



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>1:20 PM</u>
Date	<u>12/22/01</u>

DEC 22 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

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 178 (COR) "AN ACT TO AMEND §§ 12000(a), 12001(a), 12006 and 12015(a) OF TITLE 12, AND TO AMEND § 80105 OF TITLE 10, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO THE GUAM MEMORIAL HOSPITAL AUTHORITY'S RATE MAKING PROCESS" which was I have signed into law as **Public Law No. 26-66.**

This legislation removes the rates charged by the Guam Memorial Hospital Authority (GMHA) from the jurisdiction of the Public Utilities Commission (PUC). The GMHA ratemaking was included under the jurisdiction of the PUC in prior law, however, this arrangement is impracticable in the health field. The amendments contained in this legislation removes the PUC member who is to be representative of the health field, and since this member is removed, also reduces the quorum required for action by the PUC by One (1) member, from five to four.

This legislation places the ratemaking authority of the GMHA under the Board of Trustees of the GMHA. The rates may be increased only to a Five Percent (5%) per year level by action of the Board of Trustees. If the GMHA desires to raise rates to a level, which is higher than Five Percent (5%) per year, then the Authority must conduct public hearings and the rates must be transmitted to the Legislature. The Legislature has 45 days to take action, and if no action is taken then the rates go into effect.

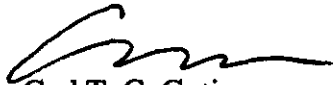
Note that there is a general method for changing rates or rule-making in the government of Guam under the Administrative Adjudication Act, however, the timelines and method prescribed for raising GMHA rates which are higher than Five Percent (5%) in this legislation is different from that prescribed in the Administrative Adjudication Act.

0618

Legislative Secretary
SB178;PL26-66
December, 2001
Page 2

While the ratemaking authority is spelled out in code sections that are assigned to the PUC, the GMHA is deleted from the definition of "utility" and is taken out of the jurisdiction of the PUC. A better placement for the ratemaking authority of the GMHA would be in Title 10 of the Guam Code Annotated, in the code sections assigned to the GMHA.

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

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

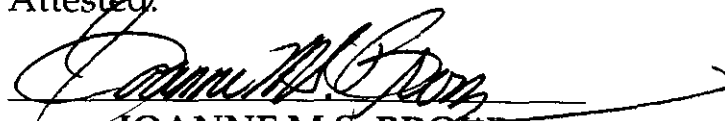
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 178 (COR) "AN ACT TO AMEND §§ 12000(a), 12001(a), 12006 AND 12015(a) OF TITLE 12, AND TO AMEND § 80105 OF TITLE 10, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO THE GUAM MEMORIAL HOSPITAL AUTHORITY'S RATE MAKING PROCESS," was on the 7th day of December, 2001, duly and regularly passed.



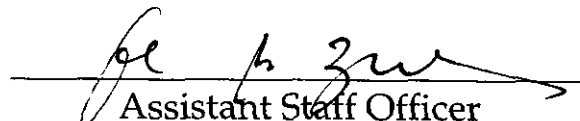
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 12th day of December, 2001,
at 4:47 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guåhan

Date: 12-22-01

Public Law No. 26-66

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

Bill No. 178 (COR)

As substituted and
amended on the Floor.

Introduced by:

L. A. Leon Guerrero

V. C. Pangelinan

J. T. Won Pat

J. F. Ada

T. C. Ada

F. B. Aguon, Jr.

J. M.S. Brown

E. B. Calvo

F. P. Camacho

M. C. Charfauros

Mark Forbes

L. F. Kasperbauer

K. S. Moylan

A. L.G. Santos

A. R. Unpingco

**AN ACT TO AMEND §§ 12000(a), 12001(a), 12006
AND 12015(a) OF TITLE 12, AND TO AMEND §
80105 OF TITLE 10, ALL OF THE GUAM CODE
ANNOTATED, RELATIVE TO THE GUAM
MEMORIAL HOSPITAL AUTHORITY'S RATE
MAKING PROCESS.**

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

2 **Section 1.** Section 12000(a) of Chapter 12 of Title 12 of the Guam Code
3 Annotated, as amended by § 3 of Public Law Number 25-05, is hereby *amended*
4 to read as follows:

1 “(a) ‘*Public Utility*’ means the Guam Power Authority, the Guam
2 Telephone Authority, the Guam Waterworks Authority, or any duly
3 licensed private contractor operating: (1) a facility or subsystem of the
4 community-wide water production and distribution system; or (2) a
5 facility or subsystem of the community-wide waste water disposal
6 system, or both, or any private golf course management corporation
7 leasing public property providing preferential golf rates and
8 reservations to Guam residents.”

9 **Section 2.** Section 12001(a) of Chapter 12 of Title 12 of the Guam Code
10 Annotated, as amended by § 4 of Public Law Number 25-05, is hereby *amended*
11 to read as follows:

12 “(a) *I Maga’Lahen Guåhan* shall appoint, with the advice and
13 consent of *I Liheslaturan Guåhan*, two (2) members from the business
14 community of Guam; one (1) member who is a certified public
15 accountant; one (1) member who has managerial or engineering
16 experience in the field of power generation; one (1) member who has
17 training and experience in the field of telephone, water or sewer utilities
18 management, or related area; and two (2) members who are from the
19 community-at-large.

20 *Except* for the initial term, the terms of such members shall be for
21 six (6) years. No member shall be a director, deputy director, appointed,
22 unclassified employee, any other unclassified employee of the
23 government of Guam, or a member of any other board or commission.
24 The appointment of any person to the Commission shall become void *if*
25 at any time during that person’s term of office, that person shall become

1 a director, deputy director, appointed to any unclassified position in the
2 government of Guam, or accept appointment to any other board or
3 commission.”

4 **Section 3.** Section 12015(a) of Chapter 12 of Title 12 of the Guam Code
5 Annotated, as amended by § 6 of Public Law Number 25-05, is hereby *amended*
6 to read as follows:

7 “(a) All rates, charges, assessments, and costs made or
8 charged by any public utility shall be just and reasonable and in
9 conformance with public law, and shall be filed with the
10 Commission; and no rate, charge or assessment cost shall be
11 established, abandoned, modified, departed from or changed
12 without a public hearing and the *prior* approval of the
13 Commission. The Commission, upon notice to the public utility,
14 may suspend the operation of any proposed rate, charge or
15 assessment cost, or any proposed abandonment or modification
16 thereof or departure therefrom, and after a public hearing by order
17 regulate, fix and change all such rates, charges, General Lifeline
18 Rates, or assessment costs so that the same shall be just and
19 reasonable, and may prohibit rebates and discrimination between
20 localities, or between consumers, under substantially similar
21 conditions.”

22 **Section 4.** Section 80105 of Chapter 80, Division 4, Part 2 of Title 10 of
23 the Guam Code Annotated, as repealed and reenacted by § 7 of Public Law
24 Number 25-05, is hereby *amended* to read as follows:

25 “Section 80105. **Hospital Rates.**

1 (a) The Guam Memorial Hospital Authority ('Authority')
2 shall establish and modify from time to time, reasonable rates, fees
3 and charges for its services, medications and supplies, which
4 when considered together with other sources of funds and
5 revenue, shall be *at least* adequate to enable the Authority to meet
6 its financial obligations, operating expenses and capital
7 improvement needs. The Guam Public Utilities Commission shall
8 *not* have any purview over the Authority rates. The rates
9 established per fee schedule may be increased by the Board of
10 Trustees *up to* five percent (5%) per year; provided, that the total
11 revenues from all increases per fee schedule shall *not* exceed five
12 percent (5%) of the total revenues adopted by the Board in the
13 Authority's budget for that fiscal year, or decreased as necessary.

14 Fees for new services, medications, or supplies, or rate
15 increases of *more than* five percent (5%) annually shall be
16 established by the Authority, approved and ratified by the Board
17 of Trustees and forwarded to *I Liheslaturan Guåhan* for approval.
18 *Prior* to the approval and ratification by the Board of Trustees,
19 public hearings must be conducted by the Authority for any new
20 fee or rate increase of *more than* five percent (5%).

21 *I Liheslaturan Guåhan* shall have forty-five (45) days from the
22 receipt of the proposed new fee or rate increase to conduct a
23 public hearing and approve the increase or new fee. If *I*
24 *Liheslaturan Guåhan* does *not* disapprove or amend the proposed

1 new fee or increase in rates within the forty-five (45) days, new fee
2 or rate increase will *immediately* become effective.

3 (b) The Authority may establish interim fees for new, un-
4 tariffed services, medication and supplies, without *prior* legislative
5 approval and without compliance with the Administrative
6 Adjudication Law; *provided*, that: (1) the interim fees are consistent
7 with the Authority's Net Revenue Enhancement Engagement
8 Pricing Model, as prepared by Deloitte & Touche, dated February
9 7, 1992, or such other protocol as may be approved by the Board of
10 Trustees; and (2) a petition for permanent approval of the interim
11 fees is filed by the Authority with *I Liheslaturan Guåhan* within
12 three (3) months of the Authority's establishment of the interim
13 fee."

14 **Section 5.** Section 12006 of Chapter 12 of Title 12 of the Guam Code
15 Annotated, as amended by § 5 of Public Law Number 25-05, is hereby *amended*
16 to read as follows:

17 "Section 12006. **Quorum.** Four (4) Commissioners shall
18 constitute a quorum. An affirmative vote of *at least* four (4)
19 Commissioners present at a meeting where a quorum is present shall be
20 required for the Commission to act or issue a decision."

21 **Section 6. Administrative Provisions; Existing Rates and Fees to**
22 **Remain in Effect.** Upon enactment into law of this Act, all existing rates
23 and fees that have received *prior* approval by the Guam Public Utilities
24 Commission or pursuant to the Administrative Adjudication Law shall

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 12/10/01

VOTING SHEET

S Bill No. 178(COR)

Resolution No. _____

Question: _____

pc 66

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. <i>///</i>		<i>✓</i>			
CALVO, Eddie B. <i>l</i>	✓				
CAMACHO, Felix P. <i>///</i>		<i>✓</i>			
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F. <i>///</i>		<i>✓</i>			
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.			<i>excused</i>		
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.					✓

TOTAL

10 3 1 0 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



MINA ' BENTE SAIS NA LIHESI TURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurát*

28 NOV 2001

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

Dear Mr. Speaker:

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 178, was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 178, as amended:** "An Act To Amend Sections 12000(a), and 12015(a) of Title 12 and To Amend Section 80105(a) of Title 10, Guam Code Annotated, Relative To The Guam Memorial Hospital Authority Rate Making Process."

The voting record is as follows:

TO PASS	<u>4</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>
TO REPORT OUT	<u>2</u>

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.


MARK FORBES

Attachments



MINA 'LENTE SAIS NA LIHESE ATURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gebilu
Kabisiyon Mayurát*

28 NOV 2001

MEMORANDUM

TO: Committee Members
FROM: Chairman
SUBJECT: ~~Committee Report-~~ BILL NO. 178, as amended: "An Act To Amend Sections 12000(a), and 12015(a) of Title 12 and To Amend Section 80105(a) of Title 10, Guam Code Annotated, Relative To The Guam Memorial Hospital Authority Rate Making Process."

Transmitted herewith for your information and action is the report on Bill No. 178, as amended, from the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 178, as amended
4. Public Hearing Sign-in Sheet
5. Fiscal Note/Fiscal Note Waiver
6. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

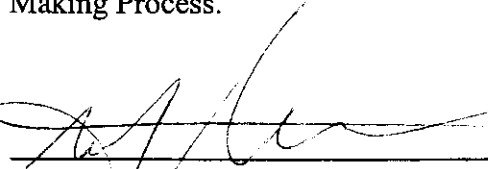
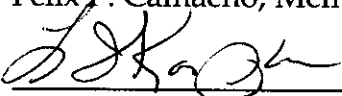
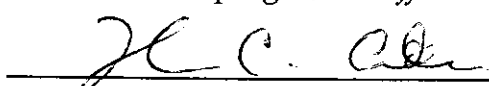

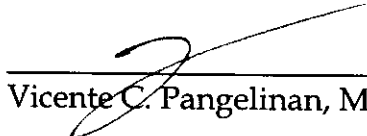
MARK FORBES

Attachments

**Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal,
Foreign and General Affairs**
I Mina' Bente Sais Na Liheslaturan Guåhan

Voting Record

BILL NO. 178, as amended: "An Act To Amend Sections 12000(a), and 12015(a) of Title 12 and To Amend Section 80105(a) of Title 10, Guam Code Annotated, Relative To The Guam Memorial Hospital Authority Rate Making Process."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>	<u>TO REPORT OUT</u>
 MARK FORBES, Chairman	✓				
Joseph F. Ada, Member					
Joanne M.S. Brown, Member					
Eddie B. Calvo, Member					
Felix P. Camacho, Member					
 Lawrence F. Kasperbauer, Ph. D., Member					X
Kaleo S. Moylan, Member	✓				
Antonio R. Unpingco, <i>Ex-Officio Member</i>					
 Thomas C. Ada, Member					✓
 Lou A. Leon Guerrero, Member	✓				
 Vicente C. Pangelinan, Member	✓				

I MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN
COMMITTEE ON RULES, GENERAL GOVERNMENTAL
OPERATIONS, REORGANIZATION AND REFORM, AND
FEDERAL, FOREIGN AND GENERAL AFFAIRS

SENATOR MARK FORBES, CHAIRMAN

COMMITTEE REPORT
ON
BILL NO. 178, as amended

“AN ACT TO AMEND SECTIONS 12000(A), AND 12015(A) OF
TITLE 12 AND TO AMEND SECTION 80105(A) OF TITLE 10,
GUAM CODE ANNOTATED, RELATIVE TO THE GUAM
MEMORIAL HOSPITAL AUTHORITY RATE MAKING
PROCESS.”

I. OVERVIEW

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs held a public hearing at 10 a.m. on November 15, 2001 in the Public Hearing Room, I Liheslaturan Guahan. Public notice was given in the November 3, and November 15, 2001 editions of the Pacific Daily News.

Senators present at the public hearing were:

Senator Mark Forbes, Chairman
Senator Joanne Brown, Member
Senator Larry Kasperbauer, Member
Senator Lou Leon Guerrero, Member
Senator Ben Pangelinan, Member
Senator Frank Aguon

II. SUMMARY OF TESTIMONY

Individuals appearing before the Committee to present oral and written testimony on the bill are as follows:

Davina M. Lujan, M.D., Hospital Administrator, Guam Memorial Hospital Authority (Oral and written testimony)

Edward J. Cruz, M.D., President, Guam Medical Society (Oral and written testimony)

W. Chris Perez, M.D., Interim Chair, GMHA Board of Trustees (Written testimony)

Dr. Davina Lujan, hospital administrator of the Guam Memorial Hospital Authority, testified before the Committee in favor of Bill No. 178, with changes. Dr. Lujan discussed the history of the rate-making process for the hospital, and how it came to be under the jurisdiction of the Public Utilities Commission. Dr. Lujan recommends that the Legislature remove the 5% annual limit for rate increases that is in the bill; if that limit can't be removed, she asked that it be increased to 10%.

Dr. Edward Cruz, president of the Guam Medical Society, testified before the Committee in favor of Bill No. 178, with changes. Dr. Cruz suggested adding a member of the Mayors' Council as a representative, and removing the 5% limit per year.

Sen. Brown raised concerns about the political hiring at GMH - are these people being hired able to assist in some way to save people's lives? A staffing pattern study by the PUC might help assure the Legislature that these concerns will be addressed.

Dr. Lujan pointed out that no other hospital in the nation is under the PUC. She said that GMH follows the rate-setting procedures used by the federal government to set Medicare rates. She said the practices in the past (staffing patterns, budgets) at the GMHA have to be changed during these challenging times.

Sen. Leon Guerrero talked about her concerns that this rate-making authority given by the bill would be abused; she said that's why she put in the 5% cap, so that it wouldn't be abused.

III. FINDINGS AND RECOMMENDATION

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs finds that Bill No. 178, as amended, provides the hospital with the financial independence and flexibility it needs to improve its services without giving it too much room for abuse of the rate-making authority.

Accordingly, the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 178 was referred does hereby submit its findings and recommendations to I Mina' Bente Sais Na Liheslaturan Guahan **TO DO PASS BILL NO. 178, as amended**, "An Act To Amend Sections 12000(a), and 12015(a) of Title 12 and To Amend Section 80105(a) of Title 10, Guam Code Annotated, Relative To The Guam Memorial Hospital Authority Rate Making Process."

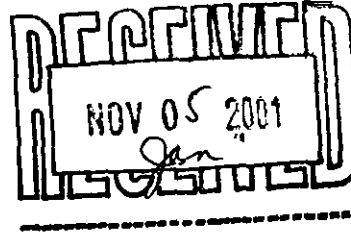


MINA ' BUNTE SAIS NA LIHESI 'TURAN GUAHAN

Kumitchan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurát*

02 NOV 2001



MEMORANDUM

TO: Chairman
~~Committee on Rules, General Governmental Operations, Reorganization
and Reform, and Federal, Foreign and General Affairs~~

FROM: Chairman
~~Committee on Rules, General Governmental Operations, Reorganization
and Reform, and Federal, Foreign and General Affairs~~

SUBJECT: Principal Referral – Bill No. 178

The above bill is referred to your Committee as the Principal Committee, in accordance with Section 6.04.05.01. of the Standing Rules. Your Committee is the Committee authorized to perform the public hearing on this bill and to amend or substitute the bill, as well as report the bill out to the Body. It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment

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

Bill No. 178

**As Amended by the
Committee on Rules**

**L.A.Leon Guerrero
v.c. pangelinan
J. Won Pat**

**AN ACT TO *AMEND* SECTIONS 12000(a), 12001(a),
AND 12015(a) OF TITLE 12 AND TO AMEND
SECTION 80105(a) OF TITLE 10, GUAM CODE
ANNOTATED, RELATIVE TO THE GUAM MEMORIAL
AUTHORITY RATE MAKING PROCESS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Section 12000(a) of Chapter 12 of Title 12 of the Guam Code Annotated, as amended by Section 3 of P. L. 25-05, is further amended to read as follows:

“(a) *Public Utility* means the Guam Power Authority, the Guam Telephone Authority, the Guam Waterworks Authority, ~~the Guam Memorial Hospital Authority~~ or any duly licensed private contractor operating: (i) a facility or subsystem of the community-wide water production and distribution system, or (ii) a facility or subsystem of the community-wide waste water disposal system, or both, or any private golf course management corporation leasing public property providing preferential golf rates and reservations to Guam residents.”

Section 2. Section 12001(a) of Chapter 12 of Title 12 of the Guam Code Annotated, as amended by Section 4 of P. L. 25-05, is further amended to read as follows:

“(a) *I Maga’Lahen Guahan* shall appoint, with the advice and consent of *I leheslaturñ guahan* , two (2) members from the business community of Guam; one (1) member who is a certified public accountant; one (1) member who has managerial or engineering experience in the field of power generation; one (1) member who has training and experience in the field of telephone, water or sewer utilities management, or related area; ~~one (1) member who has training and experience in the health care management field;~~ and two (2) members who are from the community-at-large. *Except* for the initial term, the terms of such members shall be for six (6) years. No member shall be a director, deputy director, appointed, unclassified employee, any other unclassified employee of the government of Guam, or a member of any other board or commission. The appointment of any person to the Commission shall become void *if* at any time during his/her term of office, he/she shall become a director, deputy director, appointed to any unclassified position in the government of Guam, or accept appointment to any other board or commission.

Section 3. Section 12015(a) of Chapter 12 of Title 12 of the Guam Code Annotated, as amended by Section 6 of P.L. 25-05, is

further amended to read as follows:

“Section 12015. Regulation of Rates. (a) All rates, charges, all assessments, costs made or charged by any public utility shall be just and reasonable and in conformance with public law, and shall be filed with the Commission, and ~~except for the Guam Memorial Hospital Authority interim fees for new services or supplies established under 10 GCA §80105(b)~~ no rate, charge or assessment cost shall be established, abandoned, modified, departed from or changed without a public hearing and the prior approval of the Commission. The Commission, upon notice to the public utility, may suspend the operation of any proposed rate, charge or assessment cost, or any proposed abandonment or modification thereof or departure therefrom, and after a public hearing by order regulate, fix and change all such rates and charges. General lifeline Rates, or assessment costs so that the same shall be just and reasonable, and may prohibit rebates and discrimination between localities, or between consumers, under substantially similar conditions.”

Section 4. Section 80105 of Chapter 80, Division 4, Part 2, Title 10 of the Guam Code Annotated, as repealed and reenacted by Section 7 of P. L. 25-05, is further amended to read as follows:

“**Section 80105.** Hospital Rates. (a) The Guam Memorial Hospital Authority (‘Authority’) shall establish and modify from

time to time, ~~with prior approval of the Guam Utilities Commission~~ reasonable rates, fees and charges for its services, medications and supplies, which when considered together with other sources of funds and revenue, shall be at least adequate to enable the Authority to meet its financial obligations, operating expenses and capital improvement needs. The Guam Utilities Commission shall not have any purview over the Guam Memorial Hospital Authority rates. The rates established in the schedule of fees may be increased up to ~~five percent (5%)~~ ten percent (10%) per year as necessary. Increases of more than ~~five percent (5%)~~ ten percent (10%) annually shall be established ~~only pursuant to the Administrative Adjudication Law~~ by the Authority, approved and ratified by the Board of Trustees and forwarded to the Guam Legislature for approval. Prior to the approval and ratification by the Board of Trustees, public hearings must be conducted by the Authority for any rate increase of more than ten percent (10%). The Legislature shall have forty five (45) days from the receipt of the rate increase to conduct a public hearing and approve the increase. If the Legislature does not act within the forty five (45) days, the rate increase will immediately become effective.

Section 5. Administrative Provisions: Existing Rates and Fees to Remain in Effect. Upon enactment into law of this Act, all existing rates and fees that have received prior approval by the Public Utilities Commission or pursuant to the Administrative Adjudication Law shall

remain in force and effect until and unless amended or otherwise changed
pursuant to this Act.



Guam Memorial Hospital Authority Aturidåt Espetåt Mimuriåt Guåhan

850 GOV. CARLOS CAMACHO ROAD
OKA, TAMUNING, GUAM 96911
TEL: 647-2444 or 647-2330
FAX: (671) 649-0145



Carl T.C. Gutierrez
GOVERNOR

Madeline Z. Bordallo
LIEUTENANT GOVERNOR

Davina M. Lujan, MD
HOSPITAL ADMINISTRATOR

Therese M. Hart
ASSOCIATE ADMINISTRATOR
OF OPERATIONS

November 15, 2001

Senator Mark Forbes
26th Guam Legislature
Chairman, Committee on Rules, General Government Operations, Reorganization and Reform,
and Federal Foreign and General Affairs
155 Hesler Street
Hagatna, GU 96910

Re: **Written Testimony - Bill 78** - Act to Amend Section 12000(a), 12001(a) and 12015(a) of Title 12015(a) of Title 12 and to Amend Section 80105(a) of Title 10, Guam Code Annotated, relative to the Guam Memorial Hospital Authority rate making process.

Dear Chairman:

As Administrator of Guam Memorial Hospital Authority (GMHA) for the past year, I would like to thank you for the opportunity of a public hearing on Bill 78. This Bill revisits P.L. 25-05 which was enacted on May 10, 1999. P.L. 25-05 allowed GMHA to establish its own rates, on the basis of the cost of providing service, by justifying rate proposals to the Public Utilities Commission. Previously, pursuant to GC 80105, all new fees and rate increases for the hospital was subject to legislative approval through the Administrative Adjudication Act. (AAA).

The hospital is pleased to learn that our concerns about being subject to the jurisdiction of the Public Utilities Commission (PUC) will be addressed and acted upon by the Guam Legislature. Requiring GMHA to establish or modify rates, fees and charges for its services, medications and supplies within a utilities rate evaluation and implementation framework process was not only counterintuitive, but our experience has proven that it did not fit the same.

Please indulge me the opportunity to recap the historic experience of the rate-making process of GMHA. The AAA process ensured public accountability, almost to a fault. The process was slow, cumbersome and unfortunately resulted in lost monetary opportunities for the hospital. The process was so unfriendly that the hospital did not seek a rate increase for years. In the meantime, patient care was rendered without recovering the costs of various procedures, supplies and items used for patient care. Literally hundreds of charges in the chargemaster were not priced, although these prices were incurred on a daily basis.

In 1995, the Guam Memorial Hospital proposed to adjust rates. The fee schedule submitted was disapproved and Public Law 23-20 authorized a 15% increase to the schedule of fees for services and supplies effective March 7, 1995. However, the 15% increase was far below proposed

"Phased In" room rate increases suggested. A review of the GMHA Medicare Cost Report for FY 1996 indicated that the ratio of cost to charges remained below breakeven. By individual room categories, the charges were as much as 53% below gross charges and the losses experienced were even higher when consideration of contractual adjustments are taken into account.

On January 11, 1999, GMHA held a public hearing for a much needed substantial rate adjustment package. This package sought a rate increase for seven service areas: Skilled Nursing Facility Room Rates, Emergency Department Room Fees, Anesthesiology Professional Fees, Pharmaceutical Supply Fees, Professional Fees, Radiology Service Fees and Rehabilitative Service Fees. These new rates were to allow GMHA to recover the costs for providing these 7 services, utilizing the Deloitte and Touche pricing model created by public law in 1992 and the 1997 Medicare Cost Recovery report.

P.L. 25-05, effective July 1, 1999, adopted 4 of the 7 proposed adjustments, namely: the Skilled Nursing Facility Fees, the Emergency Department Room Fees, Anesthesiology Professional Fees and Professional Service Fees. In addition, Section 80105 was repealed and reenacted such that Hospital rates came under the oversight of the Guam Public Utilities Commission. Section 10 of the same legislation directed the hospital to engage the services of a management auditing firm, at the hospital's expense. The audit report was to include findings and recommendations for action to be undertaken by GMHA to improve the quality and efficiency of its management, operations, maintenance and services.

In compliance with the requirement for a management audit, the services of Ernst and Young (E & Y) were retained, with \$1.5 Million budgeted in FY 2000. Total expenditures to date are \$677, 873 (attachment A). Phase I of E & Y was completed. In March 2001, the hospital management team requested that in lieu of Phase II, an interim audit be performed focusing on areas which would insure maximization of the return of investment. This request immediately preceded a declaration by the Guam Medical Society and Guam Nurses Association that the hospital was in a state of emergency, primarily due to a nursing and professional healthcare worker shortage. Implementation of Phase II was halted at this time.

I am proud to report that the hospital has made great strides forward in the areas identified for improvement by Phase I of the Audit. I would like to note that progress was achieved through ongoing efforts of the hospital management team, and not due specifically, nor exclusively to the Audit. Phrased another way, the Audit did not identify areas for improvement that the hospital had not already been engaged. For example, by December 2000, the hospital achieved full implementation of electronic billing for Medicare. Billing processes were improved such that record monthly billings of \$10 Million was achieved, compared to previous average monthly billings of \$6-7 Million.

As the hospital is faced with the most challenging of financial climates in its history, it must continue to press forward with all its might for maximizing its financial performance. It cannot be overstated that as the only hospital in the community which provides acute care services for all that present to its doors, not just for our community, but for our Pacific island neighbors, GMHA must be granted the appropriate mechanisms to operate efficiently and effectively, as well as to be able to respond to the rapidly changing local and national health marketplace.

I applaud the introduction of Bill 178. The 26th Guam Legislature should be commended for its wisdom and foresight for recognizing the ability of the hospital to assume the responsibility of establishing reasonable rates, fees and charges for its services, medications and supplies. To

assure the public that reasonable rates are being established, the hospital uses two different models developed by the federal government to determine reimbursement for Medicare services. Both models were created with the assistance of Deloitte and Touche – Deloitte and Touche pricing model created by public law in 1992 and the annual Medicare Cost Report. The Medicare Fee schedule is acknowledged in the healthcare industry as the most conservative fee schedule.

I urge favorable review and passage of Bill 178. As the policymaking and regulatory body for the hospital, the Board of Trustees is the appropriate body for review and approval for new rates and rate changes. The healthcare industry on Guam is rapidly changing and evolving and the hospital must be allowed the flexibility to make reasonable and fair changes in its charges to capture the costs for services rendered. The hospital does not present nor intend that any rate changes be for the purpose of increased cash revenue. It is simply necessary to best recover the cost for services that are rendered for patient care. GMHA is a government owned hospital in which the indigent and self pay population payor classes currently comprise almost 2/3 of its payor mix. This is a formidable challenge for any hospital. However, as the only hospital accessible for the entire community, it cannot fail in its mission, ... "We are committed to excellence in healing and caring for the people of our community". The passage of Bill 178 is the first of hopefully other significant legislative reforms that are needed to ensure the viability of safe and quality patient care at Guam Memorial Hospital.

Thus, GMHA respectfully urges the Guam Legislature to remove GMHA and its ratemaking process from being subject to the approval and jurisdiction of the PUC. GMHA not only has the requisite administrative and financial resources and expertise, but also a very capable and competent Board of Trustees to handle the modification of rates, fees or charges for its services, medications and supplies. Furthermore the rule-making provisions of the Administrative Adjudication Law as presently amended are also time-consuming to the detriment of the hospital's fiscal health. Therefore, GMHA would prefer and recommend removal of the last two sentences of the second paragraph of Section 3 on lines 37 and 38 of page 2 of Bill No. 178, i.e. simply delete the following sentences:

The rates established in the schedule of fees may be increased up to five percent (5%) per year as necessary. Increases of more than five percent (5%) annually shall be established only pursuant to the Administrative Law.

Alternatively, if the Guam Legislature is not inclined to delete the aforementioned language or provision, GMHA still respectfully requests support for the enactment of Bill No. 178 overall with one minor exception. GMHA asks that *ten percent (10%)* be submitted for the proposed "five percent (5%)" term in those two sentences or provisions.

Your cooperation and support for our requests will be most be appreciated.

Dangkulo Na Si Yuos Maase.

DAVINA M. LUJAN, MD
Hospital Administrator, Guam Memorial Hospital Authority

Cc: Carl TC Gutierrez, Governor of Guam
Senator Antonio Unpingco, Speaker, 26th Guam Legislature
Senator Eddie Baza Calvo, Chairman, Committee on Public Works, Health and Human
Services
W. Chris Perez, MD, Interim Chair, GMHA Board of Trustees
GMHA Board of Trustees
Jerone Landstrom, MD, President of the Medical Staff, GMHA



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November 14, 2001

Senator Mark Forbes
Chairman of Government Operations and Reform
Mina' Bente Sais Na Liheslaturan Guhan
Hagatna, Guam 96910

Honorable Chairman,

The Guam Medical Society with 106 paid members support of Bill 178, "AN ACT TO AMEND SECTIONS 12000(a), 12001(a), AND 12015(a) OF TITLE 12 AND TO AMEND SECTION 8015(a) OF TILTE 10, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM MEMORIAL HOSPITAL AUTHORITY RATE MAKING PROCESS" with the following amendments:

1. Pages 1 and 2, starting at line 21, replace the deleted member by the with a representative of the Mayor's Council to read as the following:
"One (1) member from the Mayor's Council;"
2. Pages 2 and 3, starting from line 37, delete the sentence, "The rates established in the schedule of fees may be increased up to five percent (5%) per year as necessary."

We, the Members of Guam Medical Society salute all of you, especially the senators introducing Bill 178 in your efforts in promoting healthcare to our patients and our community.

Sincerely,

Edward J. Cruz, M.D.
President of Guam Medical Society



MINA 'BENTE SAIS NA LIHESLATURAN GUAHAN

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yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gebilu
Kabisiyon Mayurát*

WAIVER OF FISCAL NOTE

In accordance with §9105 Title 2 GCA, I hereby certify that prompt committee action on Bill 178 is necessary to the proper conduct of legislative business. Therefore, I am waiving requirement of a fiscal note on Bill 178.

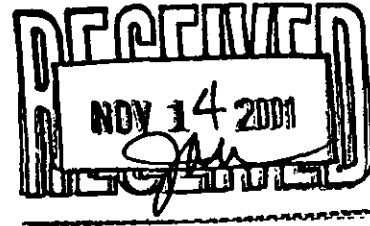
MARK FORBES
Chairman,
Committee on Rules, General Governmental Operations,
Reorganization and Reform, and Federal, Foreign
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Guam Memorial Hospital Authority Aturidåt Espetåt Mimuriåt Guåhan



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OKA, TAMUNING, GUAM 96911
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November 13, 2001

Senator Mark Forbes
26th Guam Legislature

Chairman, Committee on Rules, General Government Operations, Reorganization and Reform, and Federal Foreign and General Affairs
155 Hesler Street
Hagåtña, Guam 96910

SUBJECT: Written Testimony on Bill 178, an act to amend Section 12000(a), 12001(a), and 12015(a) of Title 12, and to amend Section 80105(a) of Title 10 Guam Code Annotated, relative to the Guam Memorial Hospital Authority rate making process

Dear Mr. Chairman:

I am pleased to submit this letter in support of the passage and eventual enactment of Bill 178 scheduled to be addressed in public hearing by your committee on November 15, 2001.

It appears that the exclusion of the Guam Memorial Hospital Authority (GMHA) from the definition of "Public Utility" in Section 1(a) of the proposed legislation effectively removes the GMHA from the regulatory aegis of the Public Utilities Commission (PUC). If this is the intent of the legislation then I would suggest specific and clear language in the Bill stating so.

It is logical, in my humble opinion, that GMHA be stripped of the moniker of "Public Utility" and released from the rate setting purview of the PUC. This will save the Authority nearly forty-five thousand dollars annually in assessments from PUC. GMHA has also been charged nearly two hundred and seventy thousand dollars by the PUC since July 1999. Public Law 25-150 with provisions specifying the composition of the Board of Trustees of GMHA, and minimum qualifications for the Administrator and Chief Financial Officer positions of the Authority serve as safeguards for professional competence in determining rates, fees, and charges for services provided by GMHA. Legislative oversight pursuant to the Administrative Adjudication Law serves to buttress the process of establishing and modifying reasonable rates, fees, and charges.

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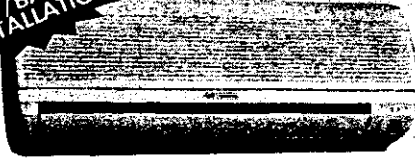
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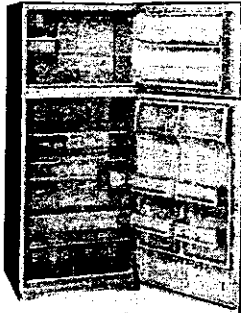


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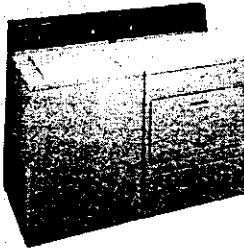


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LOCAL

GOVERNMENT MEETINGS

Editor's note: Government meeting submissions will be tightly edited. Meetings will run on a space-available basis. Deadline is noon Friday for publication Saturday, Sunday and Monday, and noon Monday through Thursday for next day publication. In the event of a local holiday, deadline will be noon the previous weekday.

COUNCIL ON THE ARTS & HUMANITIES AGENCY BOARD: 4 p.m. Nov. 15, CAHA conference room, 703 Central Ave., Tiyan. For special accommodations, call Jackie Balbas, 475-2242/3.

BOARD OF EXAMINERS FOR PHARMACY: 8 a.m. Nov. 15, Health Professional Licensing office, 1302 E. Sunset Blvd., Tiyan. Agenda copies available at 1304 E. Sunset Blvd. For special accommodations, call 475-0251/2.

PORT AUTHORITY OF GUAM BOARD OF DIRECTORS: 10 a.m. Nov. 15, board conference room, Cobras island, Piti. Agenda copies will be available. For special accommodations, call Simeon Delos Santos, 477-5931, ext. 430, or pager 720-6056.

COMMITTEE ON RULES, GOVERNMENTAL OPERATIONS, REORGANI-

ZATION AND REFORM, AND FEDERAL FOREIGN AND GENERAL AFFAIRS: Public hearing 10 a.m. Nov. 15, 1 Lih-eslatuan Guahan public hearing room, Hagåtña. Bills 178, 215. Call 472-3407/8.

GEDA BOARD OF DIRECTORS: 10 a.m. Nov. 16, Suite 511, fifth floor, ITC Building, Tamuning. Bond-related issues; executive session. For special accommodations, call Bernard Punzalan, 647-4332.

GIAA BOARD OF DIRECTORS: 10 a.m. Nov. 16, terminal's conference room, 3, Tamuning. Agenda copies available during meeting. Parking available on ground floor. For special accommodations, call 646-0300.

BOARD OF NURSE EXAMINERS: Special executive session meeting 4 p.m. Nov. 20, Health Professional Licensing office. Agenda copies available at 1304 E. Sunset Blvd., Tiyan. For special accommodations, call 475-0251/2.

CIVIL SERVICE COMMISSION BOARD: 5:30 p.m. Nov. 20, 490 Chalan Palasyo, Agaña Heights. Hearing on six police officers vs. GPD. Call 475-1300/01.

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

Bill No. 178 (COR)

Introduced By:

L. A. Leon Guerrero

v.c. pangelinan

J. Won Pat

AN ACT TO AMEND SECTIONS 12000(a), 12001(a), AND 12015(a) OF TITLE 12 AND TO AMEND SECTION 80105(a) OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE GUAM MEMORIAL HOSPITAL AUTHORITY RATE MAKING PROCESS.

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

2 Section 1. Section 12000(a) of Chapter 12 of Title 12 of the Guam Code
3 Annotated, as amended by Section 3 of P. L. 25-05, is further amended to
4 read as follows:

5 “(a) Public Utility means the Guam Power Authority, the Guam
6 Telephone Authority, the Guam Waterworks Authority, ~~the Guam Memorial~~
7 ~~Hospital Authority~~ or any duly licensed private contractor operating: (i) a
8 facility or subsystem of the community-wide water production and
9 distribution system, or (ii) a facility or subsystem of the community-wide
10 waste water disposal system, or both, or any private golf course management
11 corporation leasing public property providing preferential golf rates and
12 reservations to Guam residents.”

13 Section 2. Section 12001(a) of Chapter 12 of Title 12 of the Guam Code
14 Annotated, as amended by Section 4 of P. L. 25-05, is further amended to
15 read as follows:

16 “(a) I Maga’Lahen Guahan shall appoint, with the advice and consent
17 of I leheslaturñ guahan , two (2) members from the business community of
18 Guam; one (1) member who is a certified public accountant; one (1) member
19 who has managerial or engineering experience in the field of power
20 generation; one (1) member who has training and experience in the field of
21 telephone, water or sewer utilities management, or related area; ~~one (1)~~

1 ~~member who has training and experience in the health care management~~
2 ~~field;~~ and two (2) members who are from the community-at-large. Except for
3 the initial term, the terms of such members shall be for six (6) years. No
4 member shall be a director, deputy director, appointed, unclassified
5 employee, any other unclassified employee of the government of Guam, or a
6 member of any other board or commission. The appointment of any person
7 to the Commission shall become void if at any time during his/her term of
8 office, he/she shall become a director, deputy director, appointed to any
9 unclassified position in the government of Guam, or accept appointment to
10 any other board or commission.”

11 Section 3. Section 12015(a) of Chapter 12 of Title 12 of the Guam Code
12 Annotated, as amended by Section 6 of P.L. 25-05, is further amended to read
13 as follows:

14 “Section 12015. Regulation of Rates. (a) All rates, charges, all
15 assessments, costs made or charged by any public utility shall be just and
16 reasonable and in conformance with public law, and shall be filed with the
17 Commission, and ~~except for the Guam Memorial Hospital Authority interim~~
18 ~~fees for new services or supplies established under 10 GCA §80105(b)~~ no rate,
19 charge or assessment cost shall be established, abandoned, modified, departed
20 from or changed without a public hearing and the prior approval of the
21 Commission. The Commission, upon notice to the public utility, may suspend
22 the operation of any proposed rate, charge or assessment cost, or any
23 proposed abandonment or modification thereof or departure therefrom, and
24 after a public hearing by order regulate, fix and change all such rates and
25 charges. General lifeline Rates, or assessment costs so that the same shall be
26 just and reasonable, and may prohibit rebates and discrimination between
27 localities, or between consumers, under substantially similar conditions.”

28 Section 3. Section 80015 of Chapter 80, Division 4, Part 2 of the Guam
29 Code Annotated, as repealed and reenacted by Section 7 of P. L. 25-05, is
30 further amended to read as follows:

31 “Section 80105. Hospital Rates. (a) The Guam Memorial Hospital
32 Authority (‘Authority’) shall establish and modify from time to time, with
33 ~~prior approval of the Guam Utilities Commission~~ reasonable rates, fees and
34 charges for its services, medications and supplies, which when considered
35 together with other sources of funds and revenue, shall be at least adequate to
36 enable the Authority to meet its financial obligations, operating expenses and
37 capital improvement needs. The rates established in the schedule of fees may
38 be increased up to five percent (5%) per year as necessary. Increases of more

1 **than five percent (5%) annually shall be established only pursuant to the**
2 **Administrative Adjudication Law.**

3 **Section 4. Administrative Provisions: Existing Rates and Fees to**
4 **Remain in Effect. Upon enactment into law of this Act, all existing rates and**
5 **fees that have received prior approval by the Public Utilities Commission or**
6 **pursuant to the Administrative Adjudication Law shall remain in force and**
7 **effect until and unless amended or otherwise changed pursuant to this Act.**