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MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN *★*
2002 (SECOND) Regular Session

Bill No. 356 (COR)

As substituted by the Committees
on Natural Resources and Ways
and Means.

Introduced by:

J. M.S. Brown

K. S. Moylan

T. C. Ada

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

V. C. Pangelinan

A. L.G. Santos

A. R. Unpingco

J. T. Won Pat

**AN ACT TO ADOPT A PARTIAL BUDGET FOR
THE GUAM WATERWORKS AUTHORITY FOR
FISCAL YEAR 2003.**

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

2 **Section 1. Legislative Findings and Intent.** In accordance with Public
3 Law Number 26-15, the Guam Waterworks Authority (“GWA”) transmitted
4 *to I Liheslaturan Guåhan* the “Guam Waterworks Authority Proposed Fiscal
5 Year 2003 Budget.”

6 GWA continues to experience revenue losses whilst struggling as an
7 autonomous agency. *I Liheslaturan Guåhan* finds that in order to insure
8 greater accountability for the management and operations of Guam’s water
9 resources, finances and public assets, *I Liheslaturan Guåhan* has assumed the
10 responsibility to examine, amend and approve the proposed Fiscal Year 2003
11 budget for GWA. *I Liheslaturan Guåhan* has determined that enacting a four
12 (4) month budget at this time will ensure greater accountability and shall
13 permit the newly elected Consolidated Commission on Utilities, which takes
14 office on January 1, 2003, to have input regarding the remainder of the Fiscal
15 Year 2003 Budget.

16 **Section 2. Budgetary Mandate, Short Title and Construction.**
17 Notwithstanding any other provisions of law, this Act shall be the Fiscal Year
18 2003 budget for GWA and shall be known as the “Partial Guam Waterworks
19 Authority Fiscal Year 2003 Budget Act.”

20 Except as otherwise provided for in this Act, the budget funding
21 authorizations made by this Act shall be available to pay for obligations
22 incurred on or after October 1, 2002, but no later than January 31, 2003. This
23 Act shall be strictly construed as an object category budget and as a limitation
24 on GWA’s spending authority.

1 If any provision by this Act is found contrary to Federal law, all other
2 provisions shall remain valid.

3 **Section 3. GWA FY2003 Budget Adoption.** The GWA Fiscal Year
4 2003 budget proposal, as amended in Exhibit A, a copy of which is attached
5 hereto and incorporated by reference herein, is hereby adopted as a budget
6 for the first four (4) months of Fiscal Year 2003 for GWA, subject to all
7 provisions of this Act.

8 **Section 4. Estimated Revenues.** *I Liheslaturan Guåhan* adopts Thirty-
9 Four Million Four Hundred Ninety Thousand Seven Hundred Forty-one
10 Dollars (\$34,490,741.00) as the revenue forecast for GWA for Fiscal Year 2003.
11 Any funds collected in excess of said amount shall not be expended without
12 the prior consent and appropriation of *I Liheslaturan Guåhan*, but shall be
13 deposited into the GWA Budget Reserve Account.

14 **Section 5. Authorized Full-Time Employees (FTE's).** The number of
15 authorized full-time employees (FTE'S) approved for the FY2003 GWA
16 budget is contained within the attached Exhibit A, a copy of which is attached
17 hereto and incorporated by reference herein.

18 (a) GWA is authorized three hundred ten (310) Full-Time Equivalency
19 ("FTE") positions.

20 Except with the prior approval of the PUC and in accordance with
21 GWA's budget, as approved by *I Liheslaturan Guåhan* and in accordance with
22 this Act, GWA shall not fill any vacant position pending the PUC's
23 completion of the staffing and manpower study of GWA, as required by
24 Public Law Number 26-23.

1 **Section 6. GWA Cost Containments. (a) Freeze on GWA Salary**
2 **Increments and Merit Bonuses.**

3 **(1) Salary Increments and Merit Bonus Freezes.**

4 Notwithstanding any other provisions of law, rule or regulation,
5 effective October 1, 2002, there is hereby continued and placed in
6 effect a freeze on all GWA salary increments and merit bonuses
7 which shall remain in effect through September 30, 2003, and shall
8 be applicable to all positions within GWA.

9 **(2) Continuation of Annual Review.** The freeze on GWA

10 salary increments shall not preclude GWA from conducting
11 normal personnel reviews, which routinely precede salary
12 adjustments for each employee.

13 **Section 7. GWA Budget Reserve Account.** GWA shall maintain and
14 continue the "GWA Budget Reserve Account."

15 (a) Funds within the "GWA Budget Reserve Account" shall not
16 be used, transferred nor otherwise expended by GWA, nor any other
17 government official nor entity, without the prior consent and
18 appropriation by *I Liheslaturan Guåhan*. GWA shall carry-over all funds
19 from Fiscal Year 2002 which were deposited in the "GWA Budget
20 Reserve Account" and which were not appropriated by *I Liheslaturan*
21 *Guåhan*. In addition to funds carried over from Fiscal Year 2002, the
22 funding for all positions vacant on October 1, 2002, or becoming vacant
23 thereafter, including all personnel funds which are not used or
24 expended, shall revert to the GWA Budget Reserve Account.

1 **Section 8. Build-Operate-Transfer (“BOT”) Projects.** Notwithstanding
2 any other provision of law to the contrary and in addition to the PUC’s
3 oversight authority over BOT activities as conferred by Public Law Number
4 26-14, the PUC shall continue to authorize and to designate the BOT projects
5 which shall be undertaken by GWA, and to establish the scope and timeline
6 for the procurement of such BOT projects by GWA. GWA shall strictly
7 comply with all PUC orders.

8 **Section 9. Reports.** The General Manager of GWA shall submit the
9 following reports to *I Liheslaturan Guåhan*.

10 **(a) Overtime Expenditure Report.** Continuing from Fiscal
11 Year 2002, a written overtime expenditure report for the previous two
12 (2) pay periods shall be submitted on or before the fifteenth (15th) day
13 of every month following. Said report shall include: (i) the name and
14 position of every employee who received overtime pay; (ii) the purpose
15 of the overtime payment (iii) the amount paid for overtime to each
16 employee during the report period; and (iv) the cumulative overtime
17 paid to date to the respective employee.

18 **(b) Financial Activity Report.** For every fiscal quarter, a
19 written status report shall be submitted for the following:

- 20 1. Expenditure breakdown on laboratory contractual
21 services;
- 22 2. Contracts awarded, detailing the (i) nature of every
23 contract awarded, (ii) contractor receiving the award, (iii) amount

1 of the contract, (iv) contract account number, (v) contract start and
2 completion date, and (vi) the project status;

3 **3. Vacant Positions.** A list of every currently vacant
4 GWA FTE position; and

5 **4. Financial Summary.** A summary of: (i) actual
6 revenue collected, (ii) revenue expenditure, (iii) revenue collection
7 for accounts receivables, (iv) aging of accounts receivables, (v)
8 aging of accounts payables, and (vi) a summary of money
9 collected for accounts receivable by GWA for fiscal years before
10 FY2003.

11 The aforementioned reports shall be due on thirty (30) days
12 after each quarter.

13 **(c) GWA Budget Reserve Account Report.** GWA shall Also
14 prepare and submit to *I Liheslaturan Guåhan* a complete accounting for
15 the GWA Budget Reserve Account on a monthly basis beginning
16 November 1, 2002 and continuing for each month thereafter on the first
17 of each month.

18 **(d) Water Production Reports.** The General Manager of GWA
19 shall provide on a monthly basis to the *I Liheslaturan Guåhan*: (i) the
20 quantity of water produced by GWA sources, (ii) the quantity of water
21 purchased by GWA, (iii) the amount of water billed by GWA by class of
22 customer, (iv) the amount of water unaccounted for during the previous
23 quarter.

1 **Section 10. Object Category Budget Restriction.** GWA shall not
2 change nor modify any object category amount as contained in Exhibit A,
3 including, but not limited to, utilities accounts, contractual services accounts
4 or personnel services accounts without prior authorization by *I Liheslaturan*
5 *Guåhan*.

6 **Section 11. Limitation Upon Transfer Authority.** The GWA Board of
7 Directors may authorize a transfer of up to a total of five percent (5%) for the
8 fiscal year any object category in the Fiscal Year 2003 budget to any other
9 object category in said budget, except that no transfer authority shall apply to
10 the Utilities Category (Power, Water Purchases, Telephone) or Personnel
11 Services Category (Salaries and Wages, Holiday Pay, Night Differential,
12 Hazardous Pay, Benefits, as identified in the attached Exhibit A without prior
13 consent and appropriation of *I Liheslaturan Guåhan*. Except as otherwise
14 provided for in this Act, no other government official nor entity shall have
15 authority to transfer funds from or within GWA.

16 In the case of the Contractual Services Category, as identified in the
17 attached **Exhibit A**, the GWA Board of Directors shall only have the authority
18 to transfer no more than five percent (5%) from: (i) Contractual Services Legal
19 and (ii) Advertising. No transfer authority is authorized for any other
20 contractual service, as identified in the attached **Exhibit A** (Contractual
21 Services Other, Regulatory Commission, Contractual Services Laboratory,
22 Contractual Services Accounting, Contractual Services Insurance, Office
23 Rental, Miscellaneous).

1 Notwithstanding the provisions of this Section, the GWA General
2 Manager shall have up to a total of fifteen percent (15%) transfer authority for
3 Overtime for the fiscal year in the Fiscal Year 2003 budget for GWA personnel
4 within GWA operational business units.

5 Notwithstanding the provisions of this Section, the GWA General
6 Manager shall have up to a total of fifteen percent (15%) transfer authority for
7 Equipment Rental for the fiscal year in the Fiscal Year 2003 budget for GWA
8 operational business units.

9 **Section 12. Regulatory Compliance.** *I Liheslaturan Guåhan* continues
10 to express serious concern over the U.S. Environmental Protection Agency's
11 Administrative Order on Consent in PUC Docket Number CWA-402-9-01-019
12 dated August 16, 2001. This Order reports chronic GWA violation of Federal
13 environmental law and orders GWA to submit a financial plan by January 31,
14 2002 to secure an estimated Ninety Million Dollars (\$90,000,000) to bring its
15 wastewater collection, treatment and disposal systems into compliance with
16 its NPDES permits and the Clean Water Act. Under existing law, any such
17 financial plan shall require the approval of *I Liheslaturan Guåhan* and the PUC.
18 Accordingly, PUC shall report to *I Liheslaturan Guåhan* during its December,
19 2002 regulatory session upon the following matters:

20 (a) A proposed GWA financial plan, including
21 recommendations, in consultation with Guam Economic Development
22 Authority, as to available and appropriate sources of funding for the
23 plan. The plan should evaluate the rate impact of each funding
24 alternative.

1 (b) The feasibility of using the BOT statutes, Public Law
2 Number 24-37, as amended by Public Law Number 26-14, to undertake
3 the corrective actions mandated by the Administrative Order. In
4 addressing this matter, PUC shall examine relevant operational issues.

5 (c) The impact of the financial plan on GWA's approved FY2003
6 budget.

7 (d) Federal grants and loan programs available for water
8 utilities.

9 (e) Recommended legislation, which would be necessary to
10 implement PUC's recommendations.

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11

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

25

I MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

5 Bill No. 356

Moylan

Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

New Section: Effective January 1st 2003 the consolidated Commission

ON the Water Commission shall have budgetary authority over
the Guam Water Authority.

(Below only for Clerk of Legislature's use and processing))

Date 9/17 2002

Floor Amendment No. 1 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED:

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

[Signature]
AUTHOR OF AMENDMENT

Concur (initial)

[Signature]
Clerk of Legislature

Speaker

____ Ass't. Amend. Clerk
____ Engrossment Staff