



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

SEP 30 2002

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

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 356 (COR) "AN ACT TO ADOPT A PARTIAL BUDGET FOR THE GUAM WATERWORKS AUTHORITY FOR FISCAL YEAR 2003," which was enacted into law without the signature of the Governor. This legislation is now designated as **Public Law No. 26-151**.

Very truly yours,

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

Attachments: original bill for vetoed legislation or
copy of bill for signed or overridden legislation
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco
Speaker

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received	
Title	234
Date	9/20/02

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

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

This is to certify that Substitute Bill No. 356 (COR), " AN ACT TO ADOPT A PARTIAL BUDGET FOR THE GUAM WATERWORKS AUTHORITY FOR FISCAL YEAR 2003," was on the 17th day of September, 2002, duly and regularly passed.



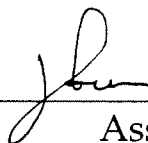
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 17 day of September, 2002,
at 1155 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahen Guåhan

Date: September 29, 2002

Public Law No. 26-151
Became law without the signature
of *I Maga'lahen Guahan*, the
Governor of Guam.

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
and further substituted and amended
in the Committee of the Whole.

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."

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

11 **Section 2. Budgetary Mandate, Short Title and Construction.**

12 Notwithstanding any other provisions of law, this Act shall be the Fiscal Year
13 2003 budget for GWA, and shall be known as the "*Partial Guam Waterworks*
14 *Authority Fiscal Year 2003 Budget Act.*"

15 *Except* as otherwise provided for in this Act, the budget funding
16 authorizations made by this Act shall be available to pay for obligations
17 incurred on or after October 1, 2002, but *no later than* January 31, 2003. This
18 Act shall be *strictly* construed as an object category budget and as a limitation
19 on GWA's spending authority.

20 *If* any provision of this Act is found contrary to Federal law, all other
21 provisions shall remain valid.

22 **Section 3. GWA FY2003 Budget Adoption.** The GWA Fiscal Year
23 2003 budget proposal, as amended in **Exhibit A**, a copy of which is
24 attached hereto and incorporated by reference herein, is hereby adopted as a

1 budget for the first four (4) months of Fiscal Year 2003 for GWA, *subject* to all
2 provisions of this Act.

3 **Section 4. Estimated Revenues.** *I Liheslaturan Guåhan* adopts Thirty-
4 Four Million Four Hundred Ninety Thousand Seven Hundred Forty-one
5 Dollars (\$34,490,741) as the revenue forecast for GWA for Fiscal Year 2003.
6 Any funds collected in excess of said amount shall *not* be expended without
7 the prior consent and appropriation of *I Liheslaturan Guåhan*, but shall be
8 deposited into the GWA Budget Reserve Account.

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

13 GWA is authorized three hundred ten (310) Full-Time Equivalency
14 ("FTE") positions.

15 *Except* with the prior approval of the Public Utilities Commission
16 ("PUC") and in accordance with GWA's budget, as approved by *I Liheslaturan*
17 *Guåhan* and in accordance with this Act, GWA shall *not* fill any vacant
18 position pending the PUC's completion of the staffing and manpower study
19 of GWA, as required by Public Law Number 26-23.

20 **Section 6. GWA Cost Containments.**

21 (a) **Freeze on GWA Salary Increments and Merit Bonuses.**

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

23 Notwithstanding any other provisions of law, rule or regulation,
24 effective October 1, 2002, there is hereby continued and placed in

1 effect a freeze on all GWA salary increments and merit bonuses
2 which shall remain in effect through September 30, 2003, and shall
3 be applicable to all positions within GWA.

4 (2) **Continuation of Annual Review.** The freeze on GWA
5 salary increments shall *not* preclude GWA from conducting
6 normal personnel reviews, which routinely precede salary
7 adjustments for each employee.

8 **Section 7. GWA Budget Reserve Account.** GWA shall maintain and
9 continue the "*GWA Budget Reserve Account.*"

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

20 **Section 8. Build-Operate-Transfer ("BOT") Projects.**

21 Notwithstanding any other provision of law to the contrary and in addition to
22 the PUC's oversight authority over BOT activities as conferred by Public Law
23 Number 26-14, the PUC shall continue to authorize and to designate the BOT
24 projects which shall be undertaken by GWA, and to establish the scope and

1 timeline for the procurement of such BOT projects by GWA. GWA shall
2 *strictly* comply with all PUC orders.

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

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

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

15 (1) expenditure breakdown on laboratory contractual
16 services;

17 (2) contracts awarded, detailing the (i) nature of every
18 contract awarded, (ii) contractor receiving the award, (iii) amount
19 of the contract, (iv) contract account number, (v) contract start and
20 completion date, *and* (vi) the project status;

21 **(3) Vacant Positions.** A list of every currently
22 vacant GWA FTE position; *and*

23 **(4) Financial Summary.** A summary of: (i) actual
24 revenue collected, (ii) revenue expenditure, (iii) revenue collection

1 for accounts receivables, (iv) aging of accounts receivables, (v)
2 aging of accounts payables, *and* (vi) a summary of money
3 collected for accounts receivable by GWA for fiscal years before
4 FY2003.

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

7 **(c) GWA Budget Reserve Account Report.** GWA shall also
8 prepare and submit to *I Liheslaturan Guåhan* a complete accounting for
9 the GWA Budget Reserve Account on a monthly basis beginning
10 November 1, 2002 and continuing for each month thereafter on the first
11 of each month.

12 **(d) Water Production Reports.** The General Manager of GWA
13 shall provide on a monthly basis to *I Liheslaturan Guåhan*: (i) the
14 quantity of water produced by GWA sources, (ii) the quantity of water
15 purchased by GWA, (iii) the amount of water billed by GWA by class of
16 customer, *and* (iv) the amount of water unaccounted for during the
17 previous quarter.

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

23 **Section 11. Limitation Upon Transfer Authority.** The GWA
24 Board of Directors may authorize a transfer of *up to* a total of five percent (5%)

1 for the fiscal year any object category in the Fiscal Year 2003 budget to any
2 other object category in said budget, *except* that no transfer authority shall
3 apply to the Utilities Category (Power, Water Purchases, Telephone) or
4 Personnel Services Category (Salaries and Wages, Holiday Pay, Night
5 Differential, Hazardous Pay, Benefits) as identified in the attached **Exhibit A**
6 without prior consent and appropriation of *I Liheslaturan Guåhan*. *Except* as
7 otherwise provided for in this Act, no other government official nor entity
8 shall have authority to transfer funds from or within GWA.

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

17 Notwithstanding the provisions of this Section, the GWA General
18 Manager shall have *up to* a total of fifteen percent (15%) transfer authority for
19 overtime for the fiscal year in the Fiscal Year 2003 budget for GWA personnel
20 within GWA operational business units.

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

1 **Section 12. Regulatory Compliance. I Liheslaturan Guåhan**

2 continues to express serious concern over the U.S. Environmental Protection
3 Agency's Administrative Order on Consent in PUC Docket Number CWA-
4 402-9-01-019 dated August 16, 2001. This Order reports chronic GWA
5 violation of Federal environmental law and orders GWA to submit a financial
6 plan by January 31, 2002 to secure an estimated Ninety Million Dollars
7 (\$90,000,000) to bring its wastewater collection, treatment and disposal
8 systems into compliance with its NPDES permits and the Clean Water Act.
9 Under existing law, any such financial plan shall require the approval of *I*
10 *Liheslaturan Guåhan* and the PUC. Accordingly, PUC shall report to *I*
11 *Liheslaturan Guåhan* during its December, 2002 regulatory session upon the
12 following matters:

13 (a) A proposed GWA financial plan, including
14 recommendations, in consultation with Guam Economic Development
15 and Commerce Authority, as to available and appropriate sources of
16 funding for the plan. The plan should evaluate the rate impact of each
17 funding alternative.

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

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

24 (d) Federal grants and loan programs available for water
25 utilities.

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

3 **Section 13. Consolidated Commission on Utilities Budgetary**

4 **Authority.** Effective January 1, 2003, the Consolidated Commission on
5 Utilities shall have budgetary authority over the Guam Waterworks
6 Authority.

7 **Section 14. Severability.** *If* any provision of this Law or its

8 application to any person or circumstance is found to be invalid or contrary to
9 law, such invalidity shall *not* affect other provisions or applications of this
10 Law which can be given effect without the invalid provisions or its
11 application, and to this end the provisions of this law are severable.