utilities Commission ('GPUC') shall
9 approve the tolls, fees, rentals and charges to GWA based upon a
10 reasonable rate of return."

11 **Section 13.** Section 4-104 is hereby *added* to §2 of Public Law
12 Number 24-294 to read as follows:

13 **"Section 4-104. GPUC Approval.** *Before* any Request for
14 Proposal for a BOT project is published or sent out to any potential
15 bidders, it shall be sent to the GPUC for its prior review and
16 approval. This approval shall be in addition to any approval
17 required under §4-103.2, 12 G.C.A. §12004 or any applicable GPUC
18 rule or order."

19 **Section 14.** Section 5-101 of §2 of Public Law Number 24-294 is
20 hereby *amended* to read as follows:

21 **"Section 5-101. Policy.** In order to foster competition in
22 the contract selection process, public bidding under a two (2)
23 envelope/two (2) stage system will be used, *except* for unsolicited
24 proposals."

1 **Section 15.** Section 5-102 of §2 of Public Law Number 24-294 is
2 hereby *amended* to read as follows:

3 **"Section 5-102. Limitation on Direct Negotiations.** No
4 direct negotiations shall take place between GWA and a bidder with
5 respect to a bid submission. This limitation, *however*, shall *not*
6 prevent requests for clarification as provided in §§5-106.2 and 5-
7 107.2."

8 **Section 16.** Section 5-103 of §2 of Public Law Number 24-294 is
9 hereby *amended* to read as follows:

10 **"Section 5-103. Bidding Process.** Each participating bidder
11 shall submit two (2) envelopes. The first envelope shall contain the
12 Technical Proposal, and the second envelope the Financial Proposal.
13 Bidders shall be given sixty (60) days from the date of the Request for
14 Proposal to submit their bids."

15 **Section 17.** Section 5-104 of §2 of Public Law Number 24-294 is
16 hereby *amended* to read as follows:

17 **"Section 5-104. Timing of the Bidding Process.** The
18 location, time and date of each stage of the bidding process will be
19 established by GWA and provided to bidders with the Request for
20 Proposals."

21 **Section 18.** Section 5-106.1 of §2 of Public Law Number 24-294
22 is hereby *amended* to read as follows:

23 **"Section 5-106.1. Evaluation of the Technical Proposal.**

1 The BOT Committee shall evaluate the Technical Proposals based
2 upon the requirements set forth in the Request for Proposals. The
3 Committee shall obtain expert advice as needed. This evaluation will
4 ensure technical merit. After the evaluation, the BOT Committee
5 shall approve or reject the Technical Proposal. The Financial
6 Proposal of a bidder whose Technical Proposal has been rejected
7 shall be returned to the bidder. No criteria may be used in the
8 proposal evaluation that are *not* set forth in the Request for Proposals.
9 The Committee shall exercise due diligence in completing the
10 evaluation of the Technical Proposals within forty-five (45) days.”

11 **Section 19.** Section 5-107.1 of §2 of Public Law Number 24-294
12 is hereby *amended* to read as follows:

13 **“Section 5-107.1. Evaluation of the Financial Proposal.**

14 The BOT Committee shall evaluate the Financial Proposals based
15 upon the requirements set forth in the Request for Proposals. The
16 Committee shall obtain expert advice as needed. This evaluation will
17 ensure financial merit. After the evaluation the BOT Committee shall
18 provide a report to the GWA Board of Directors with its
19 recommendation within thirty (30) days of the public opening of the
20 Financial Proposals. No criteria may be used in the proposal
21 evaluation that are *not* set forth in the Request for Proposals.”

22 **Section 20.** Section 5-109 of §2 of Public Law Number 24-294 is
23 hereby *amended* to read as follows:

1 **"Section 5-109. Project Award.** GWA's Board of Directors
2 shall award the contract to the bidder who, having satisfied the
3 minimum financial, technical, organizational and legal standards, has
4 submitted the lowest bid and most favorable terms for the project,
5 based upon the present value of its proposed tolls, fees, rentals and
6 charges over a fixed term for the facility to be constructed or
7 rehabilitated, and operated and maintained according to the
8 prescribed minimum design and performance standards, plans and
9 specifications. This award may be conditioned upon GPUC approval
10 required by §4-103.2.

11 GWA's Board of Directors shall consider the report of the BOT
12 Committee *before* identifying the successful bidder. The winning
13 project proponent shall be *automatically* granted by GWA the
14 franchise to operate and maintain the facility, including the collection
15 of tolls, fees, rentals and charges from its sole wholesale customer,
16 GWA. This shall *not* operate to preclude contract modification. Any
17 contract modification shall require the approval of GWA's Board of
18 Directors. The GWA Board shall take action on the recommendation
19 of the BOT Committee within thirty (30) days of the receipt of
20 recommendation. A copy of each contract shall forthwith be
21 submitted to *I Liheslaturan Guåhan* for its information within thirty
22 (30) days of award."

23 **Section 21.** Chapter 6 of §2 of Public Law Number 24-294 is
24 hereby *repealed*.

1 **Section 22.** Sections 4 and 5 of Public Law Number 24-294 are
2 hereby *repealed*.

3 **Section 23. Severability.** *If* any provision of this Law or its
4 application to any person or circumstance is found to be invalid or contrary
5 to law, such invalidity shall *not* affect other provisions or applications of
6 this Law which can be given effect without the invalid provisions or
7 application, and to this end the provisions of this Law are severable.

6

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 5/16/01

VOTING SHEET

5 Bill No. 22 (COR)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.					✓
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.					✓
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

13

0

0

0

2

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

6
5/16/01

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session**

Bill No. 22 (COR)

As substituted by the
Committee on Natural Resources
and amended on the Floor.

Introduced by:

T. C. Ada
J. M.S. Brown
J. F. Ada
F. B. Aguon, Jr.
E. B. Calvo
F. P. Camacho
M. C. Charfauros
Mark Forbes
L. F. Kasperbauer
L. A. Leon Guerrero
K. S. Moylan
V. C. Pangelinan
A. L. G. Santos
A. R. Unpingco
J. T. Won Pat

**AN ACT TO ADD §§3(i) AND 3(j); TO AMEND §5
AND TO REPEAL §8, ALL OF P.L. NO. 24-37; AND
TO ADD §§1-104(18), 1-104(19), 1-104(20) AND 4-104;
TO REPEAL AND REENACT §2-103 AND CHAPTER
3 OF §2; TO AMEND §§4-101, 4-103.2, 5-101, 5-102, 5-
103, 5-104, 5-106.1, 5-107.1, AND 5-109 OF §2; TO
REPEAL CHAPTER 6 OF §2 AND §§4 AND 5, ALL
OF P.L. NO. 24-294, RELATIVE TO AUTHORIZING
GWA TO UTILIZE THE "BUILD-OPERATE-
TRANSFER" PROCEDURE.**

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

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
2 finds that the Guam Waterworks Authority (“GWA”) has *not*, to date,
3 implemented the provisions of Public Law Number 24-37 for the purpose
4 of undertaking needed capital improvements of its public water and
5 wastewater system. Due to the quickly deteriorating condition of the
6 public water and wastewater system, timely action must be taken to begin
7 addressing these problems effectively.

8 **Section 2.** Section 3(i) is hereby *added* to Public Law Number 24-37
9 to read as follows:

10 “(i) **Master Plan.** A list of water and wastewater
11 infrastructure projects, which is annually updated by the BOT
12 Committee and approved by the Guam Waterworks Authority Board
13 of Directors and the GPUC. The engineering basis for the
14 development of a Guam-wide water system for the government of
15 Guam which is periodically reviewed and revised as necessary to
16 reflect changing conditions; trends; new goals and objectives; and
17 technological developments. The master plan is generally based
18 upon population projection, per capita water demands and ground
19 water supply estimates.”

20 **Section 3.** Section 3(j) is hereby *added* to Public Law Number 24-37
21 to read as follows:

22 “(j) **GPUC.** GPUC means the Guam Public Utilities
23 Commission or its successor.”

1 **Section 4.** Section 5 of Public Law Number 24-37 is hereby *amended*
2 to read as follows:

3 **“Section 5. Priority Projects.**

4 **(a) Project List.** The GWA Board of Directors shall
5 develop and maintain a list of water and wastewater
6 infrastructure projects or operational activities to be financed,
7 designed, constructed, renovated, operated and maintained
8 under the provisions of this Act. Said list shall be a part of
9 GWA’s water and wastewater infrastructure master plans,
10 which shall establish priorities for said projects. Similarly, said
11 operational activities shall pertain to the production,
12 transmission, distribution, and collection, treatment and
13 disposal of wastewater.

14 **(b) Publication of Project List.** GWA shall widely
15 publicize this list of potential BOT projects through publication
16 in *at least* two (2) local newspapers of general circulation *at least*
17 twice: once at the beginning and a second publication at the
18 mid-point of a thirty (30) day period. Any project valued at or
19 in excess of Twenty-five Million Dollars (\$25,000,000) shall be
20 publicized in a publication with a wide national distribution at
21 the beginning of each month over a three (3) month period *prior*
22 *to any award being made.”*

23 **Section 5.** Section 8 of Public Law Number 24-37 is hereby *repealed*.

1 **Section 6.** Section 1-104(18) is hereby *added* to §2 of Public Law
2 Number 24-294 to read as follows:

3 “18. ‘*BOT Committee*’ means the committee formed to evaluate
4 BOT proposals under §3-101 and make recommendations in
5 accordance with §3(i) of Public Law Number 24-37.”

6 **Section 7.** Section 1-104(19) is hereby *added* to §2 of Public Law
7 Number 24-294 to read as follows:

8 “19. ‘*Master Plan*’ is a list of water and wastewater
9 infrastructure projects, which is annually updated by the BOT
10 Committee and approved by the Guam Waterworks Authority Board
11 of Directors and the GPUC. The engineering basis for the
12 development of a Guam-wide water system for the government of
13 Guam which is periodically reviewed and revised as necessary to
14 reflect changing conditions, trends, new goals and objectives, and
15 technological developments. The master plan is generally based
16 upon population projection, per capita water demands and ground
17 water supply estimates.”

18 **Section 8.** Section 1-104(20) is hereby *added* to §2 of Public Law
19 Number 24-294 to read as follows:

20 “20. ‘*GPUC*’ means the Guam Public Utilities Commission or
21 its successor.”

22 **Section 9.** Section 2-103 of §2 of Public Law Number 24-294 is
23 hereby *repealed and reenacted* to read as follows:

1 The members should be individuals experienced in the
2 development, financing, construction, or operation of water or
3 wastewater infrastructure projects. The GPUC shall have the right to
4 appoint an observer representative, who shall serve in a non-voting,
5 *ex-officio* capacity. Each BOT Committee member shall serve until
6 replaced by the Board or the GPUC. The General Manager shall *not*
7 appoint himself. Each Committee member shall serve for a two (2)
8 year term, and said terms shall be staggered in a manner to be
9 determined by the Board. The concurrence of four (4) Committee
10 members shall be necessary to establish a quorum and make any
11 decision.”

12 **Section 11.** Section 4-101 of §2 of Public Law Number 24-294 is
13 hereby *amended* to read as follows:

14 **“Section 4-101. Use.** The Request for Proposal is used to
15 initiate the competitive public bidding for water and wastewater
16 infrastructure projects suitable under the ‘Build-Operate-Transfer’
17 concept, or variants thereof.”

18 **Section 12.** Section 4-103.2 of §2 of Public Law Number 24-294
19 is hereby *amended* to read as follows:

20 **“Section 4-103.2. Repayment Scheme.** The repayment
21 scheme shall be included in the contract terms accompanying the
22 Request for Proposals. For the financing, design, construction,
23 operation and maintenance of any infrastructure project undertaken
24 through the Build-Operate-Transfer arrangement, or any of its

1 variations, the project proponent shall be repaid by authorizing it to
2 charge and collect from GWA, its sole wholesale consumer,
3 reasonable tolls, fees and rentals for the use of the project facility *not*
4 *exceeding* those incorporated in the contract and, where applicable,
5 the proponent may likewise be repaid in the form of a share in the
6 revenue of the project. For projects which have been granted a
7 natural monopoly, or where the public has no access to alternative
8 facilities, the Guam Public Utilities Commission ('GPUC') shall
9 approve the tolls, fees, rentals and charges to GWA based upon a
10 reasonable rate of return."

11 **Section 13.** Section 4-104 is hereby *added* to §2 of Public Law
12 Number 24-294 to read as follows:

13 **"Section 4-104. GPUC Approval.** *Before* any Request for
14 Proposal for a BOT project is published or sent out to any potential
15 bidders, it shall be sent to the GPUC for its prior review and
16 approval. This approval shall be in addition to any approval
17 required under §4-103.2, 12 G.C.A. §12004 or any applicable GPUC
18 rule or order."

19 **Section 14.** Section 5-101 of §2 of Public Law Number 24-294 is
20 hereby *amended* to read as follows:

21 **"Section 5-101. Policy.** In order to foster competition in
22 the contract selection process, public bidding under a two (2)
23 envelope/two (2) stage system will be used, *except* for unsolicited
24 proposals."

1 **Section 15.** Section 5-102 of §2 of Public Law Number 24-294 is
2 hereby *amended* to read as follows:

3 **“Section 5-102. Limitation on Direct Negotiations.** No
4 direct negotiations shall take place between GWA and a bidder with
5 respect to a bid submission. This limitation, *however*, shall *not*
6 prevent requests for clarification as provided in §§5-106.2 and 5-
7 107.2.”

8 **Section 16.** Section 5-103 of §2 of Public Law Number 24-294 is
9 hereby *amended* to read as follows:

10 **“Section 5-103. Bidding Process.** Each participating bidder
11 shall submit two (2) envelopes. The first envelope shall contain the
12 Technical Proposal, and the second envelope the Financial Proposal.
13 Bidders shall be given sixty (60) days from the date of the Request for
14 Proposal to submit their bids.”

15 **Section 17.** Section 5-104 of §2 of Public Law Number 24-294 is
16 hereby *amended* to read as follows:

17 **“Section 5-104. Timing of the Bidding Process.** The
18 location, time and date of each stage of the bidding process will be
19 established by GWA and provided to bidders with the Request for
20 Proposals.”

21 **Section 18.** Section 5-106.1 of §2 of Public Law Number 24-294
22 is hereby *amended* to read as follows:

23 **“Section 5-106.1. Evaluation of the Technical Proposal.**

1 The BOT Committee shall evaluate the Technical Proposals based
2 upon the requirements set forth in the Request for Proposals. The
3 Committee shall obtain expert advice as needed. This evaluation will
4 ensure technical merit. After the evaluation, the BOT Committee
5 shall approve or reject the Technical Proposal. The Financial
6 Proposal of a bidder whose Technical Proposal has been rejected
7 shall be returned to the bidder. No criteria may be used in the
8 proposal evaluation that are *not* set forth in the Request for Proposals.
9 The Committee shall exercise due diligence in completing the
10 evaluation of the Technical Proposals within forty-five (45) days.”

11 **Section 19.** Section 5-107.1 of §2 of Public Law Number 24-294
12 is hereby *amended* to read as follows:

13 **“Section 5-107.1. Evaluation of the Financial Proposal.**

14 The BOT Committee shall evaluate the Financial Proposals based
15 upon the requirements set forth in the Request for Proposals. The
16 Committee shall obtain expert advice as needed. This evaluation will
17 ensure financial merit. After the evaluation the BOT Committee shall
18 provide a report to the GWA Board of Directors with its
19 recommendation within thirty (30) days of the public opening of the
20 Financial Proposals. No criteria may be used in the proposal
21 evaluation that are *not* set forth in the Request for Proposals.

22 **Section 20.** Section 5-109 of §2 of Public Law Number 24-294 is
23 hereby *amended* to read as follows:

1 **"Section 5-109. Project Award.** GWA's Board of Directors
2 shall award the contract to the bidder who, having satisfied the
3 minimum financial, technical, organizational and legal standards, has
4 submitted the lowest bid and most favorable terms for the project,
5 based upon the present value of its proposed tolls, fees, rentals and
6 charges over a fixed term for the facility to be constructed or
7 rehabilitated and operated and maintained according to the
8 prescribed minimum design and performance standards, plans and
9 specifications. This award may be conditioned upon GPUC approval
10 required by §4-103.2.

11 GWA's Board of Directors shall consider the report of the BOT
12 Committee *before* identifying the successful bidder. The winning
13 project proponent shall be *automatically* granted by GWA the
14 franchise to operate and maintain the facility, including the collection
15 of tolls, fees, rentals and charges from its sole wholesale customer,
16 GWA. This shall *not* operate to preclude contract modification. Any
17 contract modification shall require the approval of GWA's Board of
18 Directors. The GWA Board shall take action on the recommendation
19 of the BOT Committee within thirty (30) days of the receipt of
20 recommendation. A copy of each contract shall forthwith be
21 submitted to *I Liheslaturan Guåhan* for its information within thirty
22 (30) days of award."

23 **Section 21.** Chapter 6 of §2 of Public Law Number 24-294 is
24 hereby *repealed*.

1 **Section 22.** Sections 4 and 5 of Public Law Number 24-294 is
2 hereby *repealed*.

3 **Section 23. Severability.** *If* any provision of this Law or its
4 application to any person or circumstance is found to be invalid or contrary
5 to law, such invalidity shall *not* affect other provisions or applications of
6 this Law which can be given effect without the invalid provisions or
7 application, and to this end the provisions of this Law are severable.

Am.
5/16/01
17

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session**

Bill No. 22 (COR)

As substituted by the
Committee on Natural Resources
and amended on the Floor.

Introduced by:

- T. C. Ada
- J. M.S. Brown
- J. F. Ada
- F. B. Aguon, Jr.
- E. B. Calvo
- F. P. Camacho
- M. C. Charfauros
- Mark Forbes
- L. F. Kasperbauer
- L. A. Leon Guerrero
- K. S. Moylan
- V. C. Pangelinan
- A. L. G. Santos
- A. R. Unpingco
- J. T. Won Pat

AN ACT TO ADD §§3(i) AND 3(j); TO AMEND §5 AND TO REPEAL §8, ALL OF P.L. NO. 24-37; AND TO ADD §§1-104(18), 1-104(19), 1-104(20) AND 4-104; TO REPEAL AND REENACT §2-103 AND CHAPTER 3 OF §2; TO AMEND §§4-101, 4-103.2, 5-101, 5-102, 5-103, 5-104, 5-106.1, 5-107.1, AND 5-109 OF §2; TO REPEAL CHAPTER 6 OF §2 AND §§4 AND 5, ALL OF P.L. NO. 24-294, RELATIVE TO AUTHORIZING GWA TO UTILIZE THE "BUILD-OPERATE-TRANSFER" PROCEDURE.

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

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
2 finds that the Guam Waterworks Authority (“GWA”) has *not*, to date,
3 implemented the provisions of Public Law Number 24-37 for the purpose
4 of undertaking needed capital improvements of its public water and
5 wastewater system. Due to the quickly deteriorating condition of the
6 public water and wastewater system, timely action must be taken to begin
7 addressing these problems effectively.

8 **Section 2.** Section 3(i) is hereby *added* to Public Law Number 24-37
9 to read as follows:

10 “(i) **Master Plan.** A list of water and wastewater
11 infrastructure projects, which is annually updated by the BOT
12 Committee and approved by the Guam Waterworks Authority Board
13 of Directors and the GPUC. The engineering basis for the
14 development of a Guam-wide water system for the government of
15 Guam which is periodically reviewed and revised as necessary to
16 reflect changing conditions; trends; new goals and objectives; and
17 technological developments. The master plan is generally based
18 upon population projection, per capita water demands and ground
19 water supply estimates.”

20 **Section 3.** Section 3(j) is hereby *added* to Public Law Number 24-37
21 to read as follows:

22 “(j) **GPUC.** GPUC means the Guam Public Utilities
23 Commission or its successor.”

1 **Section 4.** Section 5 of Public Law Number 24-37 is hereby *amended*
2 to read as follows:

3 **"Section 5. Priority Projects.**

4 **(a) Project List.** The GWA Board of Directors shall
5 develop and maintain a list of water and wastewater
6 infrastructure projects or operational activities to be financed,
7 designed, constructed, renovated, operated and maintained
8 under the provisions of this Act. Said list shall be a part of
9 GWA's water and wastewater infrastructure master plans,
10 which shall establish priorities for said projects. Similarly, said
11 operational activities shall pertain to the production,^(s)
12 transmission,⁽ⁱ⁾ distribution,⁽ⁱ⁾ and collection, treatment and
13 disposal of wastewater.

14 **(b) Publication of Project List.** GWA shall widely
15 publicize this list of potential BOT projects through publication
16 in *at least* two (2) local newspapers of general circulation *at least*
17 twice: once at the beginning and a second publication at the
18 mid-point of a thirty (30) day period. Any project valued at or
19 in excess of Twenty-five Million Dollars (\$25,000,000) shall be
20 publicized in a publication with a wide national distribution at
21 the beginning of each month over a three (3) month period *prior*
22 *to any award being made."*

23 **Section 5.** Section 8 of Public Law Number 24-37 is hereby *repealed*.

1 **Section 6.** Section 1-104(18) is hereby *added* to §2 of Public Law
2 Number 24-294 to read as follows:

3 “18. ‘*BOT Committee*’ means the committee formed to evaluate
4 BOT proposals under §3-101 and make recommendations in
5 accordance with §3(i) of Public Law Number 24-37.”

6 **Section 7.** Section 1-104(19) is hereby *added* to §2 of Public Law
7 Number 24-294 to read as follows:

8 “19. ‘*Master Plan*’ is a list of water and wastewater
9 infrastructure projects, which is annually updated by the BOT
10 Committee and approved by the Guam Waterworks Authority Board
11 of Directors and the GPUC. The engineering basis for the
12 development of a Guam-wide water system for the government of
13 Guam which is periodically reviewed and revised as necessary to
14 reflect changing conditions, trends, new goals and objectives, and
15 technological developments. The master plan is generally based
16 upon population projection, per capita water demands and ground
17 water supply estimates.”

18 **Section 8.** Section 1-104(20) is hereby *added* to §2 of Public Law
19 Number 24-294 to read as follows:

20 “20. ‘*GPUC*’ means the Guam Public Utilities Commission or
21 its successor.”

22 **Section 9.** Section 2-103 of §2 of Public Law Number 24-294 is
23 hereby *repealed and reenacted* to read as follows:


1 The members should be individuals experienced in the
2 development, financing, construction, or operation of water or
3 wastewater infrastructure projects. The GPUC shall have the right to
4 appoint an observer representative, who shall serve in a non-voting,
5 *ex-officio* capacity. Each BOT Committee member shall serve until
6 replaced by the Board or the GPUC. The General Manager shall *not*
7 appoint himself. Each Committee member shall serve for a two (2)
8 year term, and said terms shall be staggered in a manner to be
9 determined by the Board. The concurrence of four (4) Committee
10 members shall be necessary to establish a quorum and make any
11 decision.”

12 **Section 11.** Section 4-101 of §2 of Public Law Number 24-294 is
13 hereby *amended* to read as follows:

14 **“Section 4-101. Use.** The Request for Proposal is used to
15 initiate the competitive public bidding for water and wastewater
16 infrastructure projects suitable under the ‘Build-Operate-Transfer’
17 concept, or variants thereof.”

18 **Section 12.** Section 4-103.2 of §2 of Public Law Number 24-294
19 is hereby *amended* to read as follows:

20 **“Section 4-103.2. Repayment Scheme.** The repayment
21 scheme shall be included in the contract terms accompanying the
22 Request for Proposals. For the financing, design, construction,
23 operation and maintenance of any infrastructure project undertaken
24 through the ^①Build-Operate-Transfer^① arrangement, or any of its



1 variations, the project proponent shall be repaid by authorizing it to
2 charge and collect from GWA, its sole wholesale consumer,
3 reasonable tolls, fees and rentals for the use of the project facility *not*
4 *exceeding* those incorporated in the contract and, where applicable,
5 the proponent may likewise be repaid in the form of a share in the
6 revenue of the project. For projects which have been granted a
7 natural monopoly, or where the public has no access to alternative
8 facilities, the Guam Public Utilities Commission ('GPUC') shall
9 approve the tolls, fees, rentals and charges to GWA based upon a
10 reasonable rate of return."

11 **Section 13.** Section 4-104 is hereby *added* to §2 of Public Law
12 Number 24-294 to read as follows:

13 "Section 4-104. GPUC Approval. Before any Request for
14 Proposal for a BOT project is published or sent out to any potential
15 bidders, it shall be sent to the GPUC for its prior review and
16 approval. This approval shall be in addition to any approval
17 required under §4-103.2, 12 G.C.A. §12004 or any applicable GPUC
18 rule or order."

19 **Section 14.** Section 5-101 of §2 of Public Law Number 24-294 is
20 hereby *amended* to read as follows:

21 "Section 5-101. Policy. In order to foster competition in
22 the contract selection process, public bidding under a two (2)
23 envelope/two (2) stage system will be used, *except* for unsolicited
24 proposals."

1 **Section 15.** Section 5-102 of §2 of Public Law Number 24-294 is
2 hereby *amended* to read as follows:

3 **“Section 5-102. Limitation on Direct Negotiations.** No
4 direct negotiations shall take place between GWA and a bidder with
5 respect to a bid submission. This limitation, *however*, shall *not*
6 prevent requests for clarification as provided in §§5-106.2 and 5-
7 107.2.”

8 **Section 16.** Section 5-103 of §2 of Public Law Number 24-294 is
9 hereby *amended* to read as follows:

10 **“Section 5-103. Bidding Process.** Each participating bidder
11 shall submit two (2) envelopes. The first envelope shall contain the
12 Technical Proposal, and the second envelope the Financial Proposal.
13 Bidders shall be given sixty (60) days from the date of the Request for
14 Proposal to submit their bids.”

15 **Section 17.** Section 5-104 of §2 of Public Law Number 24-294 is
16 hereby *amended* to read as follows:

17 **“Section 5-104. Timing of the Bidding Process.** The
18 location, time and date of each stage of the bidding process will be
19 established by GWA and provided to bidders with the Request for
20 Proposals.”

21 **Section 18.** Section 5-106.1 of §2 of Public Law Number 24-294
22 is hereby *amended* to read as follows:

23 **“Section 5-106.1. Evaluation of the Technical Proposal.**

1 The BOT Committee shall evaluate the Technical Proposals based
2 upon the requirements set forth in the Request for Proposals. The
3 Committee shall obtain expert advice as needed. This evaluation will
4 ensure technical merit. After the evaluation, the BOT Committee
5 shall approve or reject the Technical Proposal. The Financial
6 Proposal of a bidder whose Technical Proposal has been rejected
7 shall be returned to the bidder. No criteria may be used in the
8 proposal evaluation that are *not* set forth in the Request for Proposals.
9 The Committee shall exercise due diligence in completing the
10 evaluation of the Technical Proposals within forty-five (45) days.”

11 **Section 19.** Section 5-107.1 of §2 of Public Law Number 24-294
12 is hereby *amended* to read as follows:

13 **“Section 5-107.1. Evaluation of the Financial Proposal.**

14 The BOT Committee shall evaluate the Financial Proposals based
15 upon the requirements set forth in the Request for Proposals. The
16 Committee shall obtain expert advice as needed. This evaluation will
17 ensure financial merit. After the evaluation the BOT Committee shall
18 provide a report to the GWA Board of Directors with its
19 recommendation within thirty (30) days of the public opening of the
20 Financial Proposals. No criteria may be used in the proposal
21 evaluation that are *not* set forth in the Request for Proposals. (11) ✓

22 **Section 20.** Section 5-109 of §2 of Public Law Number 24-294 is
23 hereby *amended* to read as follows:

1 **"Section 5-109. Project Award.** GWA's Board of Directors
2 shall award the contract to the bidder who, having satisfied the
3 minimum financial, technical, organizational and legal standards, has
4 submitted the lowest bid and most favorable terms for the project,
5 based upon the present value of its proposed tolls, fees, rentals and
6 charges over a fixed term for the facility to be constructed or
7 rehabilitated and operated and maintained according to the
8 prescribed minimum design and performance standards, plans and
9 specifications. This award may be conditioned upon GPUC approval
10 required by §4-103.2. ✓

11 GWA's Board of Directors shall consider the report of the BOT
12 Committee *before* identifying the successful bidder. The winning
13 project proponent shall be *automatically* granted by GWA the
14 franchise to operate and maintain the facility, including the collection
15 of tolls, fees, rentals and charges from its sole wholesale customer,
16 GWA. This shall *not* operate to preclude contract modification. Any
17 contract modification shall require the approval of GWA's Board of
18 Directors. The GWA Board shall take action on the recommendation
19 of the BOT Committee within thirty (30) days of the receipt of
20 recommendation. A copy of each contract shall forthwith be
21 submitted to *I Liheslaturan Guåhan* for its information within thirty
22 (30) days of award."

23 **Section 21.** Chapter 6 of §2 of Public Law Number 24-294 is
24 hereby *repealed*.

1 **Section 22.** Sections 4 and 5 of Public Law Number 24-294
2 hereby *repealed*.

are ✓
Ⓚ

3 **Section 23. Severability.** *If* any provision of this Law or its
4 application to any person or circumstance is found to be invalid or contrary
5 to law, such invalidity shall *not* affect other provisions or applications of
6 this Law which can be given effect without the invalid provisions or
7 application, and to this end the provisions of this Law are severable.



Office of Senator

Joanne M. Salas Brown

MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

May 7, 2001

Speaker Antonio R. Unpingco
Mina' Bente Sais Na Liheslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Speaker Unpingco:

The Committee on Natural Resources, to which was referred BILL 22 (COR): AN ACT TO AMEND PUBLIC LAW 24-37, AN ACT AUTHORIZING THE USE OF THE "BUILD-OPERATE-TRANSFER" CONCEPT, OR A VARIANT THEREOF, FOR THE PURPOSE OF ALLOWING PRIVATE SECTOR FINANCING OF THE DESIGN, CONSTRUCTION AND OPERATION AND MAINTENANCE OF WATER AND WASTEWATER INFRASTRUCTURE PROJECTS AND TO AMEND PUBLIC LAW 24-294, AN ACT TO ESTABLISH THE RULES AND REGULATIONS FOR THE "BUILD-OPERATE-TRANSFER" PLAN FOR THE GUAM WATERWORKS AUTHORITY (As substituted by the Committee on Natural Resources), wishes to report back to the Legislature its recommendation TO PASS.

The voting sheet is as follows:

TO PASS	<u>10</u>
NOT TO PASS	<u>0</u>
TO REPORT OUT ONLY	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are enclosed.

Thank you for your attention to this matter.

Sincerely,



JOANNE M.S. BROWN
Senator and Chairperson
Committee on Natural Resources

Attachments



Office of Senator

Joanne M. Salas Brown

MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

May 7, 2001

MEMORANDUM

To: Committee Members

From: Chairperson, Committee on Natural Resources


Re: **BILL 22(COR): AN ACT TO AMEND PUBLIC LAW 24-37, AN ACT AUTHORIZING THE USE OF THE "BUILD-OPERATE-TRANSFER" CONCEPT, OR A VARIANT THEREOF, FOR THE PURPOSE OF ALLOWING PRIVATE SECTOR FINANCING OF THE DESIGN, CONSTRUCTION AND OPERATION AND MAINTENANCE OF WATER AND WASTEWATER INFRASTRUCTURE PROJECTS AND TO AMEND PUBLIC LAW 24-294 AN ACT TO ESTABLISH THE RULES AND REGULATIONS FOR THE "BUILD-OPERATE-TRANSFER" PLAN FOR THE GUAM WATERWORKS AUTHORITY. (As Substituted by the Committee on Natural Resources)**

Transmitted herewith for your consideration and action is our committee report on the above subject matter.

Please indicate your choice on the attached voting sheet and return the documents to my office for transmittal to the other members.

Should you have any questions on the narrative report and the accompanying documents, please do not hesitate to call my office at 472-3450.

Your attention and cooperation on this matter is greatly appreciated.


JOANNE M.S. BROWN

Attachments

MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

Committee on Natural Resources

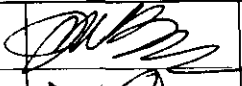



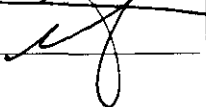



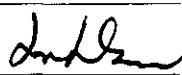
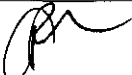
Joanne M.S. Brown

Chairperson

VOTING SHEET

COMMITTEE REPORT

BILL 22(COR): AN ACT TO AMEND PUBLIC LAW 24-37, AN ACT AUTHORIZING THE USE OF THE "BUILD-OPERATE-TRANSFER" CONCEPT, OR A VARIANT THEREOF, FOR THE PURPOSE OF ALLOWING PRIVATE SECTOR FINANCING OF THE DESIGN, CONSTRUCTION AND OPERATION AND MAINTENANCE OF WATER AND WASTEWATER INFRASTRUCTURE PROJECTS AND TO AMEND PUBLIC LAW 24-294 AN ACT TO ESTABLISH THE RULES AND REGULATIONS FOR THE "BUILD-OPERATE-TRANSFER" PLAN FOR THE GUAM WATERWORKS AUTHORITY. (As Substituted by the Committee on Natural Resources)

COMMITTEE MEMBERS	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE	SIGNATURE
Joanne M.S. Brown Chairperson	✓					
Kaleo S. Moylan Vice Chairman	✓					
L. Kasperbauer Member	✗					
Felix P. Camacho Member	✓					
M. Forbes Member	✓					
V. Pangelinan Member						
Thomas C. Ada Member	✓					
M.C. Charfauros Member						
Angel L.G. Santos Member	✓					
Judith T. Won Pat Member	✓					
Lou Leon Guerrero Member	✓					
A.R. Unpingco Ex-Officio Member	✓					

**COMMITTEE ON NATURAL RESOURCES
SENATOR JOANNE M.S. BROWN
CHAIRPERSON**

**Monday, March 26, 2001
9:30 a.m.
Public Hearing Room**

COMMITTEE SUMMARY REPORT

Present were:

Senator Joanne M.S. Brown, Chairperson
Senator Thomas C. Ada
Senator Frank B. Aguon, Jr.
Senator Vicente C. Pangelinan
Senator Judith T. Won Pat
Senator Mark Forbes
Senator Felix P. Camacho

The Committee on Natural Resources held a Public Hearing on the following Bill No. 22 (COR):

BILL NO. 22(COR): AN ACT TO AMEND PUBLIC LAW 24-37, AN ACT AUTHORIZING THE USE OF THE "BUILD-OPERATE-TRANSFER" CONCEPT, OR A VARIANT THEREOF, FOR THE PURPOSE OF ALLOWING PRIVATE SECTOR FINANCING OF THE DESIGN, CONSTRUCTION AND OPERATION AND MAINTENANCE OF WATER AND WASTEWATER INFRASTRUCTURE PROJECTS.

Committee Summary Report
March 26, 2001
Bill No. 22 (COR)

Mr. John Gilliam of GWA, representing the Governor of Guam:

- Read the testimony from Governor Carl T.C. Gutierrez on Bill No. 22 (COR); testimonial attached for the record.

Mr. Herbert Johnston, Jr., General Manager, Guam Waterworks Authority:

- Reads testimony in support of Bill 22(COR) with the inclusion of the projects outlined in the Strategic Initiative Plan;

Chairperson:

- Inquired as to why the Governor was amenable to pursuing the BOT legislation which was passed in 1997, but has yet to enact on the BOT Board in three years.

Senator Ada:

- Reported that the PUC concluded that GWA had the authority under the BOT law to enter into a public/private partnership agreement in P.L. 24-37, the BOT law, which required that GWA publicize projects for a period of one year, and subsequently, Bill No. 22 minimized the length of publication to sixty (60) days; and that P.L. 24-94 conclusively also minimized the timeframe for the publication.
- Asked for the rationale in GWA's statement that by abiding by the BOT law, projects related to the Master Plan of 1992 could not be administered and how GWA reached that conclusion.

Mr. Johnston:

- Replied that these projects were approved by the GWA Board prior to the SIP process and transmitted to the PUC as required by law.
- Added that the Master Plan is no longer adequate because of its assumptions on the population growth as well as the lack of a Land Use Plan.
- Discussions were on hiring a Consulting Engineer; GWA could not afford the funding requested to fill the position.

Senator Pangelinan:

- Expounded that GWA must move forward with its available resources and not stifle normal operating procedures because of minor obstacles.

Senator Camacho:

- Questioned which projects were implemented with the 1988/89 \$53 million bond.

Committee Summary Report
March 26, 2001
Bill No. 22 (COR)

Mr. Johnston:

- Responded that the \$53 million bond was basically for water projects, with the exception of the wastewater project in Agat/Santa Rita of two pump stations, an outfall and a treatment plant. The treatment plant was never built, but the two pump stations and outfall exists. The outfall is state-of-the art.

Senator Camacho:

- Inquired as to the master plans implemented under the acronym of PUAG.

Mr. Johnston:

- Replied that the Water Facility Master Plan of 1992 and Wastewater Facility Master Plan developed by Barrett Consulting of 1994 were completed, but GWA could not afford to implement it.

Senator Camacho:

- Questioned the Governor's statement of "strengthening GWA's autonomy".

Mr. Gilliam:

- Explained that the Governor believed that converting the line department into an autonomous agency would enhance its credit worthiness which would qualify it in receiving long-term financing.

Chairperson:

- Questioned whether the Governor was now amenable to implementing the BOT.

Mr. Gilliam:

- Confirmed that the Governor was amenable to the implementation of the BOT. Reiterated that the master plan developed by GWA sought the consensus of the Guam Legislature as it relates to Bill 10.

Discussions concluded on Bill No. 22(COR) before the Committee on Natural Resources.

Prepared by: Susan L. Corbin
Legislative Assistant
Office of Senator Joanne M.S. Brown

I MINA BENTE SAIS NA LIHESLATURAN GUAHAN

COMMITTEE ON NATURAL RESOURCES SENATOR JOANNE M.S. BROWN CHAIRPERSON

Public Hearing

Monday, March 26, 2001

9:30 a.m.

AGENDA

1. Introduction of Committee Members

2. Commencement of Public Hearing

- A) Bill 22(COR):** AN ACT TO AMEND PUBLIC LAW 24-37, AN ACT AUTHORIZING THE USE OF THE "BUILD-OPERATE-TRANSFER" CONCEPT, OR A VARIANT THEREOF, FOR THE PURPOSE OF ALLOWING PRIVATE SECTOR FINANCING OF THE DESIGN, CONSTRUCTION AND OPERATION AND MAINTENANCE OF WATER AND WASTEWATER INFRASTRUCTURE PROJECTS.
- B) Bill 44(COR):** AN ACT TO ALLOW THE GUAM WATERWORKS AUTHORITY TO ENTER INTO AN AGREEMENT WITH THE GUAM HOTEL AND RESTAURANT ASSOCIATION FOR THE REPAIR OF THE FUJITA AND SOUTHERN LINK PUMP STATIONS.
- C) Bill 47(LS):** AN ACT TO AMEND AND REVISE CHAPTER 14 OF TITLE 12 OF THE GUAM CODE ANNOTATED IN ORDER TO RESTORE PUBLIC ACCOUNTABILITY TO THE FINANCES OF THE GUAM WATERWORKS AUTHORITY.

3. Public Comment

4. Adjournment

Fredy Limsson *3rd*
5-14413-01 5/15/01

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session**

Bill No. 22 (COR)

As substituted by
Committee on Natural Resources

Introduced by:

T. C. Ada
J.M.S. Brown

**AN ACT TO AMEND PUBLIC LAW 24-37, AN
ACT AUTHORIZING THE USE OF THE
"BUILD-OPERATE-TRANSFER" CONCEPT,
OR A VARIANT THEREOF, FOR THE
PURPOSE OF ALLOWING PRIVATE SECTOR
FINANCING OF THE DESIGN,
CONSTRUCTION AND OPERATION AND
MAINTENANCE OF WATER AND
WASTEWATER INFRASTRUCTURE
PROJECTS AND TO AMEND PUBLIC LAW 24-
294, AN ACT TO ESTABLISH THE RULES AND
REGULATIONS FOR THE "BUILD-OPERATE-
TRANSFER" PLAN FOR THE GUAM
WATERWORKS AUTHORITY.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan*
3 *Guåhan* finds that the GWA has not, to date, implemented the provisions of
4 P.L. 24-37 for the purpose of undertaking needed capital improvements of
5 its public water and wastewater system. Due to the quickly deteriorating
6 condition of the public water and wastewater system, timely action must be
7 taken to begin addressing these problems effectively.

8

1 **Section 2. Two new definitions are added as subsections (i) and**
2 **(j) to Section 3 of Public Law 24-37:**

3
4 **i) Master Plan.** A list of water and wastewater infrastructure
5 projects, which is annually updated by the BOT Committee and approved
6 by the Guam Waterworks Authority Board of Directors and the GPUC.
7 The engineering basis for the development of an islandwide water system
8 for the government of Guam which is periodically reviewed and revised as
9 necessary to reflect changing conditions, trends, new goals and objectives,
10 and technologically developments. The master plan is generally based on
11 population projection, per capita water demands, and ground water supply
12 estimate.

13
14 **j) GPUC** means the Guam Public Utilities Commission or its
15 successor.

16
17 **Section 3. Section 5 of Public Law 24-37 is hereby amended to**
18 **read as follows:**

19 **“Priority Projects:**

20 **(a)Project List:** The GWA Board of Directors shall develop and
21 maintain a list of water and wastewater infrastructure projects or
22 operational activities to be financed, designed, constructed, renovated,
23 operated and maintained under the provisions of this Act. Said list shall be a
24 part of GWA’s water and wastewater infrastructure master plans, which
25 shall establish priorities for said projects. Similarly, said operational
26 activities shall pertain to the production, transmission, distribution, and
27 collection, treatment, and disposal of wastewater.

28
29 **(b)Publication of Project List:** GWA shall widely publicize this list
30 of potential BOT projects through publication in at least two local, ~~national~~
31 and where advisable, international, ~~publications~~ newspapers of general
32 circulation at least ~~once~~ twice; once at the beginning and a second
33 publication at the mid-point of a 30-day period. ~~No award shall be made~~
34 under this act until after the first publication of this list.” Any project valued
35 at or in excess of \$25,000,000 (twenty-five million dollars) shall be
36 publicized in a publication with a wide national distribution at the beginning
37 of each month over a three month period prior to any award being made.”

38
39 **Section 4. Section 8 of Public Law 24-37 is hereby deleted.**
40

1 **Section 5. Three new definitions are added to Section 1-104 of**
2 **Chapter 1 of Public Law 24-294**

3
4 **14) BOT Committee means the committee formed to evaluate BOT**
5 **proposals under Section 3-101 and make recommendations in accordance**
6 **with Section 3 (i) of Public Law 24-37.**

7
8 **15) Master Plan. A list of water and wastewater infrastructure**
9 **projects, which is annually updated by the BOT Committee and approved by**
10 **the Guam Waterworks Authority Board of Directors and the GPUC. The**
11 **engineering basis for the development of an islandwide water system for the**
12 **government of Guam which is periodically reviewed and revised as**
13 **necessary to reflect changing conditions, trends, new goals and objectives,**
14 **and technologically developments. The master plan is generally based on**
15 **population projection, per capita water demands, and ground water supply**
16 **estimate.**

17
18 **16) GPUC means the Guam Public Utilities Commission or its**
19 **successor.**

20
21 **Section 6. Section 2-103, Chapter 2 of Public Law 24-294 is**
22 **repealed and reenacted to read:**

23
24 **Section 2-103. Publication. At a minimum, the list of projects**
25 **eligible for this concept shall be published in [a] at least two local-national**
26 **and where applicable, international, newspapers of general circulation at**
27 **least once twice; once at the beginning and a second publication at the mid-**
28 **point of a 30-day period. No award shall be made under this Act until after**
29 **the first publication of the list. Any project valued at or in excess of**
30 **\$25,000,000 (twenty-five million dollars) shall be publicized in a publication**
31 **with a wide national distribution at the beginning of each month over a three**
32 **month period prior to any award being made.”**

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34
35 **Section 7. Chapter 3 of Public Law 24-294 is repealed and**
36 **reenacted to read:**

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CHAPTER 3.
BOT COMMITTEE

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Section 3-101. Appointment of BOT Committee. The General Manager shall appoint, with the consent of the Board and in concurrence with the director or agency heads, seven (7) representatives from the following departments/agencies to sit on the BOT Committee. The Committee shall consist of one (1) representative from the Guam Waterworks Authority ('GWA'), the Department of Public Works ('DPW'), the Guam Environmental Protection Agency ('GEPA'), the University of Guam: ~~Water, Energy and Environmental~~ Research Institute ('WERI'), the Department of Land Management ('DLM'), the Guam Planning Council ('GPC') and the Guam Economic and Development Authority ('GEDA'). The members should be individuals experienced in the development, financing, construction, or operation of water or wastewater infrastructure projects. The GPUC shall have the right to appoint an observer representative, who shall serve in a non-voting, ex-officio capacity. Each BOT Committee member shall serve until replaced by the Board or the GPUC. The General Manager shall not appoint himself. Each Committee member shall serve for a two (2) year term and said terms shall be staggered in a manner to be determined by the Board. The concurrence of four (4) Committee members shall be necessary to establish a quorum and make any decision.

Section 8. Section 4-101, Chapter 4 of Public Law 24-294 is amended to read:

Section 4-101. Use. The request for Proposal is used to initiate the competitive public bidding for water and wastewater infrastructure projects suitable ~~for the use of~~ under the "Build-Operate-Transfer" concept, or variants thereof.

Section 9. Section 4-103.2, Chapter 4 of Public Law 24-294 is amended to read:

Section 4-103.2. Repayment Scheme. The repayment scheme shall be included in the contract terms accompanying the request for proposals. For the financing, design, construction, operation and maintenance of any infrastructure project undertaken through the Build-Operate-Transfer arrangement, or any of its variations, the project proponent shall be repaid by authorizing it to charge and collect from GWA, its sole wholesale consumer, reasonable tolls, fees and rentals for the use of the project facility not exceeding those incorporated in the contract and, where applicable, the

1 proponent may likewise be repaid in the form of a share in the revenue of the
2 project. ~~For negotiated contracts, and~~ For projects which have been granted
3 a natural monopoly or where the public has no access to alternative facilities,
4 the Guam Public Utility Commission ('GPUC') shall approve the tolls, fees,
5 rentals and charges to GWA based on a reasonable rate of return.

6
7 **Section 10. A new section 4-104 is added to Chapter 4 of Public**
8 **Law 24-294:**

9 **Section 4-104 GPUC Approval.** Before any Request for Proposal
10 for a BOT project is published or sent out to any potential bidders, it shall be
11 sent to the GPUC for its prior review and approval. This approval shall be in
12 addition to any approval required under 4-103.2, 12 GCA § 12004, or any
13 applicable GPUC rule or order.

14
15 **Section 11. Section 5-101, Chapter 5 of Public Law 24-294 is**
16 **amended to read:**

17 **Section 5-101. Policy.** In order to foster competition in the contract
18 selection process, public bidding under a two (2) envelope/two (2) stage
19 system will be used, *except* for unsolicited proposals ~~or where direct~~
20 ~~negotiations are permitted.~~

21
22 **Section 12. Section 5-102, Chapter 5 of Public Law 24-294 is**
23 **amended to read:**

24 **Section 5-102. Limitation on Direct Negotiations.** Direct
25 negotiations shall be resorted to only when one (1) complying bidder is
26 available in accordance with Public Law Number 24-37, §8. Otherwise, no
27 No direct negotiations shall take place between GWA and a bidder with
28 respect to a bid submission. This limitation, however, shall *not* prevent
29 requests for clarification as provided in §§5-106.2 and 5-107.2.

30
31 **Section 13. Section 5-103, Chapter 5 of Public Law 24-294 is**
32 **amended to read:**

33 **Section 5-103. Bidding Process.** Each participating ~~pre-qualified~~
34 bidder shall submit two (2) envelopes. The first envelope shall contain the
35 Technical Proposal, and the second envelope the Financial Proposal. Bidders
36 shall be given sixty (60) days from the date of the RFP to submit their bids.

37
38 **Section 14. Section 5-104, Chapter 5 of Public Law 24-294 is**
39 **amended to read:**

1 **Section 5-104. Timing of the Bidding Process.** The location, time
2 and date of each stage of the bidding process will be established by GWA
3 and provided to ~~pre-qualified~~ bidders with the Request for Proposals.

4
5 **Section 15. Section 5-106.1, Chapter 5 of Public Law 24-294 is**
6 **amended to read:**

7 **Section 5-106.1. Evaluation of the Technical Proposal.** The BOT
8 Committee shall evaluate the Technical Proposals based on the requirements
9 set forth in the Request for Proposals. The Committee shall obtain expert
10 advice as needed. This evaluation will ensure technical merit. After the
11 evaluation, the BOT Committee shall approve or reject the Technical
12 Proposal. The Financial Proposal of a bidder whose Technical Proposal has
13 been rejected shall be returned to the bidder. No criteria may be used in the
14 proposal evaluation that are not set forth in the Request for Proposals. The
15 Committee shall exercise due diligence in completing the evaluation of the
16 technical proposals within ~~thirty (30)~~ forty-five (45) days.

17
18 **Section 16. Section 5-107.1, Chapter 5 of Public Law 24-294 is**
19 **amended to read:**

20 **Section 5-107.1. Evaluation of the Financial Proposal.** The BOT
21 Committee shall evaluate the Financial Proposals based on the requirements
22 set forth in the Request for Proposals. The Committee shall obtain expert
23 advice as needed. This evaluation will ensure financial merit. After the
24 evaluation the BOT Committee shall provide a report to the GWA Board of
25 Directors with its recommendation within ~~sixty (60)~~ thirty (30) days of the
26 public opening of the Financial Proposals. No criteria may be used in the
27 proposal evaluation that are not set forth in the Request for Proposals.

28
29 **Section 17. Section 5-109, Chapter 5 of Public Law 24-294 is**
30 **amended to read:**

31 **Section 5-109. Project Award.** GWA's Board of Directors shall
32 award the contract to the bidder who, having satisfied the minimum
33 financial, technical, organizational and legal standards, has submitted the
34 lowest bid and most favorable terms for the project, based on the present
35 value of its proposed tolls, fees, rentals and charges over a fixed term for the
36 facility to be constructed or rehabilitated and operated and maintained
37 according to the prescribed minimum design and performance standards,
38 plans and specifications. This award may be conditioned upon GPUC
39 approval required by §4-103.2. GWA's Board of Directors shall consider the
40 report of the BOT Committee before identifying the successful bidder. The

1 winning project proponent shall be *automatically* granted by GWA the
2 franchise to operate and maintain the facility, including the collection of
3 tolls, fees, rentals and charges from its sole wholesale customer, GWA. This
4 shall *not* operate to preclude contract modification. Any contract
5 modification shall require the approval of GWA's Board of Directors. The
6 GWA Board shall take action on the recommendation of the BOT
7 Committee within 30 days of the receipt of recommendation. A copy of each
8 contract shall forthwith be submitted to *I Liheslaturan Guahan* for its
9 information within thirty (30) days of award.

10 **Section 18. Chapter 6 of P.L. No. 24-294 is repealed.**

11
12 **Section 19. Sections 4. and 5. of P.L. 24-294 is repealed.**

13
14 **Section 20. ~~20~~ ^{OK} Severability.** If any provision of this Law or
15 its application to any person or circumstance is found to be invalid or
16 contrary to law, such invalidity shall not affect other provisions or
17 applications of this Law which can be given effect without the invalid
18 provisions or application, and to this end the provisions of this Law are
19 severable.
20

Introduced

JAN 30 2001

**MINA'BENTE SAIS NA LIHESLATURAN GUAHAN
2001 (FIRST) Regular Session**

Bill No. 28 (COE)

Introduced by:

T. C. Ada ✓

**AN ACT TO AMEND PUBLIC LAW 24-37, AN ACT
AUTHORIZING THE USE OF THE "BUILD-OPERATE-
TRANSFER" CONCEPT, OR A VARIANT THEREOF,
FOR THE PURPOSE OF ALLOWING PRIVATE
SECTOR FINANCING OF THE DESIGN,
CONSTRUCTION AND OPERATION AND
MAINTENANCE OF WATER AND WASTEWATER
INFRASTRUCTURE PROJECTS.**

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BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. / *Liheslaturan Guahan*

finds that the GWA has not, to date, implemented the provisions of P.L. 24-37 for the purpose of undertaking needed capital improvements of its public water and wastewater system.

Due to the quickly deteriorating condition of the public water and wastewater system, immediate action must be taken to begin addressing these problems effectively.

Such action include the reduction of lead time(s) previously stipulated in P.L. 24-37.

1 **Section 2.** Section 5(b) of P.L. 24-37 is amended to read as follows:

2 **(b) Publication of Project List.** It shall be the duty of
3 GWA to give wide publicity of this list of projects eligible
4 for financing under this Act through publication in ~~national~~
5 and, ~~where applicable, international~~ a Guam
6 newspaper[s] of general circulation ~~once every six (6)~~
7 ~~months, for at least a one (1) year period~~ at least three
8 times within a 60-day period, and official notification of
9 interested project proponents registered with GWA. The
10 list of all such infrastructure projects must be part of
11 GWA's water and wastewater infrastructure master
12 plan(s).

13
14 **Section 3. Severability.** If any provision of this Law or its
15 application to any person or circumstance is found to be invalid or contrary to
16 law, such invalidity shall not affect other provisions or applications of this Law
17 which can be given effect without the invalid provisions or application, and to
18 this end the provisions of this Law are severable.

I Mina Bente Sais Na Liheslaturan Guahan

COMMITTEE ON NATURAL RESOURCES

PUBLIC HEARING

MONDAY, MARCH 26, 2001 at 9:30 a.m.

Bill No. 22 (COR)- An Act to Amend Public Law 24-37, An Act authorizing the use of the "Build-Operate -Transfer" concept, or a variant thereof, for the purpose of allowing private sector financing of the design, construction and operation and maintenance of water and wastewater infrastructure projects.

SIGN IN SHEET

<i>Name</i>	<i>Representing</i>	<i>Oral Testimony</i>	<i>Written Testimony</i>
Bert Johnston	GWA		✓
John Gilliam	GOVERNOR		✓



OFFICE OF THE GOVERNOR
GUAM

MAR 23 2001

The Honorable Joanne M.S. Brown
Legislative Secretary
Chairperson, Committee on Natural Resources
Mina'Bente Sais na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature
Suite 200
130 Aspinal Street
Hagåtña, Guam 96910

SUBJECT: Testimony on Bill No. 22 (COR) and Bill No. 47 (COR).

Dear Senator Brown:

I am pleased to submit written testimony on Bill No. 22 (COR) and Bill No. 47 (COR). I have asked Mr John Gilliam to read my written testimony into the record.

The state of Guam's water and wastewater system is the most serious problem now facing our community. The health of our people is at risk. The security of our economy is threatened. The safety of the employees of Guam Waterworks Authority (GWA) is now in jeopardy. There is no time left for talk. Immediate action is required!

As Governor, I transmitted GWA's Strategic Initiative Plan for enactment into law to both the 25th and 26th Guam Legislatures. Before that, I transmitted the regulations required for GWA to implement a Build Operate Transfer (BOT) procurement process. The 24th Guam Legislature enacted these regulations as Guam Public Law No. 24-294. Whether by means of a Build Operate Transfer process, GWA's Strategic Initiative Plan (Bill No. 10), or some variation thereof, this Administration is prepared to immediately initiate all needed actions required to correct our water and wastewater system operations and improve facilities.

Notwithstanding the circumstances which strained relations between the Executive and Legislative Branches during the 25th Guam Legislature's Second Session, both branches of government cooperated in formulating GWA's Strategic Initiative Plan (SIP). Although a public hearing was held the SIP legislation was not enacted by the 25th Guam Legislature. Since the 26th Guam Legislature was installed, both amendments to existing Build Operation Transfer law and the new law I have proposed have been introduced to address the basic issues facing GWA.

You have also proposed additional new legislation to strengthen the Legislature's oversight of GWA's operating budget.

The legislation now before the 26th Guam Legislature is sufficient to procure the necessary support for GWA while providing close legislative scrutiny of the process. These bills could easily and quickly be combined into a workable solution for GWA. GWA needs to immediately upgrade both its operations and its system. All authorities responsible for GWA must engage in forward looking, non-partisan and open-minded actions aimed at accomplishing a lasting solution.

Unlike a natural disaster, the state of GWA presents the potential for a disaster we can both predict and prevent. Unlike the catastrophe we don't expect, we know the system will collapse without immediate upgrade and preventive maintenance. The ominous signs of system failure are islandwide for each of us to see. The government of Guam's leadership is being tested in an area where failure is no option. I urge, indeed plead, for quick enactment of the law required for GWA to get well quick.

Pursuant to Guam Public Law No. 24-294, I have directed GWA's General Manager Bert Johnston to immediately appoint the BOT Committee provided to oversee the BOT procurement process. To the extent that the BOT Committee can procure approved projects listed in GWA's Strategic Initiative Master Plan, it will. In the meantime, I support the amendments proposed for the existing BOT law, which Senator Ada offers, to streamline the process.

When I asked the Guam Legislature to upgrade the enterprise status of the then-Public Utility Agency of Guam (PUAG), it was understood that an autonomous GWA would have better prospects for long-term borrowing than a line department financed by the General Fund. This situation remains today: a creditworthy GWA has the best financing potential. We must strengthen GWA's autonomy if we are to preserve its financing advantages or look to the private sector for assistance and expertise. Legislative attention to GWA's operations is appropriate but must include long term capital invest strategies and financing.

The Guam Public Utilities Commission (PUC) is already involved in crafting and implementing solutions designed to achieve ratepayer expectations and regulatory compliance. This includes the participation of the Guam Environmental Protection Agency in dealing with the overall environmental and health safety issues associated with our water and wastewater systems.

With this said, I do believe close legislative scrutiny of the operations of any of our autonomous agencies is appropriate and welcome if accomplished in a constructive fashion. However, review and approval of autonomous agency budgets should remain with their boards. To this end, I have submitted two more nominations to the GWA Board of Directors and I urge this body to act quickly and positively on their confirmation.

Pursuant to Executive Order No. 2001-13, I have declared a Continuing State of Emergency relative to the Guam water and wastewater systems. Prompt action by the Legislature will

respond to the emergency declared. Failure to legislate what is necessary for a solution to GWA's crisis forces our people to suffer. The Legislature should join me in this effort by approving a workable procurement and oversight law for this crisis. Besides GWA's SIP and BOT approaches, I am open to other creative strategies that this body may adopt. Together, we can make a solution happen; divided, we will only invite delay and increased risk.

Very truly yours,



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



GUAM WATERWORKS AUTHORITY

Aturidat Kinalamten Hanom Guahan

Government of Guam

Post Office Box 3010, Hagåtña, Guam 96932

Phone: (671)479-7823/7820 Fax: (671)479-7879

**PUBLIC TESTIMONY ON
BILL 22(COR): AN ACT TO AMEND PL 24-37 AN ACT AUTHORIZING
THE USE OF THE BUILD-OPERATE-TRANSFER CONCEPT,
BILL 44(COR) AN ACT TO ALLOW GWA TO ENTER INTO AN
AGREEMENT WITH THE GUAM HOTEL AND RESTAURANT ASSOCIATION
& BILL 47(LS) : AN ACT TO AMEND & REVISE CHAPTER 14
OF TITLE 12 GCA IN ORDER TO RESTORE
PUBLIC ACCONTABILITY TO THE FINANCES OF GWA**

**Presented by
Herbert J. Johnston, Jr.
March 26, 2001**

Hafa Adai Madame Chairman and members of the Committee on Natural Resources. For the record, I am Herbert Johnston, Jr. and I am the General Manager of the Guam Waterworks Authority. I am here to present testimony on three bills being heard this morning, Bill 22(COR), An Act to Amend Public Law 24-37; Bill 44(COR), An act to allow the Guam Waterworks Authority to enter into an agreement with the Guam Hotel and Restaurant Association for the repair of the Fujita and Southern Link pump stations; and Bill 47(LS), an act to amend and revise Chapter 14 of Title 12 GCA in order to restore public accountability to the finances of the Guam Waterworks Authority.

BILL 22 (COR)

Bill 22 intends to amend PL 24-37 to reduce the publication requirements of public infrastructure projects under consideration for financing under a build-

operate-transfer concept. The Guam Waterworks Authority is in support of this amendment, however, we suggest that this Committee consider amending the requirements of eligible projects to allow for projects not presently in the water and wastewater facility master plans. This would permit most of the programs outlined in the strategic initiative plan to be eligible for consideration under a build-operate-transfer program. With those considerations, GWA supports the passage of Bill 22(COR).

BILL 44(COR)

Bill 44 seeks to allow GWA and the Guam Hotel and Restaurant Association to enter into a contractual relationship for the repair of two wastewater pump stations – the Fujita and the Southern Link.

Because of the sense of urgency in Tumon, the GHRA has stepped forward to offer its resources to help rectify the grave situation their members face. They have already begun, with management approval, the evaluation of the Fujita, the Route 16 / Liguán Terrace, and the Southern Link pump stations.

The Route 16 / Liguán Terrace and Southern Link pump stations are situated upstream in the collection system from the Fujita pump station and are necessary in order for the sewage collected at Fujita to be transferred to the Northern District sewage treatment plant for treatment and subsequent disposal. Both pump stations are currently undergoing renovation as part of a FEMA-sponsored hazard mitigation grant project, which is expected to be completed shortly.

GWA appreciates the participation of GHRA in providing resources to help resolve this problem. We would like to suggest that this bill not be limited to the repair of the Fujita and Southern Link pump station but allow for the inclusion of any arrangement, including maintenance, and any facility the Association wishes to agree. This will allow their membership to consider programs and facilities outside of their immediate area.

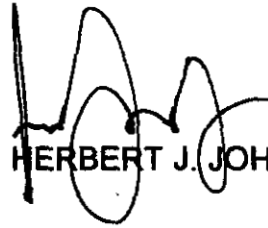
With these considerations, GWA supports the passage of Bill 44(COR).

BILL 47(COR)

Bill 47 seeks to amend the enabling legislation of the Guam Waterworks Authority to require legislative approval of the expenditures of the Authority. GWA agrees that Legislative oversight of the operations of the Authority is proper and we have always remained open and responsive to your Committee's inquiries and concerns.

We believe that an autonomous agency is the best structure on which to address the many issues facing GWA, as difficult as they now seem. We also believe that the approval of the Authority's budget, if it is to remain autonomous, should remain with an established board whose members you have duly confirmed. We look forward to confirmation hearings of two more board members which you have already scheduled for in April and, hopefully, with you approval, the re-establishment of a quorum of the GWA Board of Directors.

Understandably, GWA cannot support the passage of Bill 47(COR).

A handwritten signature in black ink, consisting of several loops and a vertical stroke on the left, positioned above the printed name.

HERBERT J. JOHNSTON, JR.

**PUBLIC UTILITIES COMMISSION
OF GUAM**

Terrence M. Brooks, Chairman
Joseph D. Torres, Vice-Chairman
Filomena M. Cantoria
Edward C. Crisostomo
Joseph M. McDonald

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Harry M. Boertzel, Esq.
Administrative Law Judge

Monessa C. Leon Guerrero
Executive Director

March 28, 2001

Senator Joanne Brown
Chairperson
COMMITTEE ON NATURAL RESOURCES
130 Aspinall Street, Suite 200
Hagatna, Guam 96910



**RE: COMMENTS BY GUAM PUBLIC UTILITIES COMMISSION
ON BILL 22.**

Dear Senator Brown:

By its March 6, 2001 order in Docket 00-01:A, the Commission directed that its staff review and comment on appropriate amendments to Public Laws 24-37 and 24-294, which is the focus of Bill 22. I am enclosing this analysis.

Although each recommendation in the enclosed position paper deserves careful consideration, of particular significance is proposed amendment number 7. This amendment would require that the request for proposal documentation for any BOT procurement shall receive the prior review and approval of the Commission before the procurement is commenced by GWA.

PL 24-294 does not explicitly assign to anyone the responsibility for preparing and reviewing the request for proposal documentation. In contrast, under 12 GCA 12004, GWA is required to obtain the Commission's prior review and approval [before the procurement process begins] of every contract or obligation, which could increase its rates and charges. It is clear that BOT procurements have the strong probability of increasing GWA's rates and charges. As BOT procurements are likely to be the most significant

ever made by GWA and with the greatest potential risk to GWA ratepayers, it is only reasonable and consistent with existing regulatory principles, that Bill 22 be amended to explicitly require that the Commission review the request for proposal documents. After this review and approval process, then the BOT committee and the GWA board of directors would conduct the procurement process, consistent with law and the request for proposal documents, and select the contractor.

The Commission appreciates the opportunity to submit its comments concerning Bill 22. Under separate cover, the Commission will also submit comments regarding Bills 44 (COR) and 47 (LS).

Cordially,


Harry M. Boertzel */mly*

Enclosure

cc: PUC Commissioners

**POSITION PAPER
GUAM PUBLIC LAWS 24-37 AND 24-294**

Georgetown Consulting Group, Inc. ("Georgetown"), the regulatory consultant of the Public Utility Commission of Guam ("PUC" or "Commission"), was directed by the Commission's administrative law judge to undertake a review and analysis of Bill 22, proposed legislation that was introduced in the 26th Guam Legislature to amend Guam Public Law 24-37. PL 24-37 (the "BOT law"), as amended and implemented through regulations approved by PL 24-294, is a comprehensive legislative scheme intended to facilitate the financing, development, construction, rehabilitation, maintenance and operation of water and wastewater projects and infrastructure by private sector entities working in conjunction with the Guam Waterworks Authority ("GWA"). Georgetown in turn delegated to Larry R. Gawlik, Georgetown's engineering sub-consultant, and William J. Blair, its adviser on Guam legal matters, the responsibility to perform this analysis.¹ This position paper is the result of that analysis.

PURPOSE OF ANALYSIS

GWA is facing a daunting number of critical problems relating to Guam's water and wastewater infrastructures, and it is generally recognized that GWA lacks the financial resources or capability to deal with these problems without massive, unbearable rate increases or some form of public or private financing. The BOT law was enacted with the express intent of providing GWA the authority to use an extensive array of public-private initiatives to help deal with these problems. These initiatives have come to be commonly referred to as "public-private partnerships."

Thus far, GWA has not taken much advantage of the authority granted by the BOT law to enter into public-private partnerships. Rather, GWA has elected instead to pursue implementation of a strategic initiative plan (or "SIP") which calls for a more omnibus approach using a strategic

¹ Georgetown was directed also to analyze Bill 10, which would authorize GWA to pursue its SIP (*see infra*) through the involvement of a strategic partner. Both Mr. Gawlik and Mr. Blair are of the view that the grant of authority called for by Bill 10 is too broad and would not provide adequate protection of the interests of GWA and its ratepayers. For example, no provisions are made with respect to the authorized term of a strategic partnership, the types or nature of public-private partnership models that would be authorized, the disposition of any facilities constructed or financed by the strategic partner, authorized repayment models, or the role of the PUC.

partner. Legislation (Bill 10) has been introduced which would authorize GWA to enter into a relationship with such a strategic partner.

The primary purpose of this analysis is to determine whether, in our view, the goals and objectives of the SIP could be achieved within the confines of the already existing BOT law, and, if not, to suggest appropriate amendments to it. Where appropriate we have suggested specific legislative language.

COMMENTS ON BILL 22

Bill 22, as presently drafted, would amend certain language in Bill 24-37. We have discovered, however, that the specific language Bill 22 would change was already amended or deleted by PL 24-294. It appears the Legislature already recognized the problematic nature of this language and changed the requirement.

GENERAL CONCLUSION

It is our basic conclusion that the existing BOT law already provides GWA sufficient legal authority to implement its SIP, and, in particular, the operational and revenue-enhancing initiatives previously advocated by Georgetown.² At the same time, it is our view that certain of the procedures and requirements established by the BOT law and implementing rules and regulations should be eliminated or modified to streamline or otherwise improve the BOT process. These are discussed below.

PROPOSED CHANGES TO PL 24-37 AND IMPLEMENTING RULES AND REGULATIONS (PL 24-294)

PROPOSED AMENDMENTS:

1. The term "master plan (s)" should be defined in Section 3 of PL 24-37 and Section 1-104 of the Implementing Rules & Regulations as:

A list of water and wastewater infrastructure projects, which is annually updated by the BOT Committee and approved by GWA's board of directors and the GPUC.

² KBS&J had previously offered this same general view in its letter of November 2, 2000. The one specific change advocated in that letter was the one Bill 22 would correct. As previously noted, however, that change is unnecessary, having already been made by PL 24-294.

Rationale: The term "master plan" is not defined in PL 24-37 or PL 24-294. While PL 24-37 refers to PUAG's 1992 Master Plan, no similar studies have been undertaken by GWA since its creation. However, the GWA board of directors regularly identifies and prioritizes infrastructure projects for development. PL 24-294 requires that any project developed as a BOT must be prioritized by the GWA board of directors, a pre-feasibility study conducted by the GWA General Manager, and the financial resources to adequately pay charges associated with each BOT project identified. (Implementing Rules & Regulations ("Impl. Rules & Regs.") Sections 2-102.1 and 2-102.2). These considerations, when combined with GPUC approval, would provide adequate safeguards to protect the interests of consumers and insure that BOT projects will not be undertaken unless prudent.

2. Chapter 3 of the current Impl. Rules & Regs. should be deleted and a new Section 3-101 added which would read as follows:

Section 3-101. Appointment of BOT Committee. The BOT Committee shall be comprised of five (5) individuals to be appointed by the General Manager, with the consent of the GWA Board. The members may be employees of GWA or other agencies or instrumentalities of the Government of Guam, but should be individuals experienced in the development, financing, construction, or operation of water or wastewater infrastructure, projects. The General Manager may appoint himself or herself to serve. The GPUC shall have the right to appoint an observer representative, who shall serve in a non-voting, ex officio capacity. Each BOT Committee member shall serve until replaced by the Board or the GPUC.

Rationale: The pre-qualification process is unnecessary and represents a significant delay in the process of selecting a BOT project proponent. The requirements contained in Impl. Rules & Regs., Section 4-103 for responding to an RFP are sufficiently comprehensive that it is unlikely any unqualified company or person would, or, for that matter, could, go through the effort and costs of preparing and submitting a technical and financial proposal in response to the RFP. In addition, the stated intent of PL 24-37 and PL 24-294 is to eliminate bureaucratic "red tape" and expedite the development of water and wastewater

infrastructure projects. Elimination of this unnecessary process could save at least 120 days.

The BOT Committee should be comprised of professionals experienced in the development of water and wastewater infrastructure projects. GWA's General Manager should not, therefore, be disqualified. In addition, the addition of a PUC representative will insure that the interests of consumers are considered and that the PUC is kept aware of the processes associated with the selection of BOT project proponents.

3. Chapter 3 of the Impl. Rules & Regs. titled "Pre-Qualification of Bidder" should be amended to read "BOT Committee."

Rationale: The title of the chapter should be changed to reflect the new objective of the chapter.

4. Section 5-103 of the Impl. Rules & Regs. should be amended to change "pre-qualified bidder" to "bidder". Section 5-104 should be amended to change "pre-qualified bidder" to "bidder".

Rationale: Change reflects the deletion of the "pre-qualification" process.

5. Section 5-103 should be further amended to add "Bidders shall be given 60 days from the date of the RFP to submit their respective bid."

Section 5-106.1 should be amended to add, "The BOT Committee shall have no more than 48 days to evaluate the technical proposals of bidders."

Section 5-107.1 should be amended to change "sixty (60) days" to "thirty (30) days."

Section 5-109 should be amended to add "The GWA Board shall take action on the recommendation of the BOT Committee within 30 days of receipt of the recommendation."

Rationale: These changes are designed to shorten the BOT procurement process consistent with the stated intent of PL 24-37 and PL 24-294 of eliminating bureaucratic "red tape" and expediting the development of water and wastewater infrastructure projects. These actions, when combined with the elimination of the pre-qualification process, will reduce the

timetable for selection of a BOT project proponent from over one-year to about 180 days.

6. Section 8 of PL 24-37, as amended by PL 24-294, should be deleted in its entirety and appropriate conforming amendments made to Impl. Rules & Regs. 4-103.2, 5-101, and 5-102.

Rationale: The private sector marketplace for the development of water and wastewater infrastructure projects is vibrant and comprised of many potential project proponents. Given reasonable marketing by GWA of potential BOT projects, the authority for direct negotiations should no longer be necessary.

7. A new Section 4-104 should be added to the Impl. Rules & Regs. as follows:

Section 4-104. GPUC Approval. Before any Request for Proposal for a BOT project is published or sent out to any potential bidders, it shall be sent to the GPUC for its prior review and approval. This approval shall be in addition to any approval required under 4-103.2, 12 GCA § 12004, or any applicable GPUC rule or order.

Rationale: BOT projects, while moving direct investment from the public sector to the private sector, involve risk to consumers in the form of future rates and charges. Given that the BOT projects usually are of a long-term nature, future GWA revenue requirements will include the rates and charges associated with the BOT project. Since GWA is the only supplier of water and wastewater services on Guam and the public has no access to alternatives, GPUC review and approval is essential to insure the interest of consumers are safeguarded. Once a BOT contract is awarded, the GPUC is mandated by law to approve rates and charges necessary to satisfy the revenue requirements created by the BOT contract. Consistent with existing GPUC practice and contract approval processes, GPUC review and approval should be obtained prior to the initiation of the procurement process.

8. Section 3 (b) of PL 24-37 should be amended to add, "GWA may bundle several projects and initiatives into a single BOT project for the purpose of bidding."

Rationale: While there does not appear to be a prohibition to bundling in the existing BOT law, it may be advisable to affirmatively authorize BOT project bundling.

9. Definitions for "BOT Committee" and "GPUC" should be added to Impl. Rules & Regs. Section 1-104.

**ADDITIONAL OBSERVATION REGARDING PROCUREMENT
MODE MANDATED BY PL 24-37**

PL 24-37 requires the use of a two-envelope procurement mode that Georgetown believes would not necessarily work to the full advantage of GWA. The "two-envelope" mode detailed in the Implementing Rules and Regulations will require GWA not only to develop well defined and detailed project specifications and parameters before going to the private-sector market, but also a detailed contract form. This will, perhaps, permit GWA to compare apples to apples when evaluating proposals, but it will, at the same time, possibly foreclose consideration of other types of proposals that might be more beneficial to GWA and its ratepayers. This mode will also require the early engagement by GWA of highly qualified engineering consultants and lawyers with specialized legal expertise.

Georgetown feels a two-step approach is appropriate, but believe that the first step would more appropriately be to entertain various types of proposals before settling on one or two that might be more beneficial. The rival project proponents could also be given the opportunity in the first round of responses to comment on the legal document as well as the technical one. Only after the initial proposals were evaluated and considered by the BOT Committee, would GWA then put together the final RFP package on which all interested project proponents would base their final proposals.

Reinstatement of the "competitive sealed proposals" mode of procurement originally included as part of Guam's procurement law, would, Georgetown believes, also provide a more suitable procurement vehicle, assuming adequate GPUC oversight provisions were added. Developing new implementing rules and regulations to provide for a different or alternative mode of procurement would, however, be a time-consuming effort that could lead to further delay that GWA can ill afford. Georgetown offers this

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observation lest it be thought the procedures called for by PL24-37 and the
Implementing Rules & Regulations were deemed optional.

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Carl T.C. Gutierrez Governor
Madeleine Z. Bordallo Lt. Governor

BID INVITATION

Bid No. GSA/PAG 01-03
For ONE (1) - DIESEL ENGINE (BRAND NEW)

Opening
Date: APRIL 10, 2001 Time: 10:00 am
Pre-Bid Conference Date: APRIL 02, 2001 @ 10:00 am
Place: GENERAL SERVICES AGENCY, PITI GUAM

INTERESTED PARTY MAY PICK UP BID FORMS/SPECIFICATIONS AT SAID PLACE.

/s/ Frederico Q. Santiago, Acting Chief Procurement Officer

MINA' BENTE SAIS NA LINESLATURAN GUAHAN
Committee on Natural Resources
Senator Joanne M. S. Brown
Chairperson

Notice of Public Hearing

The Committee on Natural Resources will be conducting a Hearing on Monday, March 26, 2001, 9:30 a.m., at the Legislative Public Hearing Room, 155 Hasler Street, Hagatna on the following:

Bill No. 22 (COR) - AN ACT TO AMEND PUBLIC LAW 24-37, AN ACT AUTHORIZING THE USE OF THE "BUILD-OPERATE-TRANSFER" CONCEPT, OR A VARIANT THEREOF, FOR THE PURPOSE OF ALLOWING PRIVATE SECTOR FINANCING OF THE DESIGN, CONSTRUCTION AND OPERATION AND MAINTENANCE OF WATER AND WASTEWATER INFRASTRUCTURE PROJECTS.

Bill No. 47 (LS) - AN ACT TO AMEND AND REVISE CHAPTER 14 OF TITLE 12 OF THE GUAM CODE ANNOTATED IN ORDER TO RESTORE PUBLIC ACCOUNTABILITY TO THE FINANCES OF THE GUAM WATERWORKS AUTHORITY.

Bill No. 44 (COR) - AN ACT TO ALLOW THE GUAM WATERWORKS AUTHORITY TO ENTER INTO AN AGREEMENT WITH THE GUAM HOTEL AND RESTAURANT ASSOCIATION FOR THE REPAIR OF THE FUJITA AND SOUTHERN LINK PUMP STATIONS.

ADA Coordinator: Ann Legend at 477-3450/51
The public is invited to attend.

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35 Pacific Daily News, Saturday, March 24, 2001 guampdn.com

930005

Pacific News, Monday, March 19, 2001

SCOREBOARD

Continued from Page 42

Phoenix 19 (Kidd 9), Dallas 23 (Finley 11). Total fouls—Phoenix 23, Dallas 23. Technicals—Phoenix Illegal Defense 2. A—18, 187 (18,187)

At Houston
SAN ANTONIO(99)

Duncan 11-28 3-3 25, Ferry 2-2 0-0 4, Robinson 9-12 4-6 22, D. Anderson 4-10 4-4 13, Porter 3-8 3-3 10, Walker 2-2 0-0 4, Daniels 2-8 3-4 7, Rose 0-0 0-0 0, Johnson 5-9 4-4 14, Kerr 0-0 0-0 0. Totals 38-79 21-24 99.
HOUSTON (103)

S. Anderson 0-2 0-0 0, Taylor 6-13 3-4 15, Cato 1-2 3-4 5, Francis 9-20 10-12 30, Mobley 10-23 4-4 26, Rogers 1-1 0-0 2, Bullard 6-8 0-0 18, Thomas 3-8 1-1 7, Norris 0-2 0-0 0. Totals 36-79 21-25 103.

San Antonio 24 24 23 28 — 89
Houston 19 18 35 33 — 103

Central Division

	W	L	T	OL	Pts	GF	GA
Detroit	42	18	9	4	97	221	187
St. Louis	40	18	10	4	94	226	171
Nashville	29	33	8	3	69	169	184
Chicago	29	32	7	3	68	191	205
Columbus	24	33	8	6	62	189	204

Northwest Division

	W	L	T	OL	Pts	GF	GA
x-Colorado	45	13	9	4	103	240	167
Edmonton	35	24	10	3	83	206	191
Vancouver	34	23	8	7	83	221	212
Calgary	23	30	14	4	64	171	208
Minnesota	24	32	10	5	63	150	178

Pacific Division

	W	L	T	OL	Pts	GF	GA
Dallas	39	24	6	2	86	197	169
San Jose	35	23	11	2	83	185	163
Phoenix	31	24	15	2	79	186	183
Los Angeles	33	27	10	1	77	224	205
Anaheim	23	37	8	5	59	169	213

Two points for a win, one point for a tie and overtime loss.

x-clinched playoff spot

Friday's Games

Buffalo 4, Vancouver 2
Ottawa 4, Anaheim 1
Columbus 3, Atlanta 0
Pittsburgh 6, Florida 3
Phoenix 1, Dallas 1, tie

Saturday's Games

Colorado 5, Detroit 3
Los Angeles 1, San Jose 0, OT
Philadelphia 2, N.Y. Rangers 1
Boston 3, Montreal 2
Buffalo 3, Washington 2
Toronto 5, Florida 3
Tampa Bay 5, Pittsburgh 1
N.Y. Islanders 3, Columbus 3, tie
Nashville 4, Phoenix 1
St. Louis 2, Calgary 2, tie

New Jersey 6, Edmonton 5, OT
Sunday's Games
Ottawa at Dallas, 3 p.m.
Anaheim at Chicago, 3 p.m.
Minnesota at Colorado, 3 p.m.
Vancouver at Atlanta, 3 p.m.
N.Y. Islanders at Carolina, 5 p.m.
Detroit at San Jose, 6 p.m.

Monday's Games
Nashville at Columbus, 7 p.m.
Washington at N.Y. Rangers, 7 p.m.
Dallas at Minnesota, 8 p.m.
New Jersey at Calgary, 9 p.m.
Philadelphia at Edmonton, 9 p.m.
Phoenix at Los Angeles, 10:30 p.m.

NHL SUMMARIES

At Philadelphia

New York	1	0	0	—	1
Philadelphia	1	1	0	—	2

First Period—1, New York, Dvorak 24 (Mal-washington) 0 2 0 — 2

First Period—None.
Second Period—1, Buffalo, Bames 18, 23. 2, Washington, Bondra 42 (Oates, Konowalchuk), 13:20 (pp), 3, Buffalo, Brown 9 (Kalinin, Heinze), 15:24. 4, Washington, Bondra 43, 16:06.
Third Period—5, Buffalo, Gratton 17 (Zhit-nik, Kalinin), 9:26 (pp).
Shots on goal—Buffalo 6-9-6—23. Wash-ington 11-21-12—44.
Goalies—Buffalo, Biron. Washington, Kolzig A—18,672 (18,672).

At Sunrise, Fla.

Toronto	0	3	2	—	5
Florida	1	2	0	—	3

First Period—1, Florida, Bura 52 (Nilson), 18:02.

Second Period—2, Toronto, Domi 13 (Valk, Antropov), 6:11. 3, Florida, Bura 53 (Eriksson, Hedican), 8:27 (pp). 4, Florida, Bura 54 (Shvid-ki), 13:53. 5, Toronto, Antropov 6 (Sundin, Roberts), 15:29. 6, Toronto, Hoglund 21 (Kaberle, Sundin), 16:56 (pp).

Third Period—7, Toronto, Berg 1 (Berezin, Corson), 6:12 (pp). 8, Toronto, Sundin 27 (Roberts, Thomas), 19:52 (en).

Shots on goal—Toronto 8-16-16—40. Flori-da 7-8-9—24.

Goalies—Toronto, Joseph. Florida, Kidd. A—16,205 (19,088).

At Tampa, Fla.

Pittsburgh	0	1	0	—	1
Tampa Bay	2	0	3	—	5

First Period—1, Tampa Bay, Lecavalier 19 (R.Johnson), 11:54. 2, Tampa Bay, St. Louis 16, 19:02 (sh).

Second Period—3, Pittsburgh, Lemieux 31

(Ference, Jonsson), 48.
Third Period—4, Tampa Bay, Kubina 10 (St. Louis), 9:06 (sh). 5, Tampa Bay, St. Louis 17 (Ekman, Holzinger), 16:59 (pp). 6, Tampa Bay, Lecavalier 20 (Cullimore, Holzinger), 18:08.
Shots on goal—Pittsburgh 7-10-9—26. Tampa Bay 5-7-8—20.
Goalies—Pittsburgh, Hedberg. Tampa Bay, Weekes. A—20,835 (19,758).

At Columbus, Ohio

New York	1	0	2	0	—
Columbus	1	2	0	0	—

First Period—1, Columbus, Spanhel 1 (Aubin), 8:19. 2, New York, Martins 2 (Cz-erkawski, Mezei), 10:12 (sh).

Second Period—3, Columbus, Dineen 8 (Timander, Gardiner), 16:26. 4, Columbus, Kron 8 (Knutsen, Quint), 17:11.

Third Period—5, New York, Scatchard 17 (Pamish, Czerkawski) 1:09 (pp). 6, New York

5
First Period—1, Edmonton, M.Comrie 6 (Carter, Smyth), 2:07. 2, Edmonton, Smith 5 (Ulanov, Laroque), 12:48.
Second Period—3, Edmonton, Grier 16 (Marchant), 14:27. 4, New Jersey, Madden 22 (Rafalski, Stevenson), 18:10.


Third Period—5, New Jersey, Elias 30 (Sykora, White), 1:14. 6, Edmonton, Poti 12 (M.Comrie, Smyth), 4:26. 7, New Jersey, McK-ay 20 (Mogilny, Sykora), 6:08 (pp). 8, New Jer-sey, Holik 16, 8:42. 9, Edmonton, Marchant 12 (Grier, Moreau), 12:35. 10, New Jersey, Elias 31 (Sykora), 16:04.

Overtime—11, New Jersey, Elias 32, 4:51. Penalties—None.
Shots on goal—New Jersey 9-8-18-5—40. Edmonton 13-8-9-3—33.
Goalies—New Jersey, Brodeur. Edmonton, Salo. A—17,100 (17,100).

TRANSACTIONS

Call for free literature or session.
653-3362 ask for Kim

MINA' BENTE SAIS NA LIHESLATURAN GUAHAN
Committee on Natural Resources
Senator Joanne M. S. Brown
Chairperson



Notice of Public Hearing

The Committee on Natural Resources will be conducting a Hearing on Monday, March 26, 2001, 9:30 a.m., at the Legislative Public Hearing Room, 155 Hessler Street, Hagatna on the following:

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ADA Coordinator: Ann Legaspi at 472-345W51
The public is invited to attend.

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The right is reserved to reject any and all bids and to cancel or extend the date, time and place for sale of such property.
DATED this 2nd day of March, 2001.

CAIYO AND CLARK, LLP
Attorneys At Law
By: /s/ JANALYNN M. CRUZ
Attorneys for the Guam Economic Development Authority

GUAM, U.S.A. } ss.:
CITY OF TAMPUNING }

On this 2nd day of March, 2001, before me, a Notary Public in and for Guam, personally appeared JANALYNN M. CRUZ, attorney for the GUAM ECONOMIC DEVELOPMENT AUTHORITY, known to me to be the person whose name is subscribed to the foregoing NOTICE OF SALE UNDER POWER OF SALE IN MORTGAGE, and she acknowledged to me that she executed the same as attorney for GUAM ECONOMIC DEVELOPMENT AUTHORITY.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above-written.

/s/ PRISCILLA Q. SANTOS
NOTARY PUBLIC
In and for the Territory of Guam, U.S.A.
My Commission Expires: 10/10/2001
655 South Marine Drive, Suite 202
Tampuning, Guam 96911

IN THE SUPERIOR COURT
OF GUAM
IN THE MATTER OF THE
ESTATE OF
ELIZABETH ANN
MENDIOLA CRUZ,
Decedent.
PROBATE CASE NO.
PRO004-01
NOTICE TO CREDITORS

NOTICE IS HEREBY GIVEN by the undersigned, SCOTT A. REED, Executor of the will of ELIZABETH ANN MENDIOLA CRUZ, deceased, to the creditors of, and all persons having notice is hereby given

that ERNESTO CALBUYOT has filed herein his petition praying for letters of

administration upon the Estate of ALIPIO BERSAMIN BARONIA, SR., decedent, and that the hearing on said

petition is set on MAR. 30, 2001, at 9:00 a.m., in the courtroom of the Superior Court of Guam, Agana, Guam, and all persons


interested are hereby notified to appear at the time and place set for said hearing and show cause, if and, why the petition should not be granted. Reference is hereby made to the said petition for further particulars.
DATED: FEB. 28, 2001.

CLERK, SUPERIOR COURT
OF GUAM,
/s/ JANET T. TORRE
DEPUTY CLERK

**MINA'BENTE SAIS NA LIHESLATURAN GUÂHAN
2001 (FIRST) Regular Session**

Bill No. 22 (MR)

Introduced by:

T. C. Ada 

**AN ACT TO AMEND PUBLIC LAW 24-37, AN ACT
AUTHORIZING THE USE OF THE "BUILD-OPERATE-
TRANSFER" CONCEPT, OR A VARIANT THEREOF,
FOR THE PURPOSE OF ALLOWING PRIVATE
SECTOR FINANCING OF THE DESIGN,
CONSTRUCTION AND OPERATION AND
MAINTENANCE OF WATER AND WASTEWATER
INFRASTRUCTURE PROJECTS.**

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

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

3 finds that the GWA has not, to date, implemented the provisions of P.L. 24-37 for the
4 purpose of undertaking needed capital improvements of its public water and wastewater
5 system.

6 Due to the quickly deteriorating condition of the public water and wastewater
7 system, immediate action must be taken to begin addressing these problems effectively.
8 Such action include the reduction of lead time(s) previously stipulated in P.L. 24-37.

9

10

11

12

13

1 **Section 2.** Section 5(b) of P.L. 24-37 is amended to read as follows:

2 **(b) Publication of Project List.** It shall be the duty of
3 GWA to give wide publicity of this list of projects eligible
4 for financing under this Act through publication in ~~national~~
5 and, ~~where applicable, international~~ a Guam
6 newspaper[s] of general circulation ~~once every six (6)~~
7 months, ~~for at least a one (1) year period~~ at least three
8 times within a 60-day period, and official notification of
9 interested project proponents registered with GWA. The
10 list of all such infrastructure projects must be part of
11 GWA's water and wastewater infrastructure master
12 plan(s).

13
14 **Section 3. Severability.** If any provision of this Law or its
15 application to any person or circumstance is found to be invalid or contrary to
16 law, such invalidity shall not affect other provisions or applications of this Law
17 which can be given effect without the invalid provisions or application, and to
18 this end the provisions of this Law are severable.