



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 13 2002


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

| | |
|-------------------------------------|--------------------|
| OFFICE OF THE LEGISLATIVE SECRETARY | |
| ACKNOWLEDGMENT RECEIPT | |
| Received By | <u>[Signature]</u> |
| Time | <u>1118</u> |
| Date | <u>3/13/02</u> |

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 241 (LS) "AN ACT TO CREATE THE CONSOLIDATED COMMISSION ON UTILITIES, TO REORGANIZE AND CONSOLIDATE SEVERAL GOVERNMENT OF GUAM AGENCIES AND FOR OTHER PURPOSES" which was vetoed and subsequently overridden by I Liheslatura. This legislation is now designated as **Public Law No. 26-76**.

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

0723

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. 241 (LS), "AN ACT TO CREATE THE CONSOLIDATED COMMISSION ON UTILITIES, TO REORGANIZE AND CONSOLIDATE SEVERAL GOVERNMENT OF GUAM AGENCIES AND FOR OTHER PURPOSES," returned without approval of *I Maga'lahaen Guåhan*, was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 12th day of March, 2002, to pass said bill notwithstanding the veto of *I Maga'lahaen Guåhan* by a vote of fifteen (15) members.



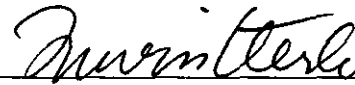
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 12th day of March,
2002, at 1:10 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

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

Bill No. 241 (LS)

As substituted on the Floor and amended.

Introduced by:

Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs

Mark Forbes

J. F. Ada

T. C. Ada

F. B. Aguon, Jr.

J. M.S. Brown

E. B. Calvo

F. P. Camacho

M. C. Charfauros

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 CREATE THE CONSOLIDATED COMMISSION ON UTILITIES, TO REORGANIZE AND CONSOLIDATE SEVERAL GOVERNMENT OF GUAM AGENCIES AND FOR OTHER PURPOSES.

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

2 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that it is in
3 the public interest to create an elected Consolidated Commission on Utilities

1 to exercise authority over the Guam Waterworks Authority (“GWA”) and the
2 Guam Power Authority (“GPA”) and to vest said commission with such
3 powers as have heretofore been exercised by the respective boards of
4 directors of said authorities.

5 It is the intent of *I Liheslaturan Guåhan* that this Act shall *not* relieve said
6 authorities of or modify in any way other than as expressly set forth herein
7 any of the respective existing rights, duties or obligations of the authorities
8 and that such respective rights, duties and obligations shall continue
9 uninterrupted, inclusive of, but *not* limited to, any financial obligations of said
10 authorities, including payment of debt service on and conditions imposed by
11 bonds. It is the further intent of *I Liheslaturan Guåhan* that such respective
12 rights, duties and obligations of each authority shall remain the rights, duties
13 and obligations only of such authority and shall *not* in any way become rights,
14 duties or obligations of the other.

15 **Section 2.** Section 14102 of Article 1, Chapter 14 of Title 12 of the Guam
16 Code Annotated is hereby *repealed and reenacted* to read as follows:

17 **“Section 14102. Definitions.** As used in this Chapter,
18 *unless otherwise indicated:*

19 (a) ‘*Authority*’ means the Guam Waterworks Authority.

20 (b) ‘*Board*’ means the Consolidated Commission on
21 Utilities established in Chapter 79 of Title 12 of the Guam Code
22 Annotated.

23 (c) ‘*Director*’ means a Commissioner of the Consolidated
24 Commission on Utilities.”

1 **Section 3.** Section 14103 of Article 1, Chapter 14 of Title 12 of the Guam
2 Code Annotated is hereby *repealed and reenacted* to read as follows:

3 **“Section 14103. Continuation of Existence.** Guam Waterworks
4 Authority is continued in existence as a public corporation.”

5 **Section 4.** Section 14105 of Chapter 14 of Title 12 of the Guam Code
6 Annotated is hereby *repealed and reenacted* to read as follows:

7 **“Section 14105. Governance of Authority.** All powers vested
8 in the Authority, except as provided herein, shall be exercised by the
9 Consolidated Commission on Utilities, as established in Chapter 79 of
10 Title 12 of the Guam Code Annotated.”

11 **Section 5.** Section 8102 of Article 1, Chapter 8 of Title 12 of the Guam Code
12 Annotated is hereby *repealed and reenacted* to read as follows:

13 **“Section 8102. Definitions.** As used in this Chapter, *unless*
14 otherwise indicated:

15 (a) ‘*Authority*’ means the Guam Power Authority.

16 (b) ‘*Board*’ means the Consolidated Commission on
17 Utilities established in Chapter 79 of Title 12 of the Guam Code
18 Annotated.

19 (c) ‘*Director*’ means a Commissioner of the Consolidated
20 Commission on Utilities.”

21 **Section 6.** Section 8103 of Article 1, Chapter 8 of Title 12 of the Guam Code
22 Annotated is hereby *repealed and reenacted* to read as follows:

23 **“Section 8103. Continuation of Existence.** Guam Power
24 Authority is continued in existence as a public corporation.”

1 referred to as '*Commission*' shall be elected by the registered voters of
2 Guam.

3 **Section 79101. Commissioners.** The Commission shall be
4 comprised of five (5) Commissioners elected at-large by the voters of
5 Guam in a General Election. To be eligible to be a Commissioner, a
6 person must be a registered voter of Guam and a *minimum* of twenty-
7 five (25) years of age, and shall have been a resident of Guam for *at least*
8 five (5) years *prior* to the date of the Commissioner's election. A person
9 may *not* simultaneously serve as a Commissioner and an employee of
10 the government of Guam.

11 Persons retired from the government of Guam may serve as
12 Commissioners. At their first official meeting, the Commissioners shall
13 elect from among the Commissioners a chairperson, who shall preside
14 over meetings of the Commission. A majority of the Commissioners
15 holding office shall constitute a quorum. The affirmative vote of the
16 Commissioners holding office shall constitute the decision of the
17 Commission. The Commission may adopt rules and regulations
18 governing the conduct of its affairs.

19 **Section 79102. Non-partisan Office.** The Office of
20 Commissioner is a non-partisan office. Candidates for the Office of
21 Commissioner shall *not* identify themselves as members of any political
22 party on Guam for the purpose of their campaign, nor shall they receive
23 any endorsement or material support from any political party on Guam
24 during the course of their campaigns. No Primary Election is required

1 for candidates for this office. No nominating petitions shall be required
2 of any candidate for this Office. Any qualified person applying to the
3 Guam Election Commission, or its successor, for candidacy to this office
4 shall be placed on the General Election ballot. In each election, the
5 candidates receiving the highest numbers of votes shall be the elected
6 Commissioners, without regard to the actual number of votes cast or
7 received, and no runoff elections shall be required.

8 **Section 79103. Terms of Office.**

9 (a) *Except* as provided in § 79105 and in Subsection (b) of
10 this Section, each Commissioner shall be elected to serve a term of
11 four (4) years, commencing on the First (1st) day of January
12 following their election.

13 (b) The first election for members of the Commission shall
14 occur during the General Election in November, 2002. The three
15 (3) candidates receiving the highest numbers of votes shall each be
16 elected to serve a four (4) year term, and the two (2) candidates
17 receiving the next highest numbers of votes shall each be elected
18 to serve a two (2) year term.

19 **Section 79104. Reporting Requirements.** Commissioners and
20 candidates for the Office of Commissioner shall be *subject* to the same
21 reporting requirements pertaining to their campaigns and to their
22 personal finances as apply to candidates and members of *I Liheslaturan*
23 *Guåhan*.

1 **Section 79105. Vacancies.** A permanent vacancy in the
2 Office of a Commissioner shall result in a Special Election to fill that
3 vacancy, to be held on the date of the next General Election following
4 the date that the permanent vacancy occurred, or at a Special Election
5 called by *I Liheslaturan Guåhan*. The person elected to fill a permanent
6 vacancy shall serve for the balance of the term of the member whose
7 position is being filled.

8 **Section 79106. Compensation.** Commissioners shall be
9 compensated at the rate of One Thousand Dollars (\$1,000.00) per month
10 for their services. All funds required for the operation of the
11 Commission shall be obtained by subscription from the Authorities
12 administered by the Commission, pursuant to such formula as the
13 Commission shall devise. Commissioners shall *not* be eligible for
14 government of Guam retirement or insurance benefits, or other benefits
15 associated with government of Guam employment. Commissioners
16 who are government of Guam retirees may serve on the Commission
17 without giving up their retirement benefits."

18 **Section 9. Guam Waterworks Authority General Manager.** Section
19 14106(a) of Article 1, Chapter 14 of Title 12 of the Guam Code Annotated is
20 hereby *repealed and reenacted* to read as follows:

21 “(a) The Board shall appoint a general manager who shall be its
22 chief executive officer and shall serve at its pleasure. The general
23 manager shall, at a *minimum*, possess the following qualifications:

1 a combined *minimum* of ten (10) years of documented
2 experience successfully managing a public or private utility, or
3 business activity similar to or greater in scope and size to the
4 Authority; and either:

5 (1) graduation from an accredited institution of
6 higher education with a bachelor's degree in business or
7 public sector management or closely related field or
8 discipline, *or*

9 (2) graduation from an accredited institution of
10 higher education with a bachelor's degree in engineering or
11 engineering technology.

12 The Board shall fix the general manager's compensation,
13 notwithstanding any other provision of law. The general manager shall
14 have full charge and control of the construction of the works of the
15 Authority and their maintenance and operation, and also of the
16 administration of the business affairs of the Authority.

17 The Board may contract with a corporation to perform any or all
18 of the duties, and to exercise any or all of the powers of the general
19 manager as provided in this Section, and the general manager, *subject* to
20 the approval of the Board, may contract with a corporation to perform
21 some of the duties or to render expert and technical assistance in the
22 operation of the Authority. Such a management contract shall be for *no*
23 *longer than* three (3) years duration. A corporation contracted pursuant
24 to this Section must have a *minimum* of seven (7) years experience in the

1 operation of a water or wastewater utility of similar or greater scope
2 than the Authority.”

3 **Section 10. Guam Waterworks Authority Chief Financial Officer.**

4 Section 14108 of Article 1, Chapter 14 of Title 12 of the Guam Code Annotated
5 is hereby *repealed and reenacted* to read as follows:

6 “**Section 14108. Chief Financial Officer.** The Board shall
7 appoint a chief financial officer who shall serve at its pleasure. The chief
8 financial officer shall be a Certified Public Accountant.

9 The Board shall fix the chief financial officer’s compensation. The
10 chief financial officer shall have full charge and control of the fiscal,
11 business and accounting operations of the Authority, *subject* to the
12 supervision of the Board.”

13 **Section 11. Guam Waterworks Authority Employees.** Section 14109.5
14 is hereby *added* to Article 1, Chapter 14 of Title 12 of the Guam Code
15 Annotated to read as follows:

16 “**Section 14109.5. Employees.** All employees of the Authority
17 shall be eligible for all insurance, retirement, workmen’s compensation
18 and other benefits as extended to employees of the government of
19 Guam, and shall be employees of the government of Guam for the
20 purposes of the application of all civil service laws and personnel rules
21 and regulations that apply to government of Guam employees, inclusive
22 of all scales, tables and schedules for compensation.

23 With respect to compensation, this Section shall *not* apply to the
24 compensation of the general manager or the chief financial officer.”

1 **Section 12. Guam Power Authority General Manager.** Section 8108(a)
2 of Article 1, Chapter 8 of Title 12 of the Guam Code Annotated is hereby
3 *repealed and reenacted* to read as follows:

4 “(a) The Board shall appoint a general manager who shall be its
5 chief executive officer and shall serve at its pleasure. The general
6 manager shall, at a *minimum*, possess the following qualifications:

7 a combined *minimum* of ten (10) years of documented
8 experience successfully managing a public or private utility or
9 business activity similar, or greater, in scope and size to the
10 Authority, and *either*:

11 (1) graduation from an accredited institution of
12 higher education with a bachelor’s degree in business or
13 public sector management, or closely related field or
14 discipline, *or*

15 (2) graduation from an accredited institution of
16 higher learning with a bachelor’s degree in engineering or
17 engineering technology.

18 The Board shall fix the general manager’s compensation,
19 notwithstanding any other provision of law. The general manager shall
20 have full charge and control of the construction of the works of the
21 Authority and their maintenance and operation, and also of the
22 administration of the business affairs of the Authority.

23 The Board may contract with a corporation to perform any or all
24 of the duties, and to exercise any or all of the powers of the general

1 manager as provided in this Section; and the general manager, *subject* to
2 the approval of the Board, may contract with a corporation to perform
3 some of the duties, or to render expert and technical assistance, in the
4 operation of the Authority. Such a management contract shall be for *no*
5 *longer than* three (3) years duration. A corporation contracted pursuant
6 to this Section must have a *minimum* of seven (7) years experience in the
7 operation of an electrical power utility of similar, or greater, scope than
8 the Authority.”

9 **Section 13. Guam Power Authority Chief Financial Officer.** Section
10 8110 of Article 1, Chapter 8 of Title 12 of the Guam Code Annotated is hereby
11 *repealed and reenacted* to read as follows:

12 “Section 8110. Chief Financial Officer. The Board shall
13 appoint a chief financial officer who shall serve at its pleasure. The chief
14 financial officer shall be a Certified Public Accountant and should have
15 Federal Energy Regulatory Commission (‘FERC’) knowledge and
16 experience.

17 The Board shall fix the chief financial officer’s compensation. The
18 chief financial officer shall have full charge and control of the fiscal,
19 business and accounting operations of the Authority, *subject* to the
20 supervision of the Board.”

21 **Section 14. Guam Power Authority Employees.** Section 8110.5 is
22 hereby *added* to Article 1, Chapter 8 of Title 12 of the Guam Code Annotated
23 to read as follows:

1 **"Section 8110.5. Employees.** All employees of the Authority
2 shall be eligible for all insurance, retirement, workmen's compensation
3 and other benefits as extended to employees of the government of
4 Guam, and shall be employees of the government of Guam for the
5 purposes of the application of all civil service laws and personnel rules
6 and regulations that apply to government of Guam employees, inclusive
7 of all scales, tables and schedules for compensation.

8 With respect to compensation, this Section shall *not* apply to the
9 compensation of the general manager or the chief financial officer."

10 **Section 15. Guam Waterworks Authority Contracts.** Section 14104.1
11 is hereby *added* to Article 1, Chapter 14 of Title 12 of the Guam Code
12 Annotated to read as follows:

13 **"Section 14104.1. Contractual Restrictions.** Any contract by the
14 Authority to contract maintenance services relative to sewage pumps,
15 booster pumps, and all pumps and other facilities directly associated
16 with water wells shall be *subject* to the following provisions:

17 (a) any procurement of service or goods, shall be *entirely*
18 subject to the Procurement Laws of Guam, and all related rules
19 and regulations;

20 (b) all successful bidders must have a *minimum* of three (3)
21 years of demonstrated expertise in the maintenance of electro-
22 mechanical pump devices; *and*

23 (c) no contract for service awarded shall be for a duration
24 of *more than* two (2) years, and must include provisions for

1 periodic and timely inspections of all facilities whose maintenance
2 is contracted, with provisions for the revocation of contracts,
3 without penalty to the Authority, for any breach of contract or
4 failure to provide adequate service, as contracted.

5 No other contract, beyond the maintenance contracts specifically
6 detailed in this Section, may be entered into by the Authority for a
7 duration in excess of one (1) year, *except* as permitted under the terms of
8 the build, operate and transfer program ('BOT') *specifically* authorized in
9 Guam law or as otherwise permitted herein."

10 **Section 16.** Section 8109 of Article 1, Chapter 8 of Title 12 of the
11 Guam Code Annotated is hereby *repealed*.

12 **Section 17.** Section 14107 of Article 1, Chapter 14 of Title 12 of the
13 Guam Code Annotated is hereby *repealed*.

14 **Section 18. Transition.** The appointed Boards of Directors
15 for the Guam Waterworks Authority ("GWA") and the Guam Power
16 Authority ("GPA") shall continue to exercise authority over their respective
17 Authorities *until* January 1, 2003 at which time the elected Consolidated
18 Commission on Utilities established by this Act shall take office. At such time
19 the appointed Boards of Directors for GWA and GPA shall cease to exist.

20 The qualifications for the respective general managers and chief
21 financial officers of the Authorities detailed herein are effective upon the date
22 of enactment of this Act, *except* that the incumbent general managers and chief
23 financial officers may continue to perform their duties *until* their successors, *if*
24 *any* are required, are appointed; *provided*, that *if* qualified successors have *not*

1 yet been appointed by January 1, 2003, the Consolidated Commission on
2 Utilities must appoint new general managers and chief financial officers for
3 the respective Authorities within thirty (30) days thereof *if* the incumbent
4 general managers and chief financial officers do *not* meet their respective
5 qualifications detailed in this Act. The contractual restrictions detailed herein
6 in § 15 of this Act are effective upon the date of enactment of this Act.

7 **Section 19. Liberal Interpretation.** Should any section of this Act be
8 seen as conflicting with any portion of the enabling laws establishing the
9 Guam Power Authority (“GPA”) or the Guam Waterworks Authority
10 (“GWA”) that are *not* amended by this Act, or any law of Guam previously
11 enacted, the conflict is to be interpreted in favor of this Act.

12 **Section 20. As-built Requirement.** The Guam Waterworks Authority
13 (“GWA”) shall submit to *I Liheslaturan Guåhan* within sixty (60) days of the
14 effective date of this Act, a report detailing the location and working
15 condition of every portion of the water and wastewater infrastructure under
16 the purview of the Authority, including, but *not* limited to, all sewage lines,
17 sewage treatment plants, sewage pumps and stations, all water lines, booster
18 pumps, wells, reservoirs and all related facilities.

19 *If* the Authority is unable to comply with this request, the Authority
20 shall contract at the soonest possible moment with a contractor experientially
21 competent to analyze and study the existing water and wastewater
22 infrastructure, and complete the report mandated by this Section. Any
23 contract entered into pursuant to this Section shall *only* be awarded in full

1 compliance with the procurement laws and regulations of the government of
2 Guam.

3 **Section 21. PUC to Continue to Regulate Rates.** The Public Utilities
4 Commission (“PUC”) shall continue to have jurisdiction in regulating and
5 setting rates for *both* the Guam Waterworks Authority (“GWA”) and the
6 Guam Power Authority (“GPA”). Nothing in this Act shall be construed as
7 impairing the powers, duties or effectiveness of the PUC in relation to GWA
8 or GPA.

9 **Section 22. Repeal of GPC.** All the powers, duties, responsibilities
10 and jurisdiction of the former Guam Planning Council (“GPC”) are hereby
11 transferred to the Bureau of Statistics and Plans. All records, equipment,
12 documents and otherwise any physical property in the possession of the GPC
13 shall be transferred to the custody of the Bureau of Statistics and Plans. Any
14 funds of any nature under the control of the GPC shall be transferred to the
15 control of the Bureau of Statistics and Plans.

16 **Section 23. DOA and GMTA Consolidation.**

17 **(a) Legislative Findings.** *I Liheslaturan Guåhan* finds that in
18 reality, the Guam Mass Transit Authority (“GMTA”) has outsourced all
19 of its duties, including the bus operations, bus washing and dispatch
20 services. As such, GMTA simply administers contracts. The function of
21 contract administration can easily be performed by an alternative
22 government agency.

23 **(b) GMTA Abolished.** The Guam Mass Transit Authority
24 (“GMTA”) is hereby abolished. Chapter 6 of Title 12 of the Guam Code

1 Annotated is hereby *repealed*. All the powers, duties, responsibilities
2 and jurisdiction of the former GMTA are hereby transferred to the
3 Department of Administration ("DOA").

4 **Section 24.** Section 3101 of Article 1, Chapter 3 of Division 1 of Title 5
5 of the Guam Code Annotated is hereby *repealed and reenacted* to read as
6 follows:

7 **"Section 3101. Department of Administration.** There is within
8 the Executive Branch of the government of Guam a Department of
9 Administration ('DOA'). The Director of DOA is the head of DOA. The
10 Director of DOA is appointed by *I Maga'lahaen Guåhan* with the advice
11 and consent of *I Liheslaturan Guåhan*.

12 DOA shall have the *exclusive* franchise for the furnishing of public
13 transportation within Guam and on its roads and highways. *Except* for
14 private parking facilities, and for parking facilities maintained and
15 operated by the A. B. Won Pat Guam International Airport Authority,
16 DOA shall have the *exclusive* franchise within the government of Guam
17 for the collection of fees for the furnishing of public parking within
18 Guam."

19 **Section 25. (a) Transfer of GMTA Personnel to DOA.** All classified
20 employees filling positions with the Guam Mass Transit Authority
21 ("GMTA") *prior* to August 1, 2001 shall be transferred to the
22 Department of Administration ("DOA"). The classified employees shall
23 be transferred with all duties, responsibilities and compensation intact,
24 and with no lapses in service to the government of Guam. The position

1 of GMTA general manager and assistant general manager are hereby
2 abolished.

3 The Director of DOA shall have the power to reorganize and
4 realign positions in conformance with the rules and regulations of the
5 Civil Service Commission ("CSC") and all other applicable laws of
6 Guam. Employees transferred from the former GMTA shall be entitled
7 to the same retirement, workmen's compensation and hospital
8 insurance benefits as those to which government of Guam employees
9 are entitled.

10 (b) No money shall be expended or transferred to pay for the
11 transfer or hiring of the GMTA director, general manager, deputy
12 director or assistant general manager.

13 (c) **Transfer of Duties.** *Except* as otherwise specifically
14 provided, DOA shall hereby assume all the powers, duties and
15 responsibilities of GMTA as set out in this Act, and any other section of
16 law. Any regulation or other action adopted, prescribed, taken or
17 performed by the former GMTA or by any of its officers in the
18 administration of a program, the performance of a power, duty or
19 responsibility, or the exercise of any function transferred by this Act
20 shall remain in effect and shall be deemed to be a regulation or action of
21 DOA or of any of its officers to whom the program, power, duty,
22 responsibility or function is transferred.

23 (d) **Transfer of Records and Equipment.** Upon the transfer of
24 functions as provided in this Act, DOA shall have possession and
25 control of all books, records, papers, maps, plans, documents, offices,

1 equipment, supplies, money, funds, appropriations, licenses, permits,
2 agreements, contracts, claims, judgments, land, and other property, real
3 or personal, connected with the administration of, or held for the benefit
4 or use of, the former GMTA.

5 **(e) Public Transportation Funds.** All revenue generated by
6 DOA resulting from the operation of Guam's mass transit system,
7 including fares and fees collected from riders, shall be deposited into the
8 Public Transit Fund ("Fund"), which is hereby created. The funds shall
9 be used by DOA for the operations of the mass transit system. The
10 funds shall be audited annually by an independent certified public
11 accountant or by the Public Auditor.

12 **(f) Transportation Contracts.** Notwithstanding any other
13 provisions of law, all contracts to be entered into that deal with the
14 operations of the mass transit system shall be approved through *I*
15 *Liheslaturan Guåhan*.

16 **(g) Designation as State Agency.** DOA is hereby designated
17 as the "state agency" for purposes of receiving Federal funding for mass
18 transit operations.

19 **(h) Transport Care Attendants.** A Transport Care Attendant
20 shall be made available when services are required during transporting
21 individuals with disabilities, as defined hereafter in accordance with the
22 Americans with Disabilities Act ("ADA").

23 The CSC shall establish the position descriptions, duties and
24 responsibilities, and compensation of such positions. The Transport

1 Care Attendant shall *only* provide services while stationed in the vehicle
2 while in motion, and may assist the driver with individuals with
3 disabilities when entering and exiting the vehicle, when needed. The
4 Transport Care Attendant shall be required to be certified in First Aid
5 and Cardio Pulmonary Resuscitation (“CPR”) and proficient in properly
6 assisting individuals with disabilities to maintain a safe environment in
7 the vehicle.

8 An individual with disabilities determined by GMTA to require a
9 Transport Care Attendant shall *not* be grounds for exclusion from use of
10 the transportation system. No individual with disabilities may be
11 excluded from the use of transportation services, *unless* there is clear
12 and convincing evidence that the individual is a direct threat to oneself
13 and others, even with the presence of a Transport Care Attendant.

14 GMTA shall conduct a fair hearing within five (5) working days
15 upon receipt of notice to the individual. Notice to the individual shall
16 be served within twenty-four (24) hours of the complaint. No service
17 may be withheld until the determination of the fair hearing has been
18 issued. The government contract for transportation of persons with
19 disabilities shall allow for an *increase* to cover the cost of the Transport
20 Care Attendant.

21 **Section 26. Creation of the Guam Transportation Commission.** A
22 new commission, called the Guam Transportation Commission (“GTC”), is
23 hereby formed. The GTC shall consist of five (5) directors appointed by *I*
24 *Maga’lahen Guåhan* with the advice and consent of *I Liheslaturan Guåhan*. *I*

1 *Maga'lahen Guåhan* will designate, from among the members of the
2 Commission thus appointed, the president and vice-president of the
3 Commission . *I Maga'lahen Guåhan* shall select one (1) each: a person with
4 disabilities who rides the Paratransit System, a member of GSTAT, DISID,
5 Guam Developmental Disabilities Council and a member of the public to fill
6 the positions on the GTC.

7 The Directors and officers thus appointed and designated shall hold
8 office for terms of three (3) years, *unless* sooner removed by *I Maga'lahen*
9 *Guåhan*, and shall be paid at the rate of Fifty Dollars (\$50.00) per day, for each
10 day on which the Commission meets; *provided*, however, that such
11 compensation shall *not* exceed One Hundred Dollars (\$100.00) per month.
12 They may be reimbursed for reasonable expenses incurred in carrying out
13 their responsibilities.

14 **Section 27. References to GMTA.** *Unless* otherwise provided in this
15 Act, any reference in any law to the Guam Mass Transit Authority ("GMTA")
16 shall hereafter mean and be read as the Department of Administration
17 ("DOA"), and all references therein to the Director or General Manager of
18 GMTA shall hereafter mean and be read as the Director of DOA. All
19 references in any contract, Executive Order, rule, regulation or document to
20 GMTA or Director, or General Manager of GMTA shall mean and be read as
21 DOA and Director of DOA, respectively. All references to GMTA or Director
22 or General Manager of GMTA in any contract, Executive Order, rule,
23 regulation or document dealing with the functions herein transferred shall
24 mean and be read as DOA and Director of DOA, respectively.

1 **Section 28. Transition Team Created.**

2 **(a) Transition Team.** There is hereby created a Transition
3 Team to help ensure a smooth conversion from the Guam Mass Transit
4 Authority (“GMTA”) to the Department of Administration (“DOA”).
5 The Transition Team shall include the following:

- 6 (1) the Director, or a designee of GMTA; *and*
7 (2) the Director, or a designee of DOA.

8 **(b) Authority.** The Transition Team shall have ninety (90) days
9 from the enactment of this Act to do the following:

- 10 (1) ensure the smooth transition of the operations of
11 GMTA to DOA;
12 (2) ensure that there is no lapse of mass transit services
13 provided by the government of Guam; *and*
14 (3) examine and recommend any other facts or data as
15 may be necessary to ensure the smooth transition from the
16 consolidation of GMTA and DOA.

17 **(c) Effective Date.** Sections 18-22 and Sections 24-25 of this
18 Act shall be effective ninety (90) days after the enactment of this Act.

19 **Section 29.** Section 26503(c) of Article 5, Chapter 26, Division 2 of Title
20 11 of the Guam Code Annotated is hereby *repealed and reenacted* to read as
21 follows:

22 “(c) A portion of the revenues in the Public Transit Fund shall be
23 used for the operation of the mass transit system by the Department of
24 Administration.”

1 **Section 30. Transfer of Appropriations and Other Funds.** The
2 Bureau of Budget and Management Research (“BBMR”) may direct the
3 transfer of unexpended balances of appropriations and other funds available
4 for use in connection with any function affected by the reorganization
5 prescribed by this Act that the Director of BBMR determines to be necessary
6 to facilitate the reorganization, or for use in connection with the functions
7 affected by the reorganization; *provided*, that any unexpended balances of
8 appropriations and other funds so transferred shall be used *only* for purposes
9 that were authorized. All funds currently contained in Guam Mass Transit
10 Authority (“GMTA”) bank accounts, savings accounts and Time Certificates
11 of Deposits shall be transferred into the Public Transit Fund for DOA to use in
12 operating the mass transit system.

13 **Section 31. Consolidation of DOC and GEDA with the Bureau of**
14 **Statistics and Plans.**

15 **(a) Bureau of Statistics and Plans Established.** All references
16 to the Bureau of Planning in Article 2, Chapter 1 of Title 5 of the Guam
17 Code Annotated, and elsewhere in Guam law shall be replaced by
18 Bureau of Statistics and Plans.

19 **(b)** Section 1209(i) is hereby *added* to Article 2, Chapter 1 of Title
20 5 of the Guam Code Annotated to read as follows:

21 **“(i) Statistics.** To conduct research and to disseminate
22 statistical findings relative to producing data needed for economic
23 and social planning on Guam.”

1 (c) **Abolition of Department of Commerce.** The Guam
2 Economic Development and Commerce Authority (“Authority”)
3 succeeds to, and is vested with, all the powers, duties, responsibilities
4 and jurisdiction of the former Department of Commerce (“DOC”).

5 **Section 32.** Section 3110 of Article 1, Chapter 3 of Title 5 of the Guam
6 Code Annotated is hereby *repealed*.

7 **Section 33.** Chapter 70 of Division 7 of Title 5 of the Guam Code
8 Annotated is hereby *repealed*.

9 **Section 34.** Section 50101 of Chapter 50, Division 2 of Title 12 of the
10 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

11 **"Section 50101. Guam Economic Development and Commerce**
12 **Authority.** There is hereby created a public corporation to be
13 known as the Guam Economic Development and Commerce Authority
14 ('Authority') with functions, powers and responsibilities as hereinafter
15 provided. Any reference in any law to the Guam Economic
16 Development Authority ('GEDA') shall mean and be read as the Guam
17 Economic Development and Commerce Authority, and all references
18 therein to the Administrator of GEDA shall mean and be read as the
19 Administrator of the Guam Economic Development and Commerce
20 Authority. All references in any contract, Executive Order, rule,
21 regulation or document to GEDA, or to the Administrator of GEDA,
22 shall mean and be read as the Guam Economic Development and
23 Commerce Authority, and the Administrator of the Guam Economic
24 Development and Commerce Authority, respectively.

1 All references to GEDA or to the Administrator of GEDA in any
2 contract, Executive Order, rule, regulation or document dealing with the
3 functions herein transferred shall mean and be read as the Guam
4 Economic Development and Commerce Authority and the
5 Administrator of the Guam Economic Development and Commerce
6 Authority, respectively."

7 **Section 35.** Section 50103(n) is hereby *added* to Chapter 50, Division 2 of
8 Title 12 of the Guam Code Annotated to read as follows:

9 "(n) The Authority shall promote and encourage the expansion
10 and development of markets for the products of Guam."

11 **Section 36.** Section 50103(o) is hereby *added* to Chapter 50, Division 2 of
12 Title 12 of the Guam Code Annotated to read as follows:

13 "(o) The Authority shall promote and encourage the location and
14 development of new businesses on Guam, as well as the retention and
15 expansion of existing businesses, with particular emphasis upon
16 encouraging the tourist and the large-scale fisheries industries."

17 **Section 37.** Section 50103(p) is hereby *added* to Chapter 50, Division 2
18 of Title 12 of the Guam Code Annotated to read as follows:

19 "(p) The Authority shall have authority over and supervise the
20 Chamorro Village ('I Sengsong Chamorro')."

21 **Section 38.** Article 2 is hereby *added* to Chapter 50, Division 2 of Title
22 12 of the Guam Code Annotated to read as follows:

23 **"Article 2.**

24 **Guam Product Seal.**

| | | |
|----|-----------------------|---------------------------------|
| 1 | Section 50201. | Seal Created. |
| 2 | Section 50202. | Administration. |
| 3 | Section 50203. | Guam Product Seal Fund. |
| 4 | Section 50204. | Responsibilities. |
| 5 | Section 50205. | Definitions. |
| 6 | Section 50206. | Eligibility. |
| 7 | Section 50207. | Violations. |
| 8 | Section 50208. | Fines. |
| 9 | Section 50209. | Recovery of Merchandise. |
| 10 | Section 50210. | Penalty. |
| 11 | Section 50211. | Collection. |

12

13 **Section 50201. Seal Created.** There is created a Guam
14 Product Seal to identify products manufactured on Guam.

15 **Section 50202. Administration.** The Guam Economic
16 Development and Commerce Authority ('Authority') shall administer
17 the provisions of this Chapter and shall promulgate rules and
18 regulations, in accordance with the Administrative Adjudication Law,
19 to carry out the purposes of this Chapter.

20 **Section 50203. Guam Product Seal Fund.** There is established
21 a fund to be known as the Guam Product Seal Fund, which shall be
22 maintained separate and apart from any other funds of the government
23 of Guam. Independent records and accounts shall be maintained in
24 connection therewith. Funds of the Guam Product Seal Fund shall be

1 used *exclusively* for the administration and operations of the Guam
2 Product Seal Program. All funds collected from fees, charges or fines
3 levied pursuant to this Chapter shall be deposited into the Guam
4 Product Seal Fund.

5 **Section 50204. Responsibilities.** The Authority shall: (a)
6 develop, or have developed, a design for the Guam Product Seal;

7 (b) assess the local value added in the production
8 processes of manufacturers applying for permission to place the
9 seal upon their products;

10 (c) issue permits for use of the seal to eligible applicants;

11 (d) ensure ongoing compliance with the eligibility
12 requirements by all manufacturers who have been issued permits;

13 (e) conduct field investigations of products bearing the
14 seal, *both* on its own initiative and in response to information and
15 complaints received from the public;

16 (f) levy fines on manufacturers, importers, distributors
17 and retailers found to be in violation of this Chapter;

18 (g) transmit information regarding the levy of fines to the
19 Department of Revenue and Taxation; *and*

20 (h) take appropriate steps to notify businesses about the
21 requirements of this Chapter.

22 **Section 50205. Definitions.** For purposes of this Chapter:

23 (a) '*Value added*' shall be the difference between the
24 wholesale price of the product, *if* sold at wholesale, or the retail

1 price of the product, *if* sold directly by the manufacturer, and the
2 sum of both the total landed cost of all material components of the
3 product that have been brought into Guam and the total landed
4 cost of materials, *excluding* machinery used in the production
5 process that have been brought into Guam.

6 (b) '*Substantial transformation*' shall mean the conversion
7 of commodities into products of a different and distinguishable
8 commercial use or character.

9 **Section 50206. Eligibility.** The Guam Product Seal may be
10 used *only* on a product manufactured on Guam that results from a
11 substantial transformation of the materials used in the creation of the
12 product and for which a *minimum* of fifty percent (50%) of the value of
13 the product has been added on Guam. To obtain a permit to use the
14 seal, a manufacturer must apply to the Authority. A permit to use the
15 Guam Product Seal shall be effective for one (1) year.

16 **Section 50207. Violations.**

17 (a) It shall be unlawful for any business to place a Guam
18 Product Seal on a product *if* the business does *not* have a current
19 permit allowing the product to have such a seal.

20 (b) It shall be unlawful for any business establishment to
21 state or imply in an advertisement or display of any type,
22 including packaging, that a manufactured product is made on
23 Guam *if* the product does *not* have a Guam Product Seal on it.

1 (c) It shall be unlawful for any business establishment to
2 sell a product that has the word 'Guam' or 'Chamorro,' or a
3 derivation of such words on the product *if* such product was *not*
4 manufactured on Guam, *unless* the place where the product was
5 manufactured is clearly labeled on the product.

6 **Section 50208. Fines.** For each violation of Subsection (a) of
7 § 50207 of this Chapter, the Authority shall levy a fine against the firm
8 in an amount equal to or greater than Two Thousand Five Hundred
9 Dollars (\$2,500.00), but *not* to exceed Five Thousand Dollars (\$5,000.00)
10 per type of product. For each violation of §§ 50207(b) or (c) of this
11 Chapter, the Authority shall levy a fine against the firm in an amount
12 equal to or greater than Five Hundred Dollars (\$500.00), but *not* to
13 exceed Two Thousand Dollars (\$2,000.00) per type of product. Separate
14 fines shall be levied each separate time a business is found to have
15 violated § 50207 of this Chapter. Such fines shall be payable to the
16 Department of Revenue and Taxation and shall be credited to the Guam
17 Product Seal Fund.

18 **Section 50209. Recovery of Merchandise.** In the case of any
19 violation of § 50207(a) of this Chapter, the Authority shall order the firm
20 to recover from wholesalers and retailers and to take off the market all
21 products sold with a Guam Product Seal for which the firm did *not* have
22 a permit when the seal was placed upon the product.

1 **Section 50210. Penalty.** (a) The Department of Revenue
2 and Taxation shall revoke the business license of any firm *if*, after
3 a hearing, it determines that the firm:

4 (1) failed to pay a fine levied pursuant to § 50208 of
5 this Chapter within ninety (90) days *after* the fine was levied;

6 *or*

7 (2) failed to recover merchandise in accordance with
8 an order issued pursuant to § 50209 of this Chapter within
9 ninety (90) days after the order was issued.

10 (b) The Department of Revenue and Taxation shall *not*
11 renew the business license of any business *if* the business has *not*
12 paid a fine levied pursuant to this Chapter.

13 **Section 50211. Collection.** The Department of Revenue and
14 Taxation is responsible for the collection of all fines levied by the
15 Authority pursuant to § 50208 of this Chapter.”

16 **Section 39.** Article 3 is hereby *added* to Chapter 50, Division 2 of Title
17 12 of the Guam Code Annotated to read as follows:

18 **“Article 3.**

19 **Public Market.**

20 **Section 50301. Purpose.**

21 **Section 50302. Public Market Revolving Fund.**

22 **Section 50301. Purpose.** The Guam Economic Development
23 and Commerce Authority shall maintain and operate under its control a
24 public market, or markets, for Guam products at such place or places as

1 the Administrator may deem proper. Any such market shall be
2 maintained and operated at all times in a sanitary and orderly manner,
3 beneficial to both producers and patrons alike. Producers and sellers
4 desiring to use space within such market to display or sell their produce
5 shall be levied a uniform fee based upon the amount of space used and
6 period of such use.

7 **Section 50302. Public Market Revolving Fund.** (a) There is
8 established a fund to be known as the '*Public Market Revolving*
9 *Fund*,' which shall be maintained separate and apart from any
10 other funds of the government of Guam. Independent records
11 and accounts shall be maintained in connection therewith.

12 (b) Funds of the Public Market Revolving Fund shall be
13 used *exclusively* for the administration, operation and maintenance
14 of the Public Market.

15 (c) All funds collected from fees levied pursuant to §
16 50301 shall be deposited in the Public Market Revolving Fund."

17 **Section 40.** Section 1401 of Article 4, Chapter 1, Division 1 of Title
18 5 of the Guam Code Annotated is hereby *amended* to read as follows:

19 "**Section 1401. Economic Planning Council.** There is within
20 the Office of *I Maga'lahaen Guåhan* an Economic Planning Council to be
21 comprised of nine (9) members. Of the nine (9) members, four (4)
22 members shall be selected by *I Maga'lahaen Guåhan* from among those
23 who head the following agencies: the Department of Agriculture
24 ('DOA'), the Guam Economic Development and Commerce Authority,

1 the Guam Housing and Urban Renewal Authority ('GHURA'), the
2 Guam Housing Corporation ('GHC'), the Department of Labor ('DOL'),
3 the Agency for Human Resources Development ('AHRD'), the Bureau
4 of Budget and Management Research ('BBMR'), the Department of
5 Revenue and Taxation ('DRT'), the A. B. Won Pat Guam International
6 Airport Authority ('GIAA'), the Port Authority of Guam ('PAG'), the
7 Guam Community College ('GCC'), the University of Guam ('UOG'),
8 the Guam Advisory Council of Vocational Rehabilitation, the Bureau of
9 Statistics and Plans, and the Guam Visitors Bureau ('GVB').

10 In addition to the agency members, there shall be four (4)
11 members from the business community and community-at-large chosen
12 by *I Maga'lahren Guåhan* with the advice and consent of *I Liheslaturan*
13 *Guåhan*. The ninth (9th) member of the Council shall be chosen by the
14 other eight (8) members. The non-agency members shall receive the
15 sum of Fifty Dollars (\$50.00) for each attendance at a meeting of the
16 Council, *not* to exceed One Hundred Dollars (\$100.00) per month."

17 **Section 41.** Section 76102 of Chapter 76, Division 2 of Title 12 of
18 the Guam Code Annotated is hereby *amended* to read as follows:

19 **"Section 76102. Board of Trustees.**

20 (a) All functions and powers of GTAF shall be vested in
21 and be exercised by and under the direction of a Board of Trustees
22 ('Board'), which is hereby created. The Board shall be composed
23 of eleven (11) voting members and three (3) *ex officio* members.
24 The Chairperson of the Board of Directors of the Authority shall

1 concurrently serve as Chairperson of the Board, whose voting
2 members shall be:

3 (1) the Director, or a designee of the Marine
4 Laboratory of the University of Guam ('UOG');

5 (2) the Mayor, or a designee of the Municipality of
6 Yona;

7 (3) the President, or a designee of the Guam Mayors'
8 Council;

9 (4) two (2) at-large from the community appointed
10 by *I Maga'lahaen Guåhan*;

11 (5) two (2) representatives from the Guam Chamber
12 of Commerce, selected by its Board of Directors;

13 (6) the Chairperson, or a designee of the Board of
14 Directors of the Guam Visitors Bureau ('GVB');

15 (7) the Chairperson, or a designee of the Board of
16 Directors of the Guam Hotel and Restaurant Association;
17 *and*

18 (8) the Director, or a designee of the Department of
19 Education ('DOE').

20 (b) Members selected by *I Maga'lahaen Guåhan* and the
21 Chamber of Commerce shall serve four (4) year terms. Non-
22 voting, *ex officio* members shall include the following:

23 (1) the Director, or a designee of the Guam
24 Environmental Protection Agency ('GEPA');

1 (2) a representative of the Department of
2 Agriculture's ('DOA's') Division of Aquatic and Wildlife
3 Resources, to be selected by the Director of DOA; *and*
4 (3) the Administrator, or a designee of the
5 Authority."

6 **Section 42.** Section 68605 of Article 6, Chapter 68, Division 2 of
7 Title 21 of the Guam Code Annotated is hereby *amended* to read as follows:

8 **"Section 68605. Task Force Membership.** The Director of the
9 Bureau of Statistics and Plans shall serve as the Chairperson of the Task
10 Force. In addition, the Task Force will include the Director of the
11 Department of Land Management ('DLM'), the Administrator of the
12 Guam Environmental Protection Agency ('GEPA'), the Administrator of
13 the Guam Economic Development and Commerce Authority, the
14 General Manager of Guam Visitors Bureau ('GVB'), all Mayors from the
15 Villages specified in § 68601, hereinabove, a representative of the
16 Chamber of Commerce and a member of the public at-large to be chosen
17 by *I Maga'lahaen Guåhan*.

18 The Chamber of Commerce may, *however*, decline to participate in
19 this Task Force. Each Director or Administrator may appoint a
20 permanent representative from that person's office to attend meetings in
21 that person's stead; *provided*, however, that the Director or
22 Administrator shall bear ultimate responsibility for the actions of such
23 representative."

1 **Section 43.** Section 1209.1 is hereby *added* to Article 2, Chapter 1 of Title
2 5 of the Guam Code Annotated to read as follows:

3 **"Section 1209.1. Additional Duties of the Bureau.** The Bureau
4 shall carry out the following duties in addition to the functions specified
5 in § 1209 of this Chapter:

6 (a) facilitate cooperation with the U.S. Bureau of the
7 Census in collecting, compiling, analyzing, interpreting and
8 disseminating information concerning demographics, agriculture,
9 housing, manufacturing, businesses and government of Guam in
10 such forms as to be most valuable to Guam's businesses and
11 industries, and of other places; and to act as the principal receiver,
12 depository and distributor of similar information provided by its
13 national and international counterparts;

14 (b) assume lead agency functions for the South Pacific
15 Commission and the Economic and Social Commission for Asia
16 and the Pacific;

17 (c) conduct the census under the auspices of the U.S.
18 Census Bureau;

19 (d) compile, collect, develop and publish quarterly
20 scientific indices and economic indicators, including, but *not*
21 limited to, economic growth, trade balances, exports and imports,
22 consumer prices and other information relating to economic
23 conditions;

24 (e) compile periodically a census of businesses and
25 industries on Guam, and analyze and publish this information in

1 such forms as to be most valuable to Guam's businesses and
2 industries; *and*

3 (f) in the event sufficient funds are *not* available to the
4 Bureau, to publish all of the material required by this Section; the
5 information gathered shall be published, *subject* to the following
6 priorities:

7 (i) consumer prices;

8 (ii) exports and imports;

9 (iii) trade balances; *and*

10 (iv) all other information deemed essential to be
11 published."

12 **Section 44.** Section 1209.2 is hereby *added* to Article 2, Chapter 1 of Title
13 5 of the Guam Code Annotated to read as follows:

14 **"Section 1209.2. Information as Confidential.**

15 (a) The Director shall have the *sole* authority to approve
16 the contents of reports or data and the timing or release of
17 information by the Bureau.

18 (b) Neither the Director nor any other officer or employee
19 of the Authority, or the Office of *I Maga'lahaen Guåhan* may use the
20 information furnished under the provisions of this Article for any
21 purpose other than the statistical purposes for which it is
22 supplied, or make any publication whereby the data furnished by
23 any particular establishment or individual under this Article can
24 be identified.

1 (c) Whoever, being the owner, official, agent, person in
2 charge, or assistant person in charge, of any company, business,
3 institution, establishment, or organization of any nature
4 whatsoever, neglects or refuses, when requested by the Director or
5 other authorized officer or employee of the Bureau to answer
6 completely and correctly to the best of that person's knowledge all
7 questions pertinent to the duties of the Authority set forth in §
8 1209.1 of this Title, and relating to that person's company,
9 business, institution, establishment or other organization, or to
10 records or statistics in that person's official custody, contained in
11 any census or other schedule prepared and submitted to that
12 person under authority of this Article, shall be fined *not more than*
13 Five Hundred Dollars (\$500.00), or imprisoned *not more than* sixty
14 (60) days, or both; and *if* that person willfully gives a false answer
15 to any such question, that person shall be fined *not more than* One
16 Thousand Dollars (\$1,000.00), or imprisoned *not more than* one (1)
17 year, or both.

18 (d) Whoever, being an officer or an employee of the
19 Bureau, publishes or communicates, without the written authority
20 of the Director, any information coming into that person's
21 possession by reason of that person's employment under the
22 provisions of this Article shall be fined *not more than* One
23 Thousand Dollars (\$1,000.00), or imprisoned *not more than* one (1)
24 year, or both."

1 (b) All personnel within the Business and Overseas Affairs and
2 the Chamorro Village on the date of enactment of this Act who are
3 members of the classified service of the government of Guam shall be
4 transferred to the Guam Economic Development and Commerce
5 Authority.

6 (c) All personnel within the Guam Aquaculture Development
7 and Training Center on the date of enactment of this Act who are
8 members of the classified service of the government of Guam shall be
9 transferred to UOG.

10 **Section 47. Records and Equipment Transfer.** Upon the transfer of
11 functions as provided for in this Act, the Guam Economic Development and
12 Commerce Authority, Bureau of Statistics and Plans, and the University of
13 Guam ("UOG") shall have possession and control of all appropriate
14 Divisions' books, records, papers, maps, plans, documents, offices,
15 equipment, supplies, money, funds, appropriations, licenses, permits,
16 agreements, contracts, claims, judgments, land, and other property, real or
17 personal, connected with the administration of, or held for the benefit or use
18 of, the former Department of Commerce ("DOC") in accordance with this Act.

19 **Section 48. Transfer of Duties.** *Except* as otherwise specifically
20 provided, the Guam Economic Development and Commerce Authority,
21 Bureau of Statistics and Plans, and the University of Guam ("UOG") shall
22 hereby assume all the powers, duties and responsibilities of the Department
23 of Commerce ("DOC") as set out in this Act and any other relevant section of
24 law. Any regulation or other action adopted, prescribed, taken or performed
25 by the former DOC, or by any of its officers in the administration of a

1 **Section 45.** Section 16132 is hereby *added* to Chapter 16, Division 3 of
2 Title 17 of the Guam Code Annotated to read as follows:

3 **“Section 16132. Designation of UOG as Lead Agency for**
4 **Aquaculture.** The University of Guam (“UOG”) is hereby designated
5 as the lead agency for the development of the aquaculture industry on
6 Guam; and as such, UOG shall have purview over all matters related to
7 the development of aquaculture on Guam.”

8 **Section 46. Transfer of Department of Commerce Personnel.** All
9 personnel of the Department of Commerce (“DOC”) who are members of the
10 classified service of the government of Guam, upon the transfer of functions
11 pursuant to this Act, shall be transferred as specified in this Act with all
12 duties, responsibilities and compensation intact, and with no lapses in service
13 to the government of Guam. The Administrator of the Guam Economic
14 Development and Commerce Authority, *subject* to the approval of the Board
15 of Directors, the Director of the Bureau of Statistics and Plans, and the
16 President of the University of Guam (“UOG”), in the interest of improved
17 departmental management, shall have the power to reorganize and realign
18 positions in conformance with the rules and regulations of the Civil Service
19 Commission (“CSC”) and all other applicable laws of Guam.

20 (a) All personnel identified in the Director’s Office, Economic
21 Research Center, and the Economic Development and Planning
22 Divisions on the date of enactment of this Act who are members of the
23 classified service of the government of Guam shall be transferred to the
24 Bureau of Statistics and Plans.

1 program, the performance of a power, duty or responsibility, or the exercise
2 of any function transferred by this Act shall remain in effect and shall be
3 deemed to be a regulation or action of the appropriate department or agency,
4 or of any of its officers to whom the program, power, duty, responsibility or
5 function is transferred.

6 **Section 49. References to Commerce.** *Unless* otherwise provided for
7 in this Act, any reference in any law, contract, Executive Order, rule,
8 regulation or document to the Department of Commerce ("DOC"), or dealing
9 with the functions of the DOC shall hereafter mean and be read as the Guam
10 Economic Development and Commerce Authority, Bureau of Statistics and
11 Plans, or the University of Guam ("UOG"), as applicable and in accordance
12 with this Act. All references therein to the Director of DOC shall hereafter
13 mean and be read as the Administrator of the Guam Economic Development
14 and Commerce Authority, the Director of the Bureau of Statistics and Plans,
15 or the President of UOG, as applicable and in accordance with this Act.

16 **Section 50. Funds Transfer.** The Bureau of Budget and
17 Management Research ("BBMR"), as directed by this Act, shall direct the
18 transfer of unexpended balances of appropriations and other funds available
19 for use in connection with any function affected by the reorganization
20 prescribed by this Act that the Director of BBMR determines to be necessary
21 to facilitate the reorganization, or for use in connection with the functions
22 affected by the reorganization; *provided*, that any unexpended balances of
23 appropriations and other funds so transferred shall be used, as to
24 appropriations, *only* for purposes that were authorized by the appropriation,

1 and, as to other available funds, *only* for purposes authorized as of the
2 effective date of this Act.

3 **Section 51. Promulgation of Rules and Regulations.** The Guam
4 Economic Development and Commerce Authority Board of Directors, the
5 Bureau of Statistics and Plans and the University of Guam (“UOG”) may
6 make, alter, amend or repeal rules and regulations, pursuant to the
7 Administrative Adjudication Law, as required to carry out the purposes of
8 this Act. Nothing in this Act shall be deemed to invalidate the existing rules
9 and regulations of any agency affected by this Act, nor the requirement to
10 make, alter, amend or repeal rules and regulations, nor cause the
11 postponement of the implementation of this Act.

12 **Section 52. (a) Transition Team Created.** There is hereby created a
13 Transition Team to help ensure a smooth conversion from the Department of
14 Commerce (“DOC”) and the Guam Economic Development Authority
15 (“GEDA”) to the Guam Economic Development and Commerce Authority,
16 the University of Guam (“UOG”) and the Bureau of Statistics and Plans. The
17 Transition Team shall include the following:

- 18 (1) the Director, or a designee of DOC;
19 (2) the Administrator, or a designee of GEDA;
20 (3) the President, or a designee of UOG; *and*
21 (4) the Director, or a designee of the Bureau of Statistics
22 and Plans.

23 **(b) Authority.** The Transition Team shall have ninety (90) days
24 from the enactment of this Act to do the following:

1 (1) ensure the smooth transition of the operations of DOC
2 and GEDA to the Guam Economic Development and Commerce
3 Authority, UOG and the Bureau of Statistics and Plans;

4 (2) ensure that there is no lapse of services formerly
5 provided by the DOC and GEDA; *and*

6 (3) examine and recommend any other facts, or data as
7 may be necessary to ensure the smooth transition from the
8 consolidation of DOC and GEDA.

9 (c) **Effective Date.** Sections 26-46 of this Act shall be effective
10 ninety (90) days *after* the enactment of this Act.

11 **Section 53. Revocation of GOICC.** Any Executive Order establishing
12 the Guam Occupational Information Coordinating Committee ("GOICC") is
13 hereby declared void, a nullity and without effect.

14 **Section 54. Revocation of SCOVE.** *I Liheslaturan Guåhan* recognizes
15 the importance of offering vocational education programs of study in the
16 school system. Any Executive Order establishing the State Council on
17 Vocational Education ("SCOVE") is hereby declared void, a nullity and
18 without effect. Functions required of SCOVE shall be met by the Guam
19 Community College ("GCC") Board of Trustees.

20 **Section 55. Repeal of Guam Health Planning and Development**
21 **Agency as a Division of DISID.** Sections 1 through 8 of Public Law
22 Number 24-92 are hereby *repealed*. The Guam Health Planning and
23 Development Agency is hereby abolished, as a Division of the Department of
24 Integrated Services for Individuals with Disabilities ("DISID"), or as a

1 separate agency. Any previous Executive Order promulgated to establish the
2 Guam Health Planning and Development Agency is hereby rendered a nullity
3 and without force. Any classified employees displaced as a result of this
4 action shall be transferred to the Bureau of Statistics and Plans.

5 **Section 56.** Any board, commission, council or oversight body that has
6 *not* met in the last twelve (12) months, with the *exception* of bodies relating to
7 the Department of Education (“DOE”), the Guam Community College
8 (“GCC”), the University of Guam (“UOG”) and the Guam Memorial Hospital
9 Authority (“GMHA”), shall hereby be abolished.

10 Any powers vested in said boards, commissions or councils shall revert
11 to the previous authority empowered with handling the respective mandate.
12 In the event a body was created within a governmental entity to generally
13 manage the affairs of matters relating to said entity, that government entity
14 shall assume the powers given to any body abolished by this Section.

15 Should *I Maga’lahen Guåhan* identify the continued need for such a
16 board, commission, council or oversight body, *I Maga’lahen Guåhan* shall
17 provide *I Liheslaturan Guåhan*, within thirty (30) days of the enactment of this
18 Act, justification for the reformulation of such body and a list of appropriate
19 mandates.

20 **Section 57. Transfer of Animal Quarantine Program and the Animal**
21 **Control Program from DPH&SS to DOA.**

22 (a) All references to “*Department of Public Health and Social*
23 *Services*” in Articles 1 and 3 of Chapter 34 of Title 10 of the Guam Code
24 Annotated shall be changed to read “*Department of Agriculture*,” and all

1 references to the “*Director of the Department of Public Health and Social*
2 *Services*” shall be changed to read “*Director of the Department of*
3 *Agriculture.*”

4 (b) All positions of Animal Control Officers and Animal
5 Caretakers are transferred from the Department of Public Health and
6 Social Services (“DPH&SS”) to the Department of Agriculture (“DOA”),
7 along with the budgetary funding for those positions.

8 (c) The property, equipment, supplies and operations of the
9 Yigo Animal Shelter are transferred from DPH&SS to DOA.

10 (d) Any Memorandum of Understanding between DPH&SS and
11 the Department of Corrections (“DOC”) relating to the picking up of
12 dead animals shall be amended to be between DOA and DOC. Any
13 Memorandum of Understanding between DPH&SS and Guam Animals
14 In Need (“GAIN”) relating to operating the Yigo Animal Shelter and
15 adoption program shall be amended to be between DOA and GAIN.

16 (e) All responsibility and statutory authority for the clearance of
17 imported animals at ports of entry on Guam shall be transferred from
18 the Customs and Quarantine Agency to DOA’s Plant Protection and
19 Quarantine Division.

20 (f) The effective date of the provisions of this Section shall be
21 ninety (90) days *after* the effective date of this Act.

22 **Section 58.** Section 1909.1 is hereby *added* to Chapter 19 of Title 1 of the
23 Guam Code Annotated to read as follows:

24 **“Section 1909.1. Confidentiality of Investigations.**

1 (a) *Except* pursuant to a subpoena issued by a court of
2 competent jurisdiction for good cause shown, or the powers
3 afforded *I Liheslaturan Guåhan* under Legislative Investigative
4 Powers, Chapter 3 of Title 2 of the Guam Code Annotated, the
5 Public Auditor shall *not* be required to disclose any working
6 papers. For the purposes of this Section, '*working papers*' means
7 the notes, internal memoranda and records of work performed by
8 the Public Auditor on audits and other investigations made
9 pursuant to this Chapter, including any and all project evidence
10 collected and developed by the Public Auditor.

11 (b) Information received by the Public Auditor alleging
12 criminal activity or alleging wrongful use of government funds or
13 property is privileged. Neither the Public Auditor nor any person
14 employed by the Public Auditor shall disclose the identity of the
15 person providing that information, *unless* such failure to disclose
16 infringes upon the Constitutional rights of the accused. Nor shall
17 the Public Auditor, nor any person employed by the Public
18 Auditor, be required to produce any records, documentary
19 evidence, opinions or decisions relative to such privileged
20 communication or information: (i) in connection with any
21 criminal case, criminal proceeding or any administrative hearing
22 of whatever nature, *or* (ii) by way of any discovery procedure.

23 (c) Any person arrested or charged with a criminal
24 offense may petition the Court for an *in camera* inspection of the

1 records of a privileged communication or information received by
2 the Public Auditor, and which is material to the criminal charge
3 brought against the person. The petition shall allege facts
4 showing that such records would: (i) provide evidence favorable
5 to the accused; (ii) be relative to the issue of guilt; *and* (iii) cause a
6 deprivation of a constitutional right *if* such communication or
7 information is *not* disclosed. *If* on the basis of such criteria, the
8 Court determines that the person is entitled to all or any part of
9 such records, it may order its production and disclosure to the
10 degree necessary, protecting to the extent possible, the identity of
11 the person who has informed the Public Auditor of such matter.

12 (d) Disclosure of a privileged communication or
13 privileged information in violation of this Section shall be a felony
14 of the third (3rd) degree."

15 **Section 59.** Section 1921 is hereby *added* to Chapter 19 of Title 1 of the
16 Guam Code Annotated to read as follows:

17 **"Section 1921. Supervision of Audits in Autonomous**
18 **Agencies and Grantees, Manpower Audits.** The Public Auditor is
19 *specifically* authorized to supervise audits, or at the Public Auditor's
20 discretion, perform audits, of autonomous agencies and
21 instrumentalities of the government of Guam, inclusive of, but *not*
22 limited to, the Guam Visitors Bureau ('GVB'), the Guam Economic
23 Development Authority ('GEDA'), the Port Authority of Guam ('PAG'),
24 the A. B. Won Pat Guam International Airport Authority ('GIAA'), the

1 University of Guam ('UOG'), the Guam Community College ('GCC'),
2 the Guam Memorial Hospital Authority ('GMHA'), the Guam Housing
3 Corporation ('GHC'), the Guam Housing and Urban Renewal Authority
4 ('GHURA'), the Guam Power Authority ('GPA'), the Guam Waterworks
5 Authority ('GWA'), the Guam Telephone Authority ('GTA'), and the
6 Government of Guam Retirement Fund ('GGRF').

7 The Public Auditor is authorized to supervise audits of all funds
8 in *excess* of Three Hundred Thousand Dollars (\$300,000.00) for a single
9 fiscal year from the government of Guam that are given in grant or
10 subsidy to non-profit or profit-making groups, inclusive of GVB. The
11 Public Auditor is authorized to audit the hiring practices, manpower
12 levels and staffing patterns of all departments, agencies and bureaus of
13 the Executive Branch of the government of Guam, and to determine and
14 report to *I Maga'lahaen Guåhan, I Liheslaturan Guåhan* and the Public
15 Utilities Commission ('PUC'), as appropriate, on the necessity and
16 applicability of employment levels and categories to the department or
17 agency's purpose and function, as well as draw comparisons with
18 similar entities located elsewhere."

19 **Section 60. Severability.** *If* any provision of this Act or its
20 application to any person or circumstance is found to be invalid or contrary to
21 law, such invalidity shall *not* affect other provisions or applications of this Act
22 which can be given effect without the invalid provisions or application, and to
23 this end the provisions of this Act are severable.

Dr. ridden

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 3/12/02 ^{12:54am}

VOTING SHEET

Vetoed
S Bill No. 241 (LS)

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 15 0 0 0 0

CERTIFIED TRUE AND CORRECT:

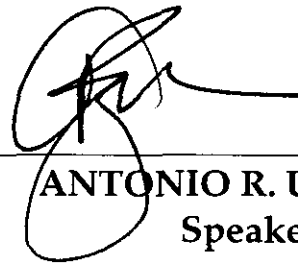
Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

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

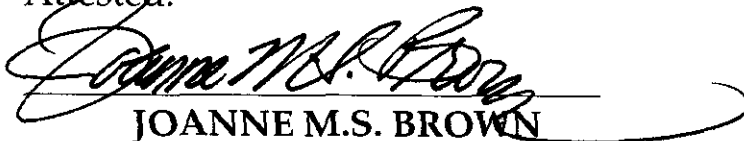
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 241 (LS) "AN ACT TO CREATE THE CONSOLIDATED COMMISSION ON UTILITIES, TO REORGANIZE AND CONSOLIDATE SEVERAL GOVERNMENT OF GUAM AGENCIES AND FOR OTHER PURPOSES," was on the 14th 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 9th day of January, 2001,
at 4:25 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

the Government. (Emphasis added.) As readily seen, this new legislation also takes the two agencies, GPA and GWA, out of the government and eliminates their status as autonomous instrumentalities of the government.

The conflict of interest objection to the prior vetoed legislation still exists in reference to this new legislation. GWA still owes the GPA a sizeable amount of money, and a combined board will have to serve both Peter and Paul in owing allegiance to collecting money for the two agencies. If the same board members owe a duty to GWA to keep it financially viable, they will not want to pay overdue bills to GPA. On the other hand, the same board members owe a duty to GPA to collect this money and comply with bond covenants – a clear conflict of interest.

The tax law application objection to the prior vetoed legislation still exists in reference to this new legislation. The two new entities would not be part of the government, as they previously are.

The increase in liability objection to the prior vetoed legislation still exists in reference to this new legislation. The sovereign immunity enjoyed by the government under the Organic Act will not apply to these two new entities, as they are no longer part of the government.

A new objection to this legislation is to point out that the qualifications for General Manager for both of the agencies is very onerous. It is not likely that there will be many individuals on Guam who have at least 10 years experience managing a public or private utility of a size that is similar to the GPA or the GWA. The duties of the General Manager and the Chief Financial Manager in both of the new entities would appear to overlap slightly, both having charge and control of “administration of the business affairs of the Authority” as well as charge and control of the “business. . . operations of the Authority. The chain of command is blurred.

As a new objection to an elected utilities board, it may be pointed out that an elected board will find it very difficult to act in the interest of the utilities in respect to the proper requests to the Public Utilities Commission for the setting of rates. In order to keep being elected, a commission member will begin to pander to the public in order to get elected, as some other elected individuals have done, and will object to any increases in rates, no matter what the expenses of the utilities are for providing services. Also, the high caliber of the present members of the Board of Directors of the Guam Power Authority and the Guam Waterworks Authority will not be maintained. An elected board will yield commission members who are perhaps popular people, promising to lower rates, not commission members with proper functioning of the utilities in mind.

It is also pointed out again, as a continuing objection, that the new combined elected utilities board is not off limits to politicians. While a government employee cannot run for this position, elected officials can. For the stipend of \$1,000 per month, or \$12,000 per year, it is not likely that someone will run for this position in order to feed their family. It is more likely that an elected official, or perhaps formerly elected officials, will run for this position to supplement their income and gain control over utility hiring, contracts, and financing.

There is no transition period between the new and the old in this legislation, as there was none in prior vetoed legislation. Also, the same date that new commission members take office is the same date that new directors and financial officers are to take office. This is not logical. It is also not logical that qualified General Managers or Chief Financial Officers would be on board within thirty days.

Please review again the lengthy and detailed veto messages to Substitute Bill No.57 and Substitute Bill No. 190, attached. All of the objections are herein raised again and incorporated in this veto message. Nothing is new in Substitute Bill No. 241 which would change these objections. The few changes made in Substitute Bill No. 241 from the last version transmitted in Substitute Bill No. 190 are changes without a difference.

2. Guam Mass Transit Authority.

The Guam Mass Transit Authority sections of the legislation transfer only those employees who were hired before a certain date. Since the sections concerning this agency were retyped verbatim from Substitute Bill No. 190, it is recommended that if changes are made that all of the employees be treated equally. Also, it is pointed out that some unclassified employees may have classified employee rights. This should be taken into effect in any legislation concerning their status.

3. Bureau of Statistics and Planning.

The sections concerning this new agency reroutes the collection of fines for violations of the Guam Product Seal law into the General Fund instead of to the Guam Product Seal Fund. There are other inconsistencies of language where the term "authority" is used rather than the new term, "bureau". As previously noted, a reference in Section 43 to "South Pacific Commission" should be changed to the correct term of "Secretariat of the Pacific Community". This organization changed its name several years ago.

4. Guam Economic Development and Commerce Authority.

Please note the objections previously outlined by transferring some functions of the Department of Commerce to the Guam Economic Development Authority and changing the name of GEDA. The Qualifying Certificate program is an exception to existing federal law, and relies on the fact that the GEDA law was enacted prior to a certain date. Changing or repealing and reenacting, or otherwise tinkering with the GEDA law subject the QC program to possible elimination. The name change alone will undermine the advertisement efforts for Guam in promotional materials, and will tend to confuse and impact existing potential investor confidence negatively.

5. Typographical errors or unclear language.

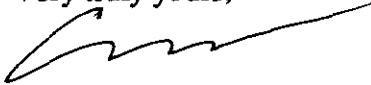
On a final note, there seem to be several typographical defects or unclear language in the legislation. For example, there is no majority needed to make a decision before the new combined elected utilities commission. On Page 5, lines 15-16, the requirement for a majority to make a

Legislative Secretary
SB241;veto
January, 2002
Page 4

decision has been deleted from prior transmitted legislation on the same subject. Affirmative votes of the commissioners holding office are now needed to make a decision; apparently a unanimous decision of all commissioners holding office are needed, as the decision of a jury in a criminal case must be unanimous.

Also, on Page 21, line 17, it states that Sections 18-22 and 24-25 of the legislation are to go into effect 90 days after the effective date of the Act. On Page 41, line 9, it states that Sections 26-46 shall be in effect 90 days after the effective date of the Act. The reference to the 90 day time frame on Page 41 includes the same reference on Page 21, as the Page 21 reference is contained in Section 28 of the legislation. These references to section numbers seem to be incorrect, and may refer to section numbers in prior legislation or drafts. This leaves it unclear just when the various sections should go into effect, as the meaning of the sections is inconsistent.

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
veto messages Substitute Bill Nos. 57 and 190

cc: The Honorable Antonio R. Unpingco
Speaker



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 06-29-01
Time: 1035

Rec'd by: [Signature]
Print Name: [Signature]

JUN 29 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>[Signature]</u> |
| Time | <u>1027 PM</u> |
| Date | <u>6/29/01</u> |

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 057 (COR) entitled: "AN ACT TO REPEAL AND REENACT §§ 14103, 8102, 8107, 14105, 14106(a), 14108, 8108(a), AND 8110, TO ADD CHAPTER 79 AND § 14104.1, AND TO REPEAL §§ 8109 AND 14107, ALL OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO REORGANIZING THE GOVERNANCE OF THE PUBLIC UTILITIES AND TO MANDATE THE PRIVATIZATION OF CERTAIN FUNCTIONS WITHIN THOSE UTILITIES" which I have vetoed.

The following are the objections to this legislation:

- The legislation impairs the obligations of existing contracts of both GPA and GWA.** This legislation will impair the obligation of contracts now existing between the Guam Power Authority (GPA) and bondholders, and the Guam Waterworks Authority (GWA) and government creditors secured by GWA revenues in violation of Section 5(j) of the Organic Act. While Sections 3 and 4 of the bill recite identical language with regard to both the GPA and the GWA that the "duties, rights and obligations shall continue uninterrupted, inclusive of, but *not* limited to any financial obligations of the Authority, including debt service on and conditions imposed by bonds," in fact, the enactment of the legislation changes the character of the agencies to the extent that the conditions imposed on bonds cannot be met. In regard to the GPA, bond indentures provide:

"Maintenance of Powers. The Authority shall at all times use its best efforts to preserve its existence as a public corporation and autonomous instrumentality of the Government; not be dissolved or lose its franchise or right to exist as such or lose any rights necessary to enable it to maintain and operate the System; and to maintain the powers, functions, duties and obligations now reposed in it pursuant to law, and will not at any time voluntarily do, suffer or permit any act or thing the effect of which would be to hinder, delay or imperil either the

payment of the indebtedness evidenced by any of the Bonds or the observance of any of the covenants herein contained.”

In regard to the GWA, the government of Guam has debt that is secured by Section 30 revenues and additionally secured by GWA revenues. The change of status of the GWA as contemplated in this legislation disrupts the contractual arrangements now in effect regarding GWA indebtedness.

- 2. The new legal status of the 2 government-owned agencies in this legislation is vague and ambiguous; the agencies have been either privatized or a small group of non-government officials, or the legislature is attempting to create a separate government for utilities.** The legislation strips the 2 utility agencies of their status as government agencies, yet states for both of the utilities that “The Corporation as established herein belongs fully and exclusively to the People of Guam.” The people of Guam currently own, through their elected officials, all of the assets and liabilities of their government, which includes the 2 utilities. If the 2 utilities are no longer part of the government, in what manner do the people still own them? The legal status of the 2 new non-government agencies is vague and undetermined. Under this legislation, the utilities would either be privatized and under the control of a group of elected persons, or would purport to be a separate government which is not part of the government of Guam and has none of the protections or status of the government of Guam. The Guam Legislature does not have the power to create an entity that looks like a separate government. And privatizing the 2 utilities by statute without any money and other items of value changing hands will wrongfully deprive the citizens of Guam of their government property.

The new utilities are stated to be “non-stock, non-profit corporations”. The legislation contains no method of ownership (“belonging”) on the part of the “People of Guam.” There is no stock. There are no membership qualifications prescribing who is included in the term “People of Guam”. There is nothing in the legislation that creates an indication of how the corporation is owned. There is nothing indicating what rights and liabilities accrue to the “People of Guam” by virtue of their “ownership”.

- 3. The legislation creates a conflict of interest for a consolidated board to exercise the powers of 2 agencies that already have debtor-creditor relationships in existence between them.** The legislation makes the same body responsible for all the rights and duties of 2 separate entities. These 2 entities currently are in a debtor-creditor relationship. The inherent conflict of interest will prevent the consolidated board from exercising proper duties to the 2 entities simultaneously. In respect to the bonds and debts outstanding for the GPA and the GWA, the bondholders did not contemplate the risk involved at the time the contracts were entered into. This prevents the type of transition contained in this legislation.
- 4. The legislation subjects the 2 utilities to the application of taxes.** As government entities, the GPA and the GWA do not have to pay interest on the bonds that were issued. Should these entities become privatized, as seems to be the case here, tax laws will come into play

that obligate the payment of taxes on the interest on outstanding bonds. The running of a utility agency is not normally an activity considered tax exempt under federal tax laws, as is the case with entities that are devoted to religion, education, charity, and the like. In fact, if the utilities were not part of the government, they would most certainly pay taxes, not only on the interest on bonds that are issued, but other taxes applicable to non-government entities.

5. **The legislation subjects the 2 utilities, as well as their employees, to unlimited liability due to the loss of sovereign immunity enjoyed by the government.** The government of Guam enjoys sovereign immunity, which means that the liability of the government for contracts and torts (civil wrongs) is limited by the caps established in the Government Claims Act. Should the 2 utilities suddenly find that they are not government agencies, this cap on liability will also be suddenly removed. This will change the risk contemplated at the time that the bonds were issued which involve the 2 agencies, and exposes the agencies to judgments in lawsuits in excess of those allowed, and also capped, by the Government Claims Act.
6. **Except for 5 year residency and 25 year age limit, there are no qualifications to serve on the new Consolidated Commission on Utilities which are related to the duties involved in running utilities.** The new Consolidated Commission on Utilities has similar qualifications to run for membership as there is to run for a seat as a senator in the Guam Legislature. For both offices, a candidate must be a resident of Guam for 5 years and at least 25 years of age. Unlike the qualifications for senator, however, a member of the new Consolidated Commission on Utilities can be a non-citizen of the United States, and can have been convicted of a felony or crime involving moral turpitude.

Unlike a board or commission member of the government, a member of the new Consolidated Commission on Utilities is not subject to filling out an application revealing the member's qualifications, possible conflicts of interest, or background of arrests. The members are not subject to scrutiny by anybody. Since the members are not part of the government, government codes of ethics do not apply. In fact, the only qualification to serve is popularity.

7. **The legislation requires a separate special election with increased costs to the public, and allows elected officials to run for membership on the "Consolidated Commission on Utilities."** Although the new entities created in this legislation are not part of the government, the government will have the burden of conducting and paying for a separate special election in an off-election year. The election is slated to take place in November of 2001. There is no funding for the conduct of the election, whether conducted by the government or by a private entity.

The legislation states that a person who is an employee of the government is prohibited from being a member of the new Consolidated Commission on Utilities. No such prohibition exists for elected officials. While the new office is stated to be a "non-partisan office" and candidates "shall not identify themselves as members of any political party on Guam for the purpose of their campaign", elected individuals who are party members are not prohibited from campaigning for this new office if they refrain from identifying, during the course of their

campaign in ads and statements, that they are, in fact, members of a party. If a candidate does not publicly declare party affiliation during the course of the candidate's campaign, this does not result in a non-partisan result.

The legislation states that a person who is an employee of the government is prohibited from being a member of the new Consolidated Commission on Utilities. No such prohibition exists for elected officials. While the Office of Commission is stated to be a "non-partisan office" and candidates "shall not identify themselves as members of any political party on Guam for the purpose of their campaign, elected individuals who are party members are not prohibited from campaigning for this new office without identifying during the course of their campaign in ads and otherwise that they are, in fact, members of a party.

8. **The new Consolidated Commission on Utilities has no special relationship of trust in regard to holding and directing the management of assets stated as belonging to the "People of Guam."** The assets of the GPA and the GWA, while encumbered with obligations, consist of many millions of dollars, now owned by the government of Guam. The members of the elected Consolidated Commission on Utilities, in addition to having no particular qualifications to run for this office, once elected have no stated standard of conduct or trust under which they will hold the assets or operate the utilities for the "People of Guam." This legislation fails to establish indices of ownership by the "people", and the newly elected "Consolidated Commission" is also apparently in charge of utilities with no standards of trust imposed upon them. The new Commission is given full reign to sell or obligate the property of the utilities to yet other third parties, or to otherwise make transactions which are currently prohibited by statutes for government entities. The "People of Guam" do not appear to have any recourse for improper transactions under this legislation. In fact, the "People of Guam" cannot even identify themselves under this legislation.
9. **The legislation changes the status of GPA and GWA employees from government to non-government employees.** The legislation states that the employees of GPA and GWA are "eligible for insurance, retirement, workmen's (sic) compensation and other benefits as extended to employees of the government of Guam and shall be employees of the government of Guam for the purposes of the application of all civil service laws and personnel rules and regulations as apply to government of Guam employees, inclusive of all scales, tables and schedules for compensation." This language excludes other rights, duties, and obligations that are applied by law to government employees. The employees are not real government employees, but only similar to government employees because they have to be paid on the government pay scale, and accrue benefits as do government employees.

The employees who no longer work for the government under this legislation also are not "public servants" or otherwise obligated to account to the public for their actions or omissions.

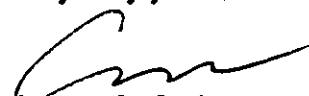
10. **The legislation provides no transition from existing status to new status for management of the 2 utilities.** The election for new members of the Consolidated

Commission on Utilities takes place in 5 months in November, 2001. At the same time, while the old boards are still required to be in place, the Assistant Manager positions are abolished at both utilities and the qualifications for the General Managers and the Chief Financial Officers are effective immediately. Since the new qualifications are quite stringent, and few available individuals on Guam will qualify, the current management of both utilities will be immediately disqualified from holding their positions upon enactment of this legislation and no new personnel will be in place. The utilities will have no management at all, and it may mean that off-island recruitment of management will have to take place.

11. Bond Counsel has written, concerning an earlier version of this legislation, that there are 4 major areas of concern, only 1 of which there was an attempt to address in the final version. Bond Counsel has already given advice concerning the deficiencies of this legislation. He pointed out the 1) law impairing the obligations of contracts, 2) conflict of interest for the same body to run 2 entities with opposing interests, 3) the applicability of taxes, and 4) the impairment of the role of the Public Utilities Commission as a regulatory body. Only the last item was addressed in any manner whatsoever.

To summarize, this legislation does the following: 1) slices off the 2 government utilities from the rest of the government, 2) treats the employees as if they were still government employees when they will not be government employees, 3) provides for a popularity contest election to take place for membership on a board to run the 2 utilities, 4) removes the liability protections of the government as well as its tax exempt status, and 5) allows financial transactions to take place without protecting the people of Guam who are the stated owners. In other words, a separate political body would be created, and part of the government would be given carte blanche to that separate body, to do with what it wishes.

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



ORRICK, HERRINGTON & SUTCLIFFE LLP
OLD FEDERAL RESERVE BANK BUILDING
400 SANSOME STREET
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Stanley J. Dirks
(415) 773-5828

June 5, 2001

Edward G. Untalan
Guam Economic Development Authority
ITC Building, Suite 511
590 South Marine Drive
Tamuning, Guam 96911

Re: Bill No. 57

Dear Mr. Untalan:

You have asked for our view of certain legislation that would (i) repeal and reenact certain sections of Chapters 8 and 14 of Title 12 of the Guam Code Annotated, (ii) add Section 14101.1 to Chapter 14 of Title 12 of the Guam Code Annotated and (iii) add Chapter 79 to Title 12 of the Guam Code Annotated, which legislation has been introduced to the legislature as Bill No. 57. Generally speaking, the proposed statute reorganizes the Guam Waterworks Authority ("GWA") and the Guam Power Authority ("GPA"), establishes a Consolidated Commission on Utilities (the "Consolidated Commission") to exercise the powers of GWA and GPA, and mandates privatization of maintenance services relating to certain equipment of GWA.

A statement of the intent of the Legislature in enacting the proposed statute would be very helpful for purposes of interpreting its provisions. I would note, however, the purpose of this letter is not to evaluate the pros and cons of elected governing bodies for publicly owned utilities. There are many publicly owned power systems and water systems that have elected boards, and the proposed statute may or may not have an appropriate public purpose under the circumstances, but, as applied to GPA and GWA, I would point out a few possible problems with the proposed statute in relation to the various Guam utility bonds.

As you know, GPA currently has a substantial amount of outstanding debt, and the Government has debt that is secured by Section 30 revenues and additionally secured by GWA revenues. Covenants relating to such debt place certain limitations on the Government's ability to alter the organization and operations of GPA and GWA. To the extent that the proposed statute exceeds (including ambiguous provisions that may be interpreted to exceed) those limitations, it may be a "law impairing the obligation of contracts" in violation of section



ORRICK

Edward G. Untalan
April 24, 2001
Page 2

5(j) of the Organic Act. A few examples of the way in which the proposed statute may exceed those limitations are described below.

First, the statute does not expressly specify whether the operations of and accounting for GPA and GWA would be kept separate or combined. An interpretation requiring combined operations or accounting would create legal and practical problems in complying with existing material financial obligations and covenants relating specifically to certain GWA or GPA revenues, such as the rate covenant in GPA's bond indenture and the pledge of revenues in each indenture. The uncertainty is created in part by the absence of clear language that each new entity succeeds to all of the rights, duties and obligations of the respective existing entity, and in part by the statute's provision for a single Consolidated Commission to control both GPA and GWA.

Second, the new Consolidated Commission would have a new inherent conflict of interest with respect to those matters in which one system currently or in the future has obligations to the other, for example, with respect to the current very large receivable the GPA holds from GWA. Although it is not unusual for a single entity to run both a power system and a water system, at the time the respective bonds were sold, the credit judgments made by the investors did not include this risk, and the existence of the receivable complicates any transition.

Third, the Government and GPA have covenanted in connection with their respective debt issues to take any action necessary to preserve the tax-exempt status of interest on said debt. It is imperative that GPA and GWA remain instrumentalities of the Government in order to preserve this exemption. Under the proposed statute the Government maintains substantial control over the GPA and GWA. However, the proposed statute's reestablishment of GPA and GWA as "non-stock, non-profit" corporations and provisions relating to the extension of employment benefits to their employees as if they were Government employees may imply an impermissible level of "privatization" to be consistent with tax law. These ambiguities create the possibility of an interpretation that could violate said bond covenants. It would be better if GPA and GWA remained public corporations that are clearly instrumentalities of the Government.

Fourth, the statute does not expressly recognize the continued jurisdiction of the Public Utilities Commission (the "PUC") in regulating and setting rates for the GPA. GPA's bond indenture has a provision (Section 6.20) concerning the PUC that reads in part as follows:

"The Government hereby pledges to the holders of all Bonds that the Government will not repeal, amend or modify Chapter 12, Title 12, Guam Code Annotated, in any way that would substantially impair the powers, duties or effectiveness of the Public Utilities Commission thereunder in relation to the Authority and its rates."



ORRICK

Edward G. Untalan

April 24, 2001

Page 3

An interpretation of the proposed statute that in any way restricts the powers of the PUC to regulate or set rates for GPA could be a covenant default under GPA's bond indenture. (I also note that an extended failure on the part of the Government to maintain the membership of the PUC at a level adequate to constitute a quorum and take valid action may violate this same provision of the GPA bond indenture.)

As mentioned above, this is not intended to be an exhaustive list of potential issues relating to the proposed statute, but it does set forth some of the significant issues with respect to the existing debt of GPA and the Government. Please feel free to contact me with any further questions.

Very truly yours,

Stanley J. Dirks



CARL T. C. GUTIERREZ
GOVERNOR OF GUAM

Office of the Speaker
ANTONIO R. UNPINGCO
Date: 10-10-01
Time: 1045
Rec'd by: _____
Print Name: Antonio R. Unpingco

OCT 10 2001

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received By: [Signature]
Time: 4:38 PM
Date: 10 Oct 2001

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

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 190 (COR) entitled: "AN ACT TO CREATE THE CONSOLIDATED COMMISSION ON UTILITIES, TO REORGANIZE AND CONSOLIDATE SEVERAL GOVERNMENT OF GUAM AGENCIES AND FOR OTHER PURPOSES" which I have vetoed.

This legislation establishes a variety of new organizations and shuffles old organizations within the government of Guam. While some of these ideas have some merit, some of the provisions were previously vetoed in other bills for major defects, for example, those items that will place two of our utilities in bond defaults. Placing our utilities in bond defaults is unwise at any time, but is especially destructive to our economy at this time.

The following are specific items of objection:

1. **Guam Waterworks Authority and Guam Power Authority.** Sections 1 through 16, pages 1 through 14, disestablish the Guam Waterworks Authority and the Guam Power Authority as they are currently constituted. Almost identical legislation in Substitute Bill No. 57, passed in June, 2001, was vetoed due to very serious defects. The few changes made to the provisions of Substitute Bill No. 57 which are repeated in Sections 1-16 of this legislation deal with transition and qualifications of new general managers, however, do not address any of the major defects. The major defects are the same as they were in SB 57. A copy of the previous veto message including comments from the bond counsel are again attached to this veto message. Bond counsel has reviewed the provisions of this

2. legislation also, and has reiterated the same objections. A copy of the new comments is also attached.

SB 190 violates the Organic Act provisions prohibiting the enactment of legislation that interferes with the obligation of contracts. GPA has covenanted, or contracted, in its bond indentures to undertake all acts necessary to assure that interest paid on the bonds is excluded from gross income for federal income tax purposes. GPA, because it is part of the local government, is also exempt from local taxation. The provisions of this legislation violate these bond covenants and subject the agency's bonds to taxation.

SB 190 violates the Organic Act because it removes the power of the Governor to have general supervision and control over the Executive Branch of the government. These two agencies are part of the Executive Branch. A separate "pseudo-government" entity cannot be created which is not under the general supervision of the Governor. If the "pseudo-government" entity is private, then privatization has occurred without any value received by the people of Guam.

The legislation removes the employees of these utilities from government service. The legislation states that Civil Service laws are applied to them, and therefore they are not by their new status government employees.

The creation of a combined "Consolidated Commission on Utilities" inserts conflicts of interest into the management of the GPA and the GWA. At present GWA owes approximately \$20 Million to the GPA. The interests of these two agencies, with respect to one another, are not the same. With the same individuals as members of one managing commission having dual loyalties that are in conflict with each other, a conflict of interest is created. Of course, bondholders of GPA never anticipated a debt of this magnitude and that the same party responsible for GPA's fiscal integrity will also be contrarily interested in GWA's lagging in the payment of this debt.

Another defect in the creation of the "Consolidated Commission on Utilities" is that the term of office is very short. A two-year term will not allow for the learning curve necessary to be a successful board member. Additionally, most contracts for utilities run a course of approximately five years. The constant changing of responsible parties, or campaigning to retain seats, will lead to chaotic management.

This legislation puts the GWA and the GPA in bond default, and subjects outstanding bonds to the application of taxes. It also privatizes these two agencies, but without any compensation to the people of Guam. The objections of the veto of SB 57 are herein reincorporated by reference in the veto of SB 190.

3. **Creation of Bureau of Statistics and Plans.** This legislation renames the Bureau of Planning and transfers to this bureau employees and functions of the Department of Commerce, and employees of DISID. This name change emphasizes the gathering of statistics, rather than the making of plans. The current name emphasizes that planning is the main focus of the bureau.

This legislation changes some statutes on the books that are already obsolete. For example, a name change was inserted into §68605 of Title 21, but since that Article relates to the development of a Southern Development Master Plan whose deadline has expired and for which there is no money, this name change is meaningless. Instead of amending this code section, Article 6 of Title 21 should be repealed.

The duties of the new Bureau of Statistics and Plans are changed. In the new duties, however, there is some obsolete language. For example, there is a reference to being the lead agency for the South Pacific Commission. The South Pacific Commission is now known as the Secretariat of the Pacific Community.

The transfer of personnel and responsibilities within Department of Commerce for the gathering of statistical information to the Bureau does not mean that any statistical information will be gathered. The Department of Commerce is already handicapped in this function, and merely moving a function that has not been adequately supported will not produce the results.

The transfer of personnel within DISID's Guam Health Planning Division is unnecessary, especially when the function of this Division is repealed.

4. **Repeal and reenactment of statutes relative to the Guam Economic Development Authority (GEDA) risks the existence of the Qualifying Certificate Program.** The Qualifying Certificate Program is outside the purview of the U.S. Income Tax Law in force on Guam. Due to a special circumstance relating to the Qualifying Certificate Program, any change or repeal or repeal and reenactment of statutes establishing this agency risks the elimination entirely of the Qualifying Certificate Program.

The Qualifying Certificate laws of Guam were passed in 1965, at a time when the Organic Act reserved to the U.S. Congress the ability to annul any law passed by the Guam Legislature within one year from the date of its passage. Since the Qualifying Certificate laws were not annulled within this time frame, these laws were ratified by the U.S. Congress. This subject has been treated in the Ninth Circuit Court of Appeals case Ramsey v. Chaco, 549 F.2d 1335, 1338 (9th Cir. 1977). If this ratification had not occurred, the Qualifying Certificate Program would violate the provisions of the mirror image income tax law of Guam. Any change at this point in time to these pre-existing statutes will invalidate the Qualifying Certificate Program, which cannot be subsequently re-enacted or put into place by our local legislature. A legal opinion from the counsel for GEDA on this issue is attached. This is now the first time this issue has come up and that a repeal and reenactment of GEDA's enabling statutes was attempted. During the Ada Administration, repeal and reenactment of the GEDA statutes was also attempted and the then-Attorney General rendered an opinion that this may invalidate the QC program, due to the unique nature of the GEDA statutes.

4. **INCOMPLETE TRANSFER OF FUNCTIONS OF DEPARTMENT OF COMMERCE.** The functions of the Department of Commerce were not entirely transferred to other agencies. Some functions seem to be eliminated, and some transferred functions seem to be in conflict with the receiving entity's mission or status.

There are a number of provisions in this legislation which reenact statutes on the Guam Product Seal and the Chamorro Village, programs now within the Department of Commerce. The reenactment places them into the GEDA statutes. One difficulty inherent in this transfer is that the federal grants given to the Department of Commerce for construction of the Chamorro Village must be held by an instrumentality of the government. GEDA has a unique status and may not be able to hold this grant. In order to transfer the land of the Chamorro Village, the amount of approximately \$1.8 Million will be needed to buy out the federal grant and transfer the property.

Within the change of section numbers relative to the Guam Product Seal, there are incorrect citations in what is designated as Section 50208, 50209, and 50210 (See Pages 27 and 28 of the bill). The references to §§ 51106, 51107, and 51108, which set out the fines and recovery of merchandise provisions for violations of the Guam Product Seal law, should be changed to §§ 50207, 50208, and 50209.

While some programs within the Department of Commerce were reassigned to GEDA or the new Bureau of Statistics and Plans, there are some important

responsibilities that were not reassigned to any agency. These responsibilities which do not seem to be assigned are: the authority to conduct consumer price index surveys, the primary indicator to measure Guam's economy; the authority to charge fees for printed information; the authority over the Publication Revolving Fund for printing and disseminating economic reports, and the establishment of the Business and Overseas Division and its function.

The operation of public markets and the new duty to develop Guam markets now given to GEDA is in conflict with GEDA's prime duty not to compete with private enterprise.

5. **Abolishment of SCOVE and placement of state functions relative to vocational education with the Guam Community College (GCC).** This placement of SCOVE functions does not coincide with the current mission of the GCC. Vocational Education functions are disbursed within the Department of Education for younger students. Mandating a function to the GCC is an interference with the independence of that institution, as required by the Western Association of Schools and Colleges.

The function of SCOVE, relative to the employment of individuals in vocational education fields is now most compatible with the Workforce Investment Act Board under the more recent federal statutes relative to encouraging employment. It is recommended that the functions of SCOVE be moved, instead, to the Workforce Investment Act Board, since that placement is more compatible with its role and purpose.

6. **Abolishment of Division of Health Planning and Development within the DISID.** While the employees of this Division are transferred to the new Bureau of Statistics and Plans, there is no function transferred. Instead, the process of reviewing the health needs of our island and certifying our needs is abolished.

In a limited economy for the provision of health services, it is necessary to plan ahead for the type of investment placed in our island. If this is not done, the populace may be subjected either to inferior health services or the unfortunate competition of several good providers, causing them all to fail. There are only so many people on our island who suffer from any particular disease, or need a particular health service. In fact, it is beneficial to make our population more healthy, and reduce the need for services, rather than keep our population less healthy in order to create financial success for providers. In other words, it is not possible or ethical to make more people ill in order to create more customers, for health providers. For this reason, the certificate of need program is necessary to

monitor the services that are needed, evaluate the potential providers so that they are in fact able to provide a good service, and certify the providers. This protects the public and protects those who would make unwise investments to provide services that will fail. It also encourages new investment by good providers that can enhance health care for the existing health needs.

With the abolishment of Guam Health Planning and Development as an activity, the past work of several Governors over many years for data management, plan development and implementation, and public involvement and community education will not go forward.

- 7. Office of Public Auditor is made into an investigative law enforcement office of the Guam Legislature.** The Office of Public Auditor, under this legislation, will become a law unto itself. Its powers will overshadow the powers of law enforcement agencies such as local and federal prosecutors. This is convenient, especially if there is any wrongdoing occurring within the Office of Public Auditor itself. Since contracts for conducting audits are administered by the Office of Public Auditor, any irregularity in information gathering for the purposes of obtaining these contracts will not be subject to scrutiny. Malfeasance by any employee is also not subject to scrutiny. The Office of Public Auditor will be a convenient place to hide evidence, since it cannot be disclosed.

The Office of Public Auditor in this legislation will audit only agencies of the Executive Branch. It will not audit either the Legislature or the Judiciary. It is unknown why an auditor that is supposed to be independent and impartial would not audit local funds in these other two branches. One answer to this dilemma is that independence and impartiality are now lacking by other changes in this legislation.

The new § 1921 added to Title 1 of the Guam Code Annotated, enlarging the scope of authority of the Public Auditor, is very similar to provisions previously vetoed in Substitute Bill No. 58 in June of 2001. The veto message to that bill is also enclosed with these comments. As previously pointed out, the provisions provide for duplicate work already mandated by other agencies, such as the Public Utilities Commission, for other audits. It also duplicates work of the Civil Service Commission.

A final observation, this legislation eliminates the independence of the Public Auditor. Before the enactment of the law creating the Public Auditor, the audit of government funds was contracted for under the purview of the Legislature.

Legislative Secretary
SB190;veto
October, 2001
Page 7

The Committee on Ways and Means hired auditors from the private sector and audits were conducted. An amendment to the Organic Act of Guam was made in order to enable Guam to create an independent auditor on a local level. Obtaining this amendment seems to have been in vain. Substitute Bill No. 190 makes the Public Auditor answerable to the Guam Legislature, thereby removing its independence and subjecting the office to the intrusion of politics.

Making the Office of Public Auditor answerable to the Legislature is another major step backwards in our island's constitutional development, and is similar to the anomaly we now have in our government where the Supreme Court is administratively subject to the lower court, the Superior Court.

For all of the reasons stated above, Substitute Bill No. 190 is vetoed.

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

6

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 12/14/01

VOTING SHEET

Bill No. 241(LS)

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 15 0 0 0 0

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



MINA' BENTE SAIS NA LIHES' ATURAN GUÅHAN

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

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurát*

Speaker Antonio R. Unpingco
I Mina' Bente Sais Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, 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. 241, was referred, wishes to report its findings and recommendations TO DO PASS BILL NO. 241: "AN ACT TO CREATE THE CONSOLIDATED COMMISSION ON UTILITIES, TO REORGANIZE AND CONSOLIDATE SEVERAL GOVERNMENT OF GUAM AGENCIES AND FOR OTHER PURPOSES."

The voting record is as follows:

| | |
|---------------------------|----------|
| TO PASS | <u>9</u> |
| NOT TO PASS | <u>0</u> |
| ABSTAIN | <u>0</u> |
| TO PLACE IN INACTIVE FILE | <u>0</u> |
| TO REPORT OUT | <u>0</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 'ENTE SAIS NA LIHES ATURAN GUAHAN

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

*Senadot Mark Forbes, Gebilu
Kabisiyon Mayurát*

MEMORANDUM

TO: Committee Members

FROM: Chairman

SUBJECT: Committee Report- BILL NO. 241: "AN ACT TO CREATE THE CONSOLIDATED COMMISSION ON UTILITIES, TO REORGANIZE AND CONSOLIDATE SEVERAL GOVERNMENT OF GUAM AGENCIES AND FOR OTHER PURPOSES."

Transmitted herewith for your information and action is the report on Bill No. 241 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. 241
4. Fiscal Note/Fiscal Note Waiver

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

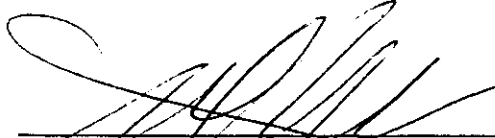
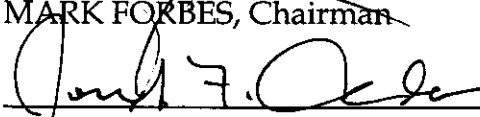
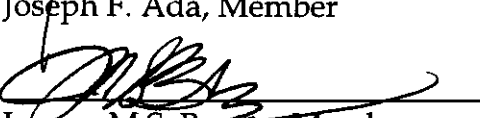
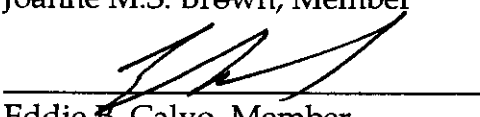

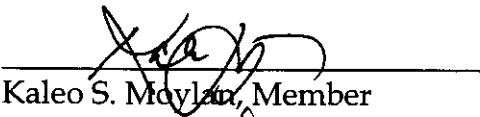
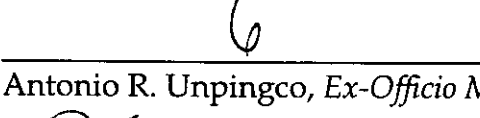
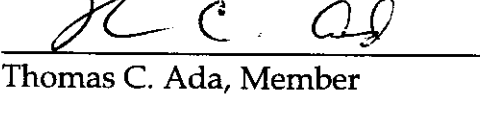
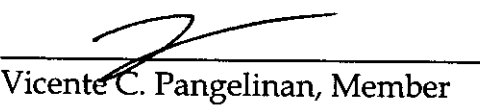
Attachments

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. 241: "AN ACT TO CREATE THE CONSOLIDATED COMMISSION ON UTILITIES, TO REORGANIZE AND CONSOLIDATE SEVERAL GOVERNMENT OF GUAM AGENCIES AND FOR OTHER PURPOSES."

| | <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 | ✗ | | | | |
|  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. 241,**

**“AN ACT TO CREATE THE CONSOLIDATED COMMISSION ON
UTILITIES, TO REORGANIZE AND CONSOLIDATE SEVERAL
GOVERNMENT OF GUAM AGENCIES AND FOR OTHER
PURPOSES.”**

I. OVERVIEW

Bill No. 241 is substantially the same as Bill No. 190, which received a public hearing and has been previously reported out by the Committee. Therefore, the Committee finds that no new public hearing is necessary on Bill No. 241.

II. FINDINGS AND RECOMMENDATION

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs finds that Bill No. 241 is necessary because the utility agencies are in dire need of a greater measure of public accountability, a financial rehaul, and strong management, and because there is a strong need for the consolidation and reorganization of several government of Guam agencies.

Accordingly, the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 241 was referred does hereby submit its findings and recommendations to I Mina' Bente Sais Na Liheslaturan Guahan **TO DO PASS BILL NO. 241, "AN ACT TO CREATE THE CONSOLIDATED COMMISSION ON UTILITIES, TO REORGANIZE AND CONSOLIDATE SEVERAL GOVERNMENT OF GUAM AGENCIES AND FOR OTHER PURPOSES."**



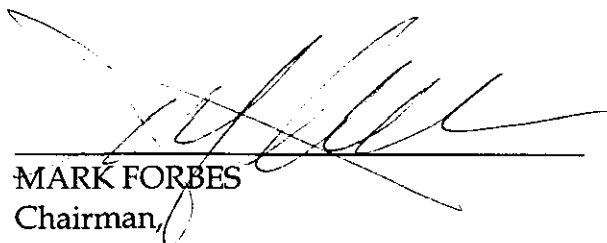
MINA MENTE SAIS NA LIHES* ATURAN GUAHAN

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

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurát*

WAIVER OF FISCAL NOTE

In accordance with §9105 Title 2 GCA, I hereby certify that prompt committee action on Bill 241 is necessary to the proper conduct of legislative business. Therefore, I am waiving requirement of a fiscal note on Bill 241.



MARK FORBES

Chairman,
Committee on Rules, General Governmental Operations,
Reorganization and Reform, and Federal, Foreign
and General Operations

1001

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

Bill No. 241 (LS)

Introduced by:

Committee on Rules, General
Governmental Operations,
Reorganization and Reform,
and Federal, Foreign and
General Affairs

~~Mark Forbes~~

J. F. Ada

T. C. Ada

F. B. Aguon, Jr.

J. M.S. Brown

E. B. Calvo

F. P. Camacho

M. C. Charfauros

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 CREATE THE CONSOLIDATED
COMMISSION ON UTILITIES, TO REORGANIZE
AND CONSOLIDATE SEVERAL GOVERNMENT OF
GUAM AGENCIES AND FOR OTHER PURPOSES.**

1

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Establishment of Consolidated Commission on Utilities.**

2 Section 14103 of Article 1, Chapter 14 of Title 12 of the Guam Code Annotated
3 is hereby *repealed and reenacted* to read as follows:

4 **“Section 14103. Establishment.** There is established, as a non-
5 stock, non-profit corporation on Guam, a Guam Waterworks Authority.
6 All employees of said Authority shall be eligible for all insurance,
7 retirement, workmen’s compensation and other benefits as extended to
8 employees of the government of Guam, and shall be employees of the
9 government of Guam for the purposes of the application of all civil
10 service laws and personnel rules and regulations as apply to
11 government of Guam employees, inclusive of all scales, tables and
12 schedules for compensation.

13 With respect to compensation, this Section shall *not* apply to the
14 compensation of the General Manager, a controller or a chief financial
15 officer; such compensation shall be set by the Board. The corporation as
16 established herein belongs fully and exclusively to the People of Guam.
17 All real property and infrastructure belonging to the Authority shall
18 remain public property. This Act shall serve as the Corporation’s
19 charter. All references herein to the ‘*Guam Waterworks Authority,*’ or the
20 ‘*Authority*’ shall be understood as referring to this Corporation
21 established herein.”

22 **Section 2.** Section 8102 of Article 1, Chapter 8 of Title 12 of the
23 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

1 **"Section 8102. Establishment.** There is established, as a non-
2 stock, non-profit corporation on Guam, a Guam Power Authority. All
3 employees of said Authority shall be eligible for all insurance,
4 retirement, workmen's compensation and other benefits as extended to
5 employees of the government of Guam, and shall be employees of the
6 government of Guam for the purposes of the application of all civil
7 service laws and personnel rules and regulations as apply to
8 government of Guam employees, inclusive of all scales, tables and
9 schedules for compensation.

10 This provision with respect to compensation shall *not* apply to the
11 compensation of the General Manager, a controller or a chief financial
12 officer; such compensation shall be set by the Board. The corporation as
13 established herein belongs fully and exclusively to the People of Guam.
14 All real property and infrastructure belonging to the Authority shall
15 remain public property. This Act shall serve as the Corporation's
16 charter. All references herein to the '*Guam Power Authority*,' or to the
17 '*Authority*' shall be understood as referring to this Corporation
18 established herein."

19 **Section 3.** Section 8107 of Article 1, Chapter 8 of Title 12 of the
20 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

21 **"Section 8107. Board of Directors.** All powers vested in the
22 Authority, *except* as provided herein, shall be exercised by the
23 Consolidated Commission on Utilities, as established in Chapter 79 of
24 Title 12 of the Guam Code Annotated. All references to '*Board*' in this

1 Chapter shall be understood as referring to the Consolidated
2 Commission on Utilities. This Section does *not* relieve the Authority of
3 any of its existing rights, duties or obligations. Such duties, rights and
4 obligations shall continue uninterrupted, inclusive of, but *not* limited to
5 any financial obligations of the Authority, including debt service on and
6 conditions imposed by bonds.”

7 **Section 4.** Section 14105 of Article 1, Chapter 14 of Title 12 of the Guam
8 Code Annotated is hereby *repealed and reenacted* to read as follows:

9 “**Section 14105. Board of Directors.** All powers vested in the
10 Authority, *except* as provided herein, shall be exercised by the
11 Consolidated Commission on Utilities, as established in Chapter 7, of
12 Title 12 of the Guam Code Annotated. All references to ‘*the Board*’ in
13 this Chapter shall be understood as referring to the Consolidated
14 Commission on Utilities. This Section does *not* relieve the Authority of
15 any of its existing rights, duties or obligations. Such duties, rights and
16 obligations shall continue uninterrupted, inclusive of but *not* limited to,
17 any financial obligations of the Authority, including debt service on and
18 conditions imposed by bonds.”

19 **Section 5.** Chapter 79 is hereby *added* to Division 2 of Title 12 of the
20 Guam Code Annotated to read as follows:

21 **“CHAPTER 79.**

22 **Consolidated Commission on Utilities.**

- 23 **Section 79100. Creation of Commission.**
24 **Section 79101. Commissioners.**
25 **Section 79102. Non-partisan Office.**

| | | |
|---|-----------------------|--------------------------------|
| 1 | Section 79103. | Terms of Office. |
| 2 | Section 79104. | Reporting Requirements. |
| 3 | Section 79105. | Vacancies. |
| 4 | Section 79106. | Compensation. |

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Section 79100. Creation of Commission. There is established an elected Consolidated Commission on Utilities whose purpose is to exercise powers vested in them by the laws establishing the ('GPA') and the ('GWA'). The Consolidated Commission on Utilities, hereinafter referred to as '*Commission*' shall be elected by the registered voters of Guam.

Section 79101. Commissioners. The Commission shall be comprised of five (5) Commissioners elected at large by the voters of Guam in a General Election. A Commissioner shall be a registered voter of Guam, of a *minimum* of twenty-five (25) years of age and shall have been a resident of Guam for *at least* five (5) years *prior* to the date of the Commissioner's election. A person may *not* simultaneously serve as a Commissioner and an employee of the government of Guam.

Persons retired from the government of Guam may serve as Commission members. At their first official meeting, the Commissioners shall elect from among their members a chairperson, who shall preside over meetings of the Commission. A majority of the membership shall constitute a quorum. A majority affirmative vote of the members of the Commission shall affirm a decision of the Commission.

1 **Section 79102. Non-partisan Office.** The Office of
2 Commissioner is a non-partisan office. Candidates for the Office of
3 Commissioner shall *not* identify themselves as members of any political
4 party on Guam for the purpose of their campaign, nor shall they receive
5 any endorsement or material support from any political party on Guam
6 during the course of their campaigns. No Primary Election is required
7 for candidates for this Office. No nominating petitions shall be required
8 of any candidate for this Office. Any qualified person applying to the
9 Guam Election Commission, or its successor, for candidacy to this Office
10 shall be placed on the General Election ballot.

11 **Section 79103. Terms of Office.** Commissioners shall be
12 elected to serve a term of two (2) years. The first election for the
13 members of the Commission shall occur during the General Election in
14 November, 2002.

15 **Section 79104. Reporting Requirements.** Commissioners and
16 candidates for the Office of Commissioner shall be *subject* to the same
17 reporting requirements pertaining to their campaigns and to their
18 personal finances as apply to candidates and members of *I Liheslaturan*
19 *Guåhan*.

20 **Section 79105. Vacancies.** A permanent vacancy in the
21 Office of a Commissioner shall result in a Special Election to fill that
22 vacancy, to be held on the date of the next General Election following
23 the date that the permanent vacancy occurred, or at a Special Election
24 called by *I Liheslaturan Guåhan*. The person elected to fill a permanent

1 vacancy shall serve for the balance of the term of the member whose
2 position is being filled. Until the vacancy is filled by the Special
3 Election, a majority of the remaining membership shall constitute a
4 quorum, and a majority affirmative vote of the remaining members of
5 the Commission shall affirm a decision of the Commission.

6 **Section 79106. Compensation.** Commissioners shall be
7 compensated at the rate of One Thousand Dollars (\$1,000.00) per month
8 for their services. All funds required for the operation of the
9 Commission shall be obtained by subscription from the Authorities
10 administered by the Commission, pursuant to such formula as the
11 Commission shall devise. Commissioners shall *not* be eligible for
12 government of Guam retirement or insurance benefits, or other benefits
13 associated with government of Guam employment. Commissioners
14 who are government of Guam retirees may serve on the Commission
15 without giving up their retirement benefits.”

16 **Section 6.** Section 14106(a) of Article 1, Chapter 14 of Title 12 of
17 the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

18 “(a) The Board shall appoint a general manager who shall be its
19 chief executive officer and shall serve at its pleasure. The general
20 manager shall, at a *minimum*, possess the following qualifications:

21 (1) A combined *minimum* of ten (10) years of
22 documented experience successfully managing a public or
23 private utility, or business activity similar to or greater in
24 scope and size to the Authority; and either:

1 (i) graduation from an accredited institution
2 of higher education with a bachelor's degree in
3 business or public sector management or closely
4 related field or discipline, *or*

5 (ii) graduation from an accredited institution
6 of higher education with a bachelor's degree in
7 engineering or engineering technology.

8 The Board shall fix the general manager's compensation,
9 notwithstanding any other provision of law. The general manager
10 shall have full charge and control of the construction of the works
11 of the Authority and their maintenance and operation, and also of
12 the administration of the business affairs of the Authority.

13 The Board may contract with a corporation to perform any
14 or all of the duties, and to exercise any or all of the powers of the
15 general manager as provided in this Section, and the general
16 manager, *subject* to the approval of the Board, may contract with a
17 corporation to perform some of the duties or to render expert and
18 technical assistance in the operation of the Authority. Such a
19 management contract shall be for *no longer than* three (3) years
20 duration. A corporation contracted pursuant to this Section must
21 have a *minimum* of seven (7) years experience in the operation of a
22 water or wastewater utility of similar or greater scope than the
23 Authority."

1 **Section 7.** Section 14108 of Article 1, Chapter 14 of Title 12 of the
2 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

3 **“Section 14108. Chief Financial Officer.** The Board
4 shall appoint a chief financial officer who shall serve at its pleasure. The
5 chief financial officer shall be a Certified Public Accountant.

6 The Board shall fix the chief financial officer’s compensation. The
7 chief financial officer shall have full charge and control of the fiscal,
8 business and accounting operations of the Authority, *subject* to the
9 supervision of the Board.”

10 **Section 8.** Section 8108(a) of Article 1, Chapter 8 of Title 12 of the
11 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

12 “(a) The Board shall appoint a general manager who shall be its
13 chief executive officer and shall serve at its pleasure. The general
14 manager shall, at a *minimum*, possess the following qualifications:

15 (1) a combined *minimum* of ten (10) years of documented
16 experience successfully managing a public or private utility or
17 business activity similar, or greater, in scope and size to the
18 Authority, and *either*:

19 (i) graduate from an accredited institution of higher
20 education with a bachelor’s degree in business or public
21 sector management, or closely related field or discipline, *or*

22 (ii) graduate from an accredited institution of higher
23 learning with a bachelor’s degree in engineering or
24 engineering technology.

1 The Board shall fix the general manager's compensation,
2 notwithstanding any other provision of law. The general manager shall
3 have full charge and control of the construction of the works of the
4 Authority and their maintenance and operation, and also of the
5 administration of the business affairs of the Authority.

6 The Board may contract with a corporation to perform any or all
7 of the duties, and to exercise any or all of the powers of the general
8 manager as provided in this Section; and the general manager, *subject to*
9 the approval of the Board, may contract with a corporation to perform
10 some of the duties, or to render expert and technical assistance, in the
11 operation of the Authority. Such a management contract shall be for *no*
12 *longer than* three (3) years duration. A corporation contracted pursuant
13 to this Section must have a *minimum* of seven (7) years experience in the
14 operation of an electrical power utility of similar, or greater, scope than
15 the Authority."

16 **Section 9.** Section 8110 of Article 1, Chapter 8 of Title 12 of the
17 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

18 **"Section 8110. Chief Financial Officer.** The Board
19 shall appoint a chief financial officer who shall serve at its pleasure. The
20 chief financial officer shall be a Certified Public Accountant and should
21 have Federal Energy Regulatory Commission ('FERC') knowledge and
22 experience.

23 The Board shall fix the chief financial officer's compensation. The
24 chief financial officer shall have full charge and control of the fiscal,

1 business and accounting operations of the Authority, *subject* to the
2 supervision of the Board.”

3 **Section 10.** Section 14104.1 is hereby *added* to Article 1, Chapter 14
4 of Title 12 of the Guam Code Annotated to read as follows:

5 **“Section 14104.1. Contractual Restrictions.** Any contract by the
6 Authority to contract maintenance services relative to sewage pumps,
7 booster pumps, and all pumps and other facilities directly associated
8 with water wells shall be *subject* to the following provisions:

9 (a) any procurement of service or goods, shall be *entirely*
10 subject to the Procurement Laws of Guam, and all applicable rules
11 and regulations;

12 (b) all successful bidders must have a *minimum* of three (3)
13 years of demonstrated expertise in the maintenance of electro-
14 mechanical pump devices; *and*

15 (c) no contract for service awarded shall be for a duration
16 of *more than* two (2) years, and must include provisions for
17 periodic and timely inspections of all facilities whose maintenance
18 is contracted, with provisions for the revocation of contracts,
19 without penalty to the Authority, for any breach of contract or
20 failure to provide adequate service, as contracted.

21 No other contract, beyond the maintenance contracts specifically
22 detailed in this Section, may be entered into by the Authority for a
23 duration in excess of one (1) year, *except* as permitted under the terms of

1 the build, operate and transfer program ("BOT") *specifically* authorized in
2 Guam law or as otherwise permitted herein."

3 **Section 11.** Section 8109 of Article 1, Chapter 8 of Title 12 of the
4 Guam Code Annotated is hereby *repealed*.

5 **Section 12.** Section 14107 of Article 1, Chapter 14 of Title 12 of the
6 Guam Code Annotated is hereby *repealed*.

7 **Section 13. Transition.** The appointed Boards of Directors
8 for the Guam Waterworks Authority ("GWA") and the Guam Power
9 Authority ("GPA") shall continue to exercise authority over their respective
10 Authorities *until* January 1, 2003 at which time the elected Consolidated
11 Utilities Commission established by this Act shall take office. At such time
12 the appointed Boards of Directors for GWA and GPA shall cease to exist.

13 The qualifications for the respective General Managers and Chief
14 Financial Officers of the Authorities detailed herein are effective upon the
15 date of enactment of this Act, *except* that the incumbent General Managers
16 and Chief Financial Officers may continue to perform their duties *until* their
17 successors, *if any* are required, are appointed; *provided*, that *if* qualified
18 successors have *not* yet been appointed by January 1, 2003, the Consolidated
19 Utilities Commission must appoint new General Managers and Chief
20 Financial Officers for the respective Authorities within thirty (30) days thereof
21 *if* the incumbent General Managers and Chief Financial Officers do *not* meet
22 their respective qualifications detailed in this Act. The contractual restrictions
23 detailed herein in § 10 of this Act are effective upon the date of enactment of
24 this Act.

1 **Section 14. Liberal Interpretation.** Should any Section of this
2 Act be seen as conflicting with any portion of the enabling laws establishing
3 the Guam Power Authority (“GPA”) or the Guam Waterworks Authority
4 (“GWA”) that are *not* amended by this Act, or any law of Guam previously
5 enacted, the conflict is to be interpreted in favor of this Act.

6 **Section 15. As-built Requirement.** The Guam
7 Waterworks Authority (“GWA”) shall submit to *I Liheslaturan Guåhan* within
8 sixty (60) days of the effective date of this Act, a report detailing the location
9 and working condition of every portion of the water and wastewater
10 infrastructure under the purview of the Authority, including, but *not* limited
11 to, all sewage lines, sewage treatment plants, sewage pumps and stations, all
12 water lines, booster pumps, wells, reservoirs and all related facilities.

13 *If* the Authority is unable to comply with this request, the Authority
14 shall contract at the soonest possible moment with a contractor experientially
15 competent to analyze and study the existing water and wastewater
16 infrastructure, and complete the report mandated by this Section. Any
17 contract entered into pursuant to this Section shall *only* be awarded in full
18 compliance with the procurement laws and regulations of the government of
19 Guam.

20 **Section 16. PUC to Continue to Regulate Rates.** The
21 Public Utilities Commission (“PUC”) shall continue to have jurisdiction in
22 regulating and setting rates for *both* the Guam Waterworks Authority
23 (“GWA”) and the Guam Power Authority (“GPA”). Nothing in this Act shall

1 be construed as impairing the powers, duties or effectiveness of the PUC in
2 relation to GWA or GPA.

3 **Section 17. Repeal of GPC.** All the powers, duties, responsibilities
4 and jurisdiction of the former Guam Planning Council (“GPC”) are hereby
5 transferred to the Bureau of Statistics and Plans. All records, equipment,
6 documents, and otherwise any physical property in the possession of the GPC
7 shall be transferred to the custody of the Bureau of Statistics and Plans. Any
8 funds of any nature under the control of the GPC shall be transferred to the
9 control of the Bureau of Statistics and Plans.

10 **Section 18. DOA and GMTA Consolidation.**

11 **(a) Legislative Findings.** *I Liheslaturan Guåhan* finds that
12 in reality, the Guam Mass Transit Authority (“GMTA”) has outsourced
13 all of its duties, including the bus operations, bus washing and dispatch
14 services. As such, GMTA simply administers contracts. The function of
15 contract administration can easily be performed by an alternative
16 government agency.

17 **(b) GMTA Abolished.** The Guam Mass Transit Authority
18 (“GMTA”) is hereby abolished. Chapter 6 of Title 12 of the Guam Code
19 Annotated is hereby *repealed*. All the powers, duties, responsibilities
20 and jurisdiction of the former GMTA are hereby transferred to the
21 Department of Administration (“DOA”).

22 **Section 19.** Section 3101 of Article 1, Chapter 3 of Division 1 of
23 Title 5 of the Guam Code Annotated is hereby *repealed and reenacted* to read as
24 follows:

1 **"Section 3101. Department of Administration.** There is
2 within the Executive Branch of the government of Guam a Department
3 of Administration ("DOA"). The Director of DOA is the head of DOA.
4 The Director of DOA is appointed by *I Maga'lahaen Guåhan* with the
5 advice and consent of *I Liheslaturan Guåhan*.

6 DOA shall have the *exclusive* franchise for the furnishing of public
7 transportation within Guam and on its roads and highways. *Except* for
8 private parking facilities, and for parking facilities maintained and
9 operated by the A.B. Won Pat Guam International Airport Authority,
10 DOA shall have the *exclusive* franchise within the government of Guam
11 for the collection of fees for the furnishing of public parking within
12 Guam."

13 **Section 20. (a) Transfer of GMTA Personnel to DOA.**

14 All classified employees filling positions with the Guam Mass Transit
15 Authority ("GMTA") *prior* to August 1, 2001 shall be transferred to the
16 Department of Administration ("DOA"). The classified employees shall
17 be transferred with all duties, responsibilities and compensation intact,
18 and with no lapses in service to the government of Guam. The position
19 of GMTA general manager and assistant general manager are hereby
20 abolished.

21 The Director of DOA shall have the power to reorganize and
22 realign positions in conformance with the rules and regulations of the
23 Civil Service Commission ("CSC") and all other applicable laws of
24 Guam. Employees transferred from the former GMTA shall be entitled

1 to the same retirement, workmen's compensation and hospital
2 insurance benefits as those to which government of Guam employees
3 are entitled.

4 (b) No money shall be expended or transferred to pay for the
5 transfer or hiring of the GMTA director, general manager, deputy
6 director or assistant general manager.

7 (c) **Transfer of Duties.** *Except* as otherwise specifically
8 provided, DOA shall hereby assume all the powers, duties and
9 responsibilities of GMTA as set out in this Act, and any other section of
10 law. Any regulation or other action adopted, prescribed, taken or
11 performed by the former GMTA or by any of its officers in the
12 administration of a program, the performance of a power, duty or
13 responsibility, or the exercise of any function transferred by this Act
14 shall remain in effect and shall be deemed to be a regulation or action of
15 DOA or of any of its officers to whom the program, power, duty,
16 responsibility or function is transferred.

17 (d) **Transfer of Records and Equipment.** Upon the transfer of
18 functions as provided in this Act, DOA shall have possession and
19 control of all books, records, papers, maps, plans, documents, offices,
20 equipment, supplies, money, funds, appropriations, licenses, permits,
21 agreements, contracts, claims, judgments, land, and other property, real
22 or personal, connected with the administration of, or held for the benefit
23 or use of, the former GMTA.

1 **(e) Public Transportation Funds.** All revenue generated by
2 DOA resulting from the operation of Guam’s mass transit system,
3 including fares and fees collected from riders, shall be deposited into the
4 Public Transit Fund (“Fund”), which is hereby created. The funds shall
5 be used by DOA for the operations of the mass transit system. The
6 funds shall be audited annually by an independent certified public
7 accountant or by the Public Auditor.

8 **(f) Transportation Contracts.** Notwithstanding any other
9 provisions of law, all contracts to be entered into that deal with the
10 operations of the mass transit system shall be approved through *I*
11 *Liheslaturan Guåhan*.

12 **(g) Designation as State Agency.** DOA is hereby
13 designated as the “state agency” for purposes of receiving Federal
14 funding for mass transit operations.

15 **(h) Transport Care Attendants.** A Transport Care Attendant
16 shall be made available when services are required during transporting
17 individuals with disabilities, as defined hereafter in accordance with the
18 Americans with Disabilities Act (“ADA”).

19 The CSC shall establish the position descriptions, duties and
20 responsibilities, and compensation of such positions. The Transport
21 Care Attendant shall *only* provide services while stationed in the vehicle
22 while in motion, and may assist the driver with individuals with
23 disabilities when entering and exiting the vehicle, when needed. The
24 Transport Care Attendant shall be required to be certified in First Aid

1 and Cardio Pulmonary Resuscitation (“CPR”) and proficient in properly
2 assisting individuals with disabilities to maintain a safe environment in
3 the vehicle.

4 An individual with disabilities determined by GMTA to require a
5 Transport Care Attendant shall *not* be grounds for exclusion from use of
6 the transportation system. No individual with disabilities may be
7 excluded from the use of transportation services, *unless* there is clear
8 and convincing evidence that the individual is a direct threat to oneself
9 and others, even with the presence of a Transport Care Attendant.

10 GMTA shall conduct a fair hearing within five (5) working days
11 upon receipt of notice to the individual. Notice to the individual shall
12 be served within twenty-four (24) hours of the complaint. No service
13 may be withheld until the determination of the fair hearing has been
14 issued. The government contract for transportation of persons with
15 disabilities shall allow for an *increase* to cover the cost of the Transport
16 Care Attendant.

17 **Section 21. Creation of the Guam Transportation Commission.**

18 A new commission, called the Guam Transportation Commission (“GTC”), is
19 hereby formed. The GTC shall consist of five (5) directors appointed by *I*
20 *Maga’lahen Guåhan* with the advice and consent of *I Liheslaturan Guåhan*. *I*
21 *Maga’lahen Guåhan* will designate, from among the members of the Board thus
22 appointed, the president and vice-president of the Authority. *I Maga’lahen*
23 *Guåhan* shall select one (1) each: a person with disabilities who rides the
24 Paratransit System, a member of GSTAT, DISID, Guam Developmental

1 Disabilities Council and a member of the public to fill the positions on the
2 GTC.

3 The Directors and officers thus appointed and designated shall hold
4 office for terms of three (3) years, *unless* sooner removed by *I Maga'lahen*
5 *Guåhan*, and shall be paid at the rate of Fifty Dollars (\$50.00) per day, for each
6 day on which the Board meets; *provided*, however, that such compensation
7 shall *not* exceed One Hundred Dollars (\$100.00) per month. They may be
8 reimbursed for reasonable expenses incurred in carrying out their
9 responsibilities.

10 **Section 22. References to GMTA.** *Unless* otherwise provided in this
11 Act, any reference in any law to the Guam Mass Transit Authority ("GMTA")
12 shall hereafter mean and be read as the Department of Administration
13 ("DOA"), and all references therein to the Director or General Manager of
14 GMTA shall hereafter mean and be read as the Director of DOA. All
15 references in any contract, Executive Order, rule, regulation or document to
16 GMTA or Director, or General Manager of GMTA shall mean and be read as
17 DOA and Director of DOA, respectively. All references to GMTA or Director
18 or General Manager of GMTA in any contract, Executive Order, rule,
19 regulation or document dealing with the functions herein transferred shall
20 mean and be read as DOA and Director of DOA, respectively.

21 **Section 23. Transition Team Created.**

22 (a) **Transition Team.** There is hereby created a Transition
23 Team to help ensure a smooth conversion from the Guam Mass Transit

1 Authority ("GMTA") to the Department of Administration ("DOA").
2 The Transition Team shall include the following:

- 3 (1) the Director, or a designee of GMTA; *and*
- 4 (2) the Director, or a designee of DOA.

5 **(b) Authority.** The Transition Team shall have ninety (90)
6 days from the enactment of this Act to do the following:

- 7 (1) ensure the smooth transition of the operations of
8 GMTA to DOA;
- 9 (2) ensure that there is no lapse of mass transit services
10 provided by the government of Guam; *and*
- 11 (3) examine and recommend any other facts or data as
12 may be necessary to ensure the smooth transition from the
13 consolidation of GMTA and DOA.

14 **(c) Effective Date.** Sections 18-22 and Sections 24-25 of this
15 Act shall be effective ninety (90) days after the enactment of this Act.

16 **Section 24.** Section 26503(c) of Article 5, Chapter 26, Division 2 of
17 Title 11 of the Guam Code Annotated is hereby *repealed and reenacted* to read
18 as follows:

19 "(c) A portion of the revenues in the Public Transit Fund shall be
20 used for the operation of the mass transit system by the Department of
21 Administration."

22 **Section 25. Transfer of Appropriations and Other Funds.**

23 The Bureau of Budget and Management Research ("BBMR") may direct the
24 transfer of unexpended balances of appropriations and other funds available

1 for use in connection with any function affected by the reorganization
2 prescribed by this Act that the Director of BBMR determines to be necessary
3 to facilitate the reorganization, or for use in connection with the functions
4 affected by the reorganization; *provided*, that any unexpended balances of
5 appropriations and other funds so transferred shall be used *only* for purposes
6 that were authorized. All funds currently contained in Guam Mass Transit
7 Authority (“GMTA”) bank accounts, savings accounts and Time Certificates
8 of Deposits shall be transferred into the Public Transit Fund for DOA to use in
9 operating the mass transit system.

10 **Section 26. Consolidation of DOC and GEDA with the Bureau of**
11 **Statistics and Plans.**

12 (a) **Bureau of Statistics and Plans Established.** All references
13 to the Bureau of Planning in Article 2 of Chapter 1 of Title 5 of the Guam
14 Code Annotated, and elsewhere in Guam law shall be replaced by
15 Bureau of Statistics and Plans.

16 (b) Section 1209(i) is hereby *added* to Article 2, Chapter 1 of Title
17 5 of the Guam Code Annotated to read as follows:

18 “(i) **Statistics.** To conduct research and to disseminate
19 statistical findings relative to producing data needed for economic
20 and social planning on Guam.”

21 (c) **Abolition of Department of Commerce.** The Guam
22 Economic Development and Commerce Authority (“Authority”)
23 succeeds to, and is vested with, all the powers, duties, responsibilities
24 and jurisdiction of the former Department of Commerce (“DOC”).

1 **Section 27.** Section 3110 of Article 1, Chapter 3 of Title 5 of the
2 Guam Code Annotated is hereby *repealed*.

3 **Section 28.** Chapter 70 of Division 7 of Title 5 of the Guam Code
4 Annotated is hereby *repealed*.

5 **Section 29.** Section 50101 of Chapter 50, Division 2 of Title 12 of
6 the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

7 **"Section 50101. Guam Economic Development and Commerce**
8 **Authority.** There is hereby created a public corporation to be
9 known as the Guam Economic Development and Commerce Authority
10 ('Authority') with functions, powers and responsibilities as hereinafter
11 provided. Any reference in any law to the Guam Economic
12 Development Authority ('GEDA') shall mean and be read as the Guam
13 Economic Development and Commerce Authority, and all references
14 therein to the Administrator of GEDA shall mean and be read as the
15 Administrator of the Guam Economic Development and Commerce
16 Authority. All references in any contract, Executive Order, rule,
17 regulation or document to GEDA, or to the Administrator of GEDA,
18 shall mean and be read as the Guam Economic Development and
19 Commerce Authority, and the Administrator of the Guam Economic
20 Development and Commerce Authority, respectively.

21 All references to GEDA or to the Administrator of GEDA in any
22 contract, Executive Order, rule, regulation or document dealing with the
23 functions herein transferred shall mean and be read as the Guam
24 Economic Development and Commerce Authority and the

1 Administrator of the Guam Economic Development and Commerce
2 Authority, respectively.”

3 **Section 30.** Section 50103(n) is hereby *added* to Chapter 50,
4 Division 2 of Title 12 of the Guam Code Annotated to read as follows:

5 “(n) The Authority shall promote and encourage the expansion
6 and development of markets for the products of Guam.”

7 **Section 31.** Section 50103(o) is hereby *added* to Chapter 50,
8 Division 2 of Title 12 of the Guam Code Annotated to read as follows:

9 “(o) The Authority shall promote and encourage the location and
10 development of new businesses on Guam, as well as the retention and
11 expansion of existing businesses, with particular emphasis upon
12 encouraging the tourist and the large-scale fisheries industries.”

13 **Section 32.** Section 50103(p) is hereby *added* to Chapter 50,
14 Division 2 of Title 12 of the Guam Code Annotated to read as follows:

15 “(p) The Authority shall have authority over and supervise the
16 Chamorro Village (*I Sengsong Chamorro*).”

17 **Section 33.** Article 2 is hereby *added* to Chapter 50, Division 2 of
18 Title 12 of the Guam Code Annotated to read as follows:

19 **“Article 2.**

20 **Guam Product Seal.**

21 **Section 50201. Seal Created.**

22 **Section 50202. Administration.**

23 **Section 50203. Guam Product Seal Fund.**

24 **Section 50204. Responsibilities.**

25 **Section 50205. Definitions.**

- 1 **Section 50206. Eligibility.**
- 2 **Section 50207. Violations.**
- 3 **Section 50208. Fines.**
- 4 **Section 50209. Recovery of Merchandise.**
- 5 **Section 50210. Penalty.**
- 6 **Section 50211. Collection.**

7

8 **Section 50201. Seal Created.** There is created a Guam
9 Product Seal to identify products manufactured on Guam.

10 **Section 50202. Administration.** The Guam Economic
11 Development and Commerce Authority ('Authority') shall administer
12 the provisions of this Chapter and shall promulgate rules and
13 regulations, in accordance with the Administrative Adjudication Law,
14 to carry out the purposes of this Chapter.

15 **Section 50203. Guam Product Seal Fund.** There is established
16 a fund to be known as the Guam Product Seal Fund, which shall be
17 maintained separate and apart from any other funds of the government
18 of Guam. Independent records and accounts shall be maintained in
19 connection therewith. Funds of the Guam Product Seal Fund shall be
20 used *exclusively* for the administration and operations of the Guam
21 Product Seal Program. All funds collected from fees, charges or fines
22 levied pursuant to this Chapter shall be deposited into the Guam
23 Product Seal Fund.

24 **Section 50204. Responsibilities.** The Authority shall:

1 (a) develop, or have developed, a design for the Guam
2 Product Seal;

3 (b) assess the local value added in the production
4 processes of manufacturers applying for permission to place the
5 seal upon their products;

6 (c) issue permits for use of the seal to eligible applicants;

7 (d) ensure ongoing compliance with the eligibility
8 requirements by all manufacturers who have been issued permits;

9 (e) conduct field investigations of products bearing the
10 seal, *both* on its own initiative and in response to information and
11 complaints received from the public;

12 (f) levy fines on manufacturers, importers, distributors
13 and retailers found to be in violation of this Chapter;

14 (g) transmit information regarding the levy of fines to the
15 Department of Revenue and Taxation; *and*

16 (h) take appropriate steps to notify businesses about the
17 requirements of this Chapter.

18 **Section 50205. Definitions.** For purposes of this
19 Chapter:

20 (a) '*Value added*' shall be the difference between the
21 wholesale price of the product, *if* sold at wholesale, or the retail
22 price of the product, *if* sold directly by the manufacturer, and the
23 sum of both the total landed cost of all material components of the
24 product that have been brought into Guam and the total landed

1 cost of materials, *excluding* machinery used in the production
2 process that have been brought into Guam.

3 (b) '*Substantial transformation*' shall mean the conversion
4 of commodities into products of a different and distinguishable
5 commercial use or character.

6 **Section 50206. Eligibility.** The Guam Product Seal may be
7 used *only* on a product manufactured on Guam that results from a
8 substantial transformation of the materials used in the creation of the
9 product and for which a *minimum* of fifty percent (50%) of the value of
10 the product has been added on Guam. To obtain a permit to use the
11 seal, a manufacturer must apply to the Authority. A permit to use the
12 Guam Product Seal shall be effective for one (1) year.

13 **Section 50207. Violations.**

14 (a) It shall be unlawful for any business to place a Guam
15 Product Seal on a product *if* the business does *not* have a current
16 permit allowing the product to have such a seal.

17 (b) It shall be unlawful for any business establishment to
18 state or imply in an advertisement or display of any type,
19 including packaging, that a manufactured product is made on
20 Guam *if* the product does *not* have a Guam Product Seal on it.

21 (c) It shall be unlawful for any business establishment to
22 sell a product that has the word 'Guam' or 'Chamorro,' or a
23 derivation of such words on the product *if* such product was *not*

1 manufactured on Guam, *unless* the place where the product was
2 manufactured is clearly labeled on the product.

3 **Section 50208. Fines.** For each violation of Subsection

4 (a) of § 51107 of this Chapter, the Authority shall levy a fine against the
5 firm in an amount equal to or greater than Two Thousand Five
6 Hundred Dollars (\$2,500.00), but *not* to exceed Five Thousand Dollars
7 (\$5,000.00) per type of product. For each violation of §§ 51106(b) or (c)
8 of this Chapter, the Authority shall levy a fine against the firm in an
9 amount equal to or greater than Five Hundred Dollars (\$500.00), but *not*
10 to exceed Two Thousand Dollars (\$2,000.00) per type of product.
11 Separate fines shall be levied each separate time a business is found to
12 have violated § 51106 of this Chapter. Such fines shall be payable to the
13 Department of Revenue and Taxation and shall be credited to the
14 General Fund.

15 **Section 50209. Recovery of Merchandise.** In the case of any

16 violation of § 51106(a) of this Chapter, the Authority shall order the firm
17 to recover from wholesalers and retailers and to take off the market all
18 products sold with a Guam Product Seal for which the firm did *not* have
19 a permit when the seal was placed upon the product.

20 **Section 50210. Penalty.**

21 (a) The Department of Revenue and Taxation shall revoke
22 the business license of any firm *if*, after a hearing, it determines
23 that the firm:

1 (1) failed to pay a fine levied pursuant to § 51107 of
2 this Chapter within ninety (90) days *after* the fine was levied;
3 *or*

4 (2) failed to recover merchandise in accordance with
5 an order issued pursuant to § 51108 of this Chapter within
6 ninety (90) days after the order was issued.

7 (b) The Department of Revenue and Taxation shall *not*
8 renew the business license of any business *if* the business has *not*
9 paid a fine levied pursuant to this Chapter.

10 **Section 50211. Collection.** The Department of Revenue
11 and Taxation is responsible for the collection of all fines levied by the
12 Authority pursuant to § 51107 of this Chapter.”

13 **Section 34.** Article 3 is hereby *added* to Chapter 50, Division 2 of
14 Title 12 of the Guam Code Annotated to read as follows:

15 **“Article 3.**

16 **Public Market.**

17 **Section 50301. Purpose.**

18 **Section 50302. Public Market Revolving Fund.**

19
20 **Section 50301. Purpose.** The Guam Economic Development
21 and Commerce Authority shall maintain and operate under its control a
22 public market, or markets, for Guam products at such place or places as
23 the Administrator may deem proper. Any such market shall be
24 maintained and operated at all times in a sanitary and orderly manner,
25 beneficial to both producers and patrons alike. Producers and sellers

1 desiring to use space within such market to display or sell their produce
2 shall be levied a uniform fee based upon the amount of space used and
3 period of such use.

4 **Section 50302. Public Market Revolving Fund.**

5 (a) There is established a fund to be known as the '*Public*
6 *Market Revolving Fund,*' which shall be maintained separate and
7 apart from any other funds of the government of Guam.
8 Independent records and accounts shall be maintained in
9 connection therewith.

10 (b) Funds of the Public Market Revolving Fund shall be
11 used *exclusively* for the administration, operation and maintenance
12 of the Public Market.

13 (c) All funds collected from fees levied pursuant to §
14 51301 shall be deposited in the Public Market Revolving Fund."

15 **Section 35.** Section 1401 of Article 4, Chapter 1, Division 1 of Title
16 5 of the Guam Code Annotated is hereby *amended* to read as follows:

17 "**Section 1401. Economic Planning Council.** There is
18 within the Office of *I Maga'laha*n *Guåhan* an Economic Planning Council
19 to be comprised of nine (9) members. Of the nine (9) members, four (4)
20 members shall be selected by *I Maga'laha*n *Guåhan* from among those
21 who head the following agencies: the Department of Agriculture
22 ('DOA'), the Guam Economic Development and Commerce Authority,
23 the Guam Housing and Urban Renewal Authority ('GHURA'), the
24 Guam Housing Corporation ('GHC'), the Department of Labor ('DOL'),

1 the Agency for Human Resources Development ('AHRD'), the Bureau
2 of Budget and Management Research ('BBMR'), the Department of
3 Revenue and Taxation ('DRT'), the A. B. Won Pat Guam International
4 Airport Authority ('GIAA'), the Port Authority of Guam ('PAG'), the
5 Guam Community College ('GCC'), the University of Guam ('UOG'),
6 the Guam Advisory Council of Vocational Rehabilitation, the Bureau of
7 Statistics and Plans, and the Guam Visitors Bureau ('GVB').

8 In addition to the agency members, there shall be four (4)
9 members from the business community and community-at-large chosen
10 by *I Maga'lahaen Guåhan* with the advice and consent of *I Liheslaturan*
11 *Guåhan*. The ninth (9th) member of the Council shall be chosen by the
12 other eight (8) members. The non-agency members shall receive the
13 sum of Fifty Dollars (\$50.00) for each attendance at a meeting of the
14 Council, *not* to exceed One Hundred Dollars (\$100.00) per month."

15 **Section 36.** Section 76102 of Chapter 76, Division 2 of Title 12 of
16 the Guam Code Annotated is hereby *amended* to read as follows:

17 **"Section 76102. Board of Trustees.**

18 (a) All functions and powers of GTAF shall be vested in
19 and be exercised by and under the direction of a Board of Trustees
20 ('Board'), which is hereby created. The Board shall be composed
21 of eleven (11) voting members and four (4) *ex officio* members. The
22 Chairperson of the Board of Directors of the Authority shall
23 concurrently serve as Chairperson of the Board, whose voting
24 members shall be:

1 (1) the Director, or a designee of the Marine
2 Laboratory of the University of Guam ('UOG');

3 (2) the Mayor, or a designee of the Municipality of
4 Yona;

5 (3) the President, or a designee of the Guam Mayors'
6 Council;

7 (4) two (2) at-large from the community appointed
8 by *I Maga'lahaen Guåhan*;

9 (5) two (2) representatives from the Guam Chamber
10 of Commerce, selected by its Board of Directors;

11 (6) the Chairperson, or a designee of the Board of
12 Directors of the Guam Visitors Bureau ('GVB');

13 (7) the Chairperson, or a designee of the Board of
14 Directors of the Guam Hotel and Restaurant Association;
15 *and*

16 (8) the Director, or a designee of the Department of
17 Education ('DOE').

18 (b) Members selected by *I Maga'lahaen Guåhan* and the
19 Chamber of Commerce shall serve four (4) year terms. Non-
20 voting, *ex officio* members shall include the following:

21 (1) the Director, or a designee of the Guam
22 Environmental Protection Agency ('GEPA');

1 (2) a representative of the Department of
2 Agriculture's ('DOA's') Division of Aquatic and Wildlife
3 Resources, to be selected by the Director of DOA; *and*

4 (3) the Administrator, or a designee of the
5 Authority."

6 **Section 37.** Section 68605 of Article 6, Chapter 68, Division 2 of
7 Title 21 of the Guam Code Annotated is hereby *amended* to read as follows:

8 **"Section 68605. Task Force Membership.** The Director of the
9 Bureau of Statistics and Plans shall serve as the Chairperson of the Task
10 Force. In addition, the Task Force will include the Director of the
11 Department of Land Management ('DLM'), the Administrator of the
12 Guam Environmental Protection Agency ('GEPA'), the Administrator of
13 the Guam Economic Development and Commerce Authority, the
14 General Manager of Guam Visitors Bureau ('GVB'), all Mayors from the
15 Villages specified in § 68601, hereinabove, a representative of the
16 Chamber of Commerce and a member of the public at large to be chosen
17 by *I Maga'lahaen Guåhan*.

18 The Chamber of Commerce may, *however*, decline to participate in
19 this Task Force. Each Director or Administrator may appoint a
20 permanent representative from that person's office to attend meetings in
21 that person's stead; *provided*, however, that the Director or
22 Administrator shall bear ultimate responsibility for the actions of such
23 representative."

1 **Section 38.** Section 1209.1 is hereby *added* to Article 2, Chapter 1 of
2 Title 5 of the Guam Code Annotated to read as follows:

3 **"Section 1209.1. Additional Duties of the Bureau.** The Bureau
4 shall carry out the following duties in addition to the functions specified
5 in § 1209 of this Chapter:

6 (a) facilitate cooperation with the U.S. Bureau of the
7 Census in collecting, compiling, analyzing, interpreting and
8 disseminating information concerning demographics, agriculture,
9 housing, manufacturing, businesses and government of Guam in
10 such forms as to be most valuable to Guam's businesses and
11 industries, and of other places; and to act as the principal receiver,
12 depository and distributor of similar information provided by its
13 national and international counterparts;

14 (b) assume lead agency functions for the South Pacific
15 Commission and the Economic and Social Commission for Asia
16 and the Pacific;

17 (c) conduct the census under the auspices of the U.S.
18 Census Bureau;

19 (d) compile, collect, develop and publish quarterly
20 scientific indices and economic indicators, including, but *not*
21 limited to, economic growth, trade balances, exports and imports,
22 consumer prices and other information relating to economic
23 conditions;

1 (e) compile periodically a census of businesses and
2 industries on Guam, and analyze and publish this information in
3 such forms as to be most valuable to Guam's businesses and
4 industries; *and*

5 (f) in the event sufficient funds are *not* available to the
6 Bureau, to publish all of the material required by this Section; the
7 information gathered shall be published, *subject* to the following
8 priorities:

9 (i) consumer prices;

10 (ii) exports and imports;

11 (iii) trade balances; *and*

12 (iv) all other information deemed essential to be
13 published."

14 **Section 39.** Section 1209.2 is hereby *added* to Article 2, Chapter 1 of
15 Title 5 of the Guam Code Annotated to read as follows:

16 **"Section 1209.2. Information as Confidential.**

17 (a) The Director shall have the *sole* authority to approve
18 the contents of reports or data and the timing or release of
19 information by the Bureau.

20 (b) Neither the Director nor any other officer or employee
21 of the Authority, or the Office of *I Maga'lahaen Guåhan* may use the
22 information furnished under the provisions of this Article for any
23 purpose other than the statistical purposes for which it is
24 supplied, or make any publication whereby the data furnished by

1 any particular establishment or individual under this Article can
2 be identified.

3 (c) Whoever, being the owner, official, agent, person in
4 charge, or assistant person in charge, of any company, business,
5 institution, establishment, or organization of any nature
6 whatsoever, neglects or refuses, when requested by the Director or
7 other authorized officer or employee of the Bureau to answer
8 completely and correctly to the best of that person's knowledge all
9 questions pertinent to the duties of the Authority set forth in §
10 1209.1 of this Title, and relating to that person's company,
11 business, institution, establishment or other organization, or to
12 records or statistics in that person's official custody, contained in
13 any census or other schedule prepared and submitted to that
14 person under authority of this Article, shall be fined *not more than*
15 Five Hundred Dollars (\$500.00), or imprisoned *not more than* sixty
16 (60) days, or both; and *if* that person willfully gives a false answer
17 to any such question, that person shall be fined *not more than* One
18 Thousand Dollars (\$1,000.00), or imprisoned *not more than* one (1)
19 year, or both.

20 (d) Whoever, being an officer or an employee of the
21 Bureau, publishes or communicates, without the written authority
22 of the Director, any information coming into that person's
23 possession by reason of that person's employment under the
24 provisions of this Article shall be fined *not more than* One

1 Thousand Dollars (\$1,000.00), or imprisoned *not more than* one (1)
2 year, or both.”

3 **Section 40.** Section 16132 is hereby *added* to Chapter 16, Division 3
4 of Title 17 of the Guam Code Annotated to read as follows:

5 **“Section 16132. Designation of UOG as Lead Agency for**
6 **Aquaculture.** The University of Guam (“UOG”) is hereby designated
7 as the lead agency for the development of the aquaculture industry on
8 Guam; and as such, UOG shall have purview over all matters related to
9 the development of aquaculture on Guam.”

10 **Section 41. Transfer of Department of Commerce Personnel.**

11 All personnel of the Department of Commerce (“DOC”) who are
12 members of the classified service of the government of Guam, upon the
13 transfer of functions pursuant to this Act, shall be transferred as specified in
14 this Act with all duties, responsibilities and compensation intact, and with no
15 lapses in service to the government of Guam. The Administrator of the Guam
16 Economic Development and Commerce Authority, *subject* to the approval of
17 the Board of Directors, the Director of the Bureau of Statistics and Plans, and
18 the President of the University of Guam (“UOG”), in the interest of improved
19 departmental management, shall have the power to reorganize and realign
20 positions in conformance with the rules and regulations of the Civil Service
21 Commission (“CSC”) and all other applicable laws of Guam.

22 (a) All personnel identified in the Director’s Office, Economic
23 Research Center, and the Economic Development and Planning
24 Divisions on the date of enactment of this Act who are members of the

1 classified service of the government of Guam shall be transferred to the
2 Bureau of Statistics and Plans.

3 (b) All personnel within the Business and Overseas Affairs and
4 the Chamorro Village on the date of enactment of this Act who are
5 members of the classified service of the government of Guam shall be
6 transferred to the Guam Economic Development and Commerce
7 Authority.

8 (c) All personnel within the Guam Aquaculture Development
9 and Training Center on the date of enactment of this Act who are
10 members of the classified service of the government of Guam shall be
11 transferred to UOG.

12 **Section 42. Records and Equipment Transfer.** Upon the transfer of
13 functions as provided for in this Act, the Guam Economic Development and
14 Commerce Authority, Bureau of Statistics and Plans, and the University of
15 Guam ("UOG") shall have possession and control of all appropriate
16 Divisions' books, records, papers, maps, plans, documents, offices,
17 equipment, supplies, money, funds, appropriations, licenses, permits,
18 agreements, contracts, claims, judgments, land, and other property, real or
19 personal, connected with the administration of, or held for the benefit or use
20 of, the former Department of Commerce ("DOC") in accordance with this Act.

21 **Section 43. Transfer of Duties.** *Except* as otherwise specifically
22 provided, the Guam Economic Development and Commerce Authority,
23 Bureau of Statistics and Plans, and the University of Guam ("UOG") shall
24 hereby assume all the powers, duties and responsibilities of the Department

1 of Commerce ("DOC") as set out in this Act and any other relevant section of
2 law. Any regulation or other action adopted, prescribed, taken or performed
3 by the former DOC, or by any of its officers in the administration of a
4 program, the performance of a power, duty or responsibility, or the exercise
5 of any function transferred by this Act shall remain in effect and shall be
6 deemed to be a regulation or action of the appropriate department or agency,
7 or of any of its officers to whom the program, power, duty, responsibility or
8 function is transferred.

9 **Section 44. References to Commerce.** *Unless* otherwise provided for
10 in this Act, any reference in any law, contract, Executive Order, rule,
11 regulation or document to the Department of Commerce ("DOC"), or dealing
12 with the functions of the DOC shall hereafter mean and be read as the Guam
13 Economic Development and Commerce Authority, Bureau of Statistics and
14 Plans, or the University of Guam ("UOG"), as applicable and in accordance
15 with this Act. All references therein to the Director of DOC shall hereafter
16 mean and be read as the Administrator of the Guam Economic Development
17 and Commerce Authority, the Director of the Bureau of Statistics and Plans,
18 or the President of UOG, as applicable and in accordance with this Act.

19 **Section 45. Funds Transfer.** The Bureau of Budget and
20 Management Research ("BBMR"), as directed by this Act, shall direct the
21 transfer of unexpended balances of appropriations and other funds available
22 for use in connection with any function affected by the reorganization
23 prescribed by this Act that the Director of BBMR determines to be necessary
24 to facilitate the reorganization, or for use in connection with the functions

1 affected by the reorganization; *provided*, that any unexpended balances of
2 appropriations and other funds so transferred shall be used, as to
3 appropriations, *only* for purposes that were authorized by the appropriation,
4 and, as to other available funds, *only* for purposes authorized as of the
5 effective date of this Act.

6 **Section 46. Promulgation of Rules and Regulations.**

7 The Guam Economic Development and Commerce Authority Board of
8 Directors, the Bureau of Statistics and Plans and the University of Guam
9 (“UOG”) may make, alter, amend or repeal rules and regulations, pursuant to
10 the Administrative Adjudication Law, as required to carry out the purposes of
11 this Act. Nothing in this Act shall be deemed to invalidate the existing rules
12 and regulations of any agency affected by this Act, nor the requirement to
13 make, alter, amend or repeal rules and regulations, nor cause the
14 postponement of the implementation of this Act.

15 **Section 47. (a) Transition Team Created.** There is hereby
16 created a Transition Team to help ensure a smooth conversion from the
17 Department of Commerce (“DOC”) and the Guam Economic
18 Development Authority (“GEDA”) to the Guam Economic
19 Development and Commerce Authority, the University of Guam
20 (“UOG”) and the Bureau of Statistics and Plans. The Transition Team
21 shall include the following:

- 22 (1) the Director, or a designee of DOC;
- 23 (2) the Administrator, or a designee of GEDA;
- 24 (3) the President, or a designee of UOG; *and*

1 (4) the Director, or a designee of the Bureau of Statistics
2 and Plans.

3 (b) **Authority.** The Transition Team shall have ninety (90) days
4 from the enactment of this Act to do the following:

5 (1) ensure the smooth transition of the operations of DOC
6 and GEDA to the Guam Economic Development and Commerce
7 Authority, UOG and the Bureau of Statistics and Plans;

8 (2) ensure that there is no lapse of services formerly
9 provided by the DOC and GEDA; *and*

10 (3) examine and recommend any other facts, or data as
11 may be necessary to ensure the smooth transition from the
12 consolidation of DOC and GEDA.

13 (c) **Effective Date.** Sections 26-46 of this Act shall be effective
14 ninety (90) days *after* the enactment of this Act.

15 **Section 48. Revocation of GOICC.** Any Executive
16 Order establishing the Guam Occupational Information Coordinating
17 Committee ("GOICC") is hereby declared void, a nullity and without effect.

18 **Section 49. Revocation of SCOVE.** *I Liheslaturan Guåhan*
19 recognizes the importance of offering vocational education programs of study
20 in the school system. Any Executive Order establishing the State Council on
21 Vocational Education ("SCOVE") is hereby declared void, a nullity and
22 without effect. Functions required of SCOVE shall be met by the Guam
23 Community College ("GCC") Board of Trustees.

1 **Section 50. Repeal of Guam Health Planning and Development**
2 **Agency as a Division of DISID.** Sections 1 through 8 of Public Law
3 Number 24-92 are hereby *repealed*. The Guam Health Planning and
4 Development Agency is hereby abolished, as a Division of the Department of
5 Integrated Services for Individuals with Disabilities (“DISID”), or as a
6 separate agency. Any previous Executive Order promulgated to establish the
7 Guam Health Planning and Development Agency is hereby rendered a nullity
8 and without force. Any classified employees displaced as a result of this
9 action shall be transferred to the Bureau of Statistics and Plans.

10 **Section 51.** Any board, commission, council or oversight body that has
11 *not* met in the last twelve (12) months, with the *exception* of bodies relating to
12 the Department of Education (“DOE”), the Guam Community College
13 (“GCC”), the University of Guam (“UOG”) and the Guam Memorial Hospital
14 Authority (“GMHA”), shall hereby be abolished.

15 Any powers vested in said boards, commissions or councils shall revert
16 to the previous authority empowered with handling the respective mandate.
17 In the event a body was created within a governmental entity to generally
18 manage the affairs of matters relating to said entity, that government entity
19 shall assume the powers given to any body abolished by this Section.

20 Should *I Maga’lahen Guåhan* identify the continued need for such a
21 board, commission, council or oversight body, *I Maga’lahen Guåhan* shall
22 provide *I Liheslaturan Guåhan* within thirty (30) days of the enactment of this
23 Act justification for the reformulation of such body and a list of appropriate
24 mandates.

1 **Section 52. Transfer of Animal Quarantine Program and the Animal**
2 **Control Program from DPH&SS to DOA.** (a) All references to
3 *“Department of Public Health and Social Services”* in Articles 1 and 3 of
4 Chapter 34 of Title 10 of the Guam Code Annotated shall be changed to
5 read *“Department of Agriculture,”* and all references to the *“Director of the*
6 *Department of Public Health and Social Services”* shall be changed to read
7 *“Director of the Department of Agriculture.”*

8 (b) All positions of Animal Control Officers and Animal
9 Caretakers are transferred from the Department of Public Health and
10 Social Services (“DPH&SS”) to the Department of Agriculture (“DOA”),
11 along with the budgetary funding for those positions.

12 (c) The property, equipment, supplies and operations of the
13 Yigo Animal Shelter are transferred from DPH&SS to DOA.

14 (d) Any Memorandum of Understanding between DPH&SS and
15 the Department of Corrections (“DOC”) relating to the picking up of
16 dead animals shall be amended to be between DOA and DOC. Any
17 Memorandum of Understanding between DPH&SS and Guam Animals
18 In Need (“GAIN”) relating to operating the Yigo Animal Shelter and
19 adoption program shall be amended to be between DOA and GAIN.

20 (e) All responsibility and statutory authority for the clearance of
21 imported animals at ports of entry on Guam shall be transferred from
22 the Customs and Quarantine Agency to DOA’s Plant Protection and
23 Quarantine Division.

1 (f) The effective date of the provisions of this Section shall be
2 ninety (90) days *after* the effective date of this Act.

3 **Section 53.** Section 1909.1 is hereby *added* to Chapter 19 of Title 1
4 of the Guam Code Annotated to read as follows:

5 **"Section 1909.1. Confidentiality of Investigations.**

6 (a) *Except* pursuant to a subpoena issued by a court of
7 competent jurisdiction for good cause shown, or the powers
8 afforded *I Liheslaturan Guåhan* under Legislative Investigative
9 Powers, Chapter 3 of Title 2 of the Guam Code Annotated, the
10 Public Auditor shall *not* be required to disclose any working
11 papers. For the purposes of this Section, '*working papers*' means
12 the notes, internal memoranda and records of work performed by
13 the Public Auditor on audits and other investigations made
14 pursuant to this Chapter, including any and all project evidence
15 collected and developed by the Public Auditor.

16 (b) Information received by the Public Auditor alleging
17 criminal activity or alleging wrongful use of government funds or
18 property is privileged. Neither the Public Auditor or any person
19 employed by the Public Auditor shall disclose the identity of the
20 person providing that information, *unless* such failure to disclose
21 infringes upon the Constitutional rights of the accused. Nor shall
22 the Public Auditor, nor any person employed by the Public
23 Auditor, be required to produce any records, documentary
24 evidence, opinions or decisions relative to such privileged

1 communication or information (i) in connection with any criminal
2 case, criminal proceeding or any administrative hearing of
3 whatever nature, *or* (ii) by way of any discovery procedure.

4 (c) Any person arrested or charged with a criminal
5 offense may petition the Court for an *in camera* inspection of the
6 records of a privileged communication or information received by
7 the Public Auditor, and which is material to the criminal charge
8 brought against the person. The petition shall allege facts
9 showing that such records would: (i) provide evidence favorable
10 to the accused; (ii) be relative to the issue of guilt; *and* (iii) cause a
11 deprivation of a constitutional right *if* such communication or
12 information is *not* disclosed. *If* on the basis of such criteria, the
13 Court determines that the person is entitled to all or any part of
14 such records, it may order its production and disclosure to the
15 degree necessary, protecting to the extent possible, the identity of
16 the person who has informed the Public Auditor of such matter.

17 (d) Disclosure of a privileged communication or
18 privileged information in violation of this Section shall be a felony
19 of the third degree."

20 **Section 54.** Section 1921 is hereby *added* to Chapter 19 of Title 1 of
21 the Guam Code Annotated to read as follows:

22 **"Section 1921. Supervision of Audits in Autonomous**
23 **Agencies and Grantees, Manpower Audits.** The Public Auditor
24 *is specifically* authorized to supervise audits, or at the Public Auditor's

1 **Section 55. Severability.** *If* any provision of this Act or its
2 application to any person or circumstance is found to be invalid or contrary to
3 law, such invalidity shall *not* affect other provisions or applications of this Act
4 which can be given effect without the invalid provisions or application, and to
5 this end the provisions of this Act are severable.

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

Bill No. 241 (LS)

Introduced by:

Committee on Rules, General
Governmental Operations,
Reorganization and Reform,
and Federal, Foreign and
General Affairs

~~Mark Forbes~~

J. F. Ada

T. C. Ada

F. B. Aguon, Jr.

J. M.S. Brown

E. B. Calvo

F. P. Camacho

M. C. Charfauros

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 CREATE THE CONSOLIDATED
COMMISSION ON UTILITIES, TO REORGANIZE
AND CONSOLIDATE SEVERAL GOVERNMENT OF
GUAM AGENCIES AND FOR OTHER PURPOSES.**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Establishment of Consolidated Commission on Utilities.**

2 Section 14103 of Article 1, Chapter 14 of Title 12 of the Guam Code Annotated
3 is hereby *repealed and reenacted* to read as follows:

4 **“Section 14103. Establishment.** There is established, as a non-
5 stock, non-profit corporation on Guam, a Guam Waterworks Authority.
6 All employees of said Authority shall be eligible for all insurance,
7 retirement, workmen’s compensation and other benefits as extended to
8 employees of the government of Guam, and shall be employees of the
9 government of Guam for the purposes of the application of all civil
10 service laws and personnel rules and regulations as apply to
11 government of Guam employees, inclusive of all scales, tables and
12 schedules for compensation.

13 With respect to compensation, this Section shall *not* apply to the
14 compensation of the General Manager, a controller or a chief financial
15 officer; such compensation shall be set by the Board. The corporation as
16 established herein belongs fully and exclusively to the People of Guam.
17 All real property and infrastructure belonging to the Authority shall
18 remain public property. This Act shall serve as the Corporation’s
19 charter. All references herein to the ‘*Guam Waterworks Authority,*’ or the
20 ‘*Authority*’ shall be understood as referring to this Corporation
21 established herein.”

22 **Section 2.** Section 8102 of Article 1, Chapter 8 of Title 12 of the
23 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

1 **“Section 8102. Establishment.** There is established, as a non-
2 stock, non-profit corporation on Guam, a Guam Power Authority. All
3 employees of said Authority shall be eligible for all insurance,
4 retirement, workmen’s compensation and other benefits as extended to
5 employees of the government of Guam, and shall be employees of the
6 government of Guam for the purposes of the application of all civil
7 service laws and personnel rules and regulations as apply to
8 government of Guam employees, inclusive of all scales, tables and
9 schedules for compensation.

10 This provision with respect to compensation shall *not* apply to the
11 compensation of the General Manager, a controller or a chief financial
12 officer; such compensation shall be set by the Board. The corporation as
13 established herein belongs fully and exclusively to the People of Guam.
14 All real property and infrastructure belonging to the Authority shall
15 remain public property. This Act shall serve as the Corporation’s
16 charter. All references herein to the ‘*Guam Power Authority,*’ or to the
17 ‘*Authority*’ shall be understood as referring to this Corporation
18 established herein.”

19 **Section 3.** Section 8107 of Article 1, Chapter 8 of Title 12 of the
20 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

21 **“Section 8107. Board of Directors.** All powers vested in the
22 Authority, *except* as provided herein, shall be exercised by the
23 Consolidated Commission on Utilities, as established in Chapter 79 of
24 Title 12 of the Guam Code Annotated. All references to ‘*Board*’ in this

1 Chapter shall be understood as referring to the Consolidated
2 Commission on Utilities. This Section does *not* relieve the Authority of
3 any of its existing rights, duties or obligations. Such duties, rights and
4 obligations shall continue uninterrupted, inclusive of, but *not* limited to
5 any financial obligations of the Authority, including debt service on and
6 conditions imposed by bonds.”

7 **Section 4.** Section 14105 of Article 1, Chapter 14 of Title 12 of the Guam
8 Code Annotated is hereby *repealed and reenacted* to read as follows:

9 “**Section 14105. Board of Directors.** All powers vested in the
10 Authority, *except* as provided herein, shall be exercised by the
11 Consolidated Commission on Utilities, as established in Chapter 7, of
12 Title 12 of the Guam Code Annotated. All references to ‘*the Board*’ in
13 this Chapter shall be understood as referring to the Consolidated
14 Commission on Utilities. This Section does *not* relieve the Authority of
15 any of its existing rights, duties or obligations. Such duties, rights and
16 obligations shall continue uninterrupted, inclusive of but *not* limited to,
17 any financial obligations of the Authority, including debt service on and
18 conditions imposed by bonds.”

19 **Section 5.** Chapter 79 is hereby *added* to Division 2 of Title 12 of the
20 Guam Code Annotated to read as follows:

21 **“CHAPTER 79.**

22 **Consolidated Commission on Utilities.**

23 **Section 79100. Creation of Commission.**

24 **Section 79101. Commissioners.**

25 **Section 79102. Non-partisan Office.**

| | | |
|---|-----------------------|--------------------------------|
| 1 | Section 79103. | Terms of Office. |
| 2 | Section 79104. | Reporting Requirements. |
| 3 | Section 79105. | Vacancies. |
| 4 | Section 79106. | Compensation. |

5
6 **Section 79100. Creation of Commission.** There is established
7 an elected Consolidated Commission on Utilities whose purpose is to
8 exercise powers vested in them by the laws establishing the ("GPA") and
9 the ("GWA"). The Consolidated Commission on Utilities, hereinafter
10 referred to as '*Commission*' shall be elected by the registered voters of
11 Guam.

12 **Section 79101. Commissioners.** The Commission shall be
13 comprised of five (5) Commissioners elected at large by the voters of
14 Guam in a General Election. A Commissioner shall be a registered voter
15 of Guam, of a *minimum* of twenty-five (25) years of age and shall have
16 been a resident of Guam for *at least* five (5) years *prior* to the date of the
17 Commissioner's election. A person may *not* simultaneously serve as a
18 Commissioner and an employee of the government of Guam.

19 Persons retired from the government of Guam may serve as
20 Commission members. At their first official meeting, the
21 Commissioners shall elect from among their members a chairperson,
22 who shall preside over meetings of the Commission. A majority of the
23 membership shall constitute a quorum. A majority affirmative vote of
24 the members of the Commission shall affirm a decision of the
25 Commission.

1 **Section 79102. Non-partisan Office.** The Office of
2 Commissioner is a non-partisan office. Candidates for the Office of
3 Commissioner shall *not* identify themselves as members of any political
4 party on Guam for the purpose of their campaign, nor shall they receive
5 any endorsement or material support from any political party on Guam
6 during the course of their campaigns. No Primary Election is required
7 for candidates for this Office. No nominating petitions shall be required
8 of any candidate for this Office. Any qualified person applying to the
9 Guam Election Commission, or its successor, for candidacy to this Office
10 shall be placed on the General Election ballot.

11 **Section 79103. Terms of Office.** Commissioners shall be
12 elected to serve a term of two (2) years. The first election for the
13 members of the Commission shall occur during the General Election in
14 November, 2002.

15 **Section 79104. Reporting Requirements.** Commissioners and
16 candidates for the Office of Commissioner shall be *subject* to the same
17 reporting requirements pertaining to their campaigns and to their
18 personal finances as apply to candidates and members of *I Liheslaturan*
19 *Guåhan*.

20 **Section 79105. Vacancies.** A permanent vacancy in the
21 Office of a Commissioner shall result in a Special Election to fill that
22 vacancy, to be held on the date of the next General Election following
23 the date that the permanent vacancy occurred, or at a Special Election
24 called by *I Liheslaturan Guåhan*. The person elected to fill a permanent

1 vacancy shall serve for the balance of the term of the member whose
2 position is being filled. Until the vacancy is filled by the Special
3 Election, a majority of the remaining membership shall constitute a
4 quorum, and a majority affirmative vote of the remaining members of
5 the Commission shall affirm a decision of the Commission.

6 **Section 79106. Compensation.** Commissioners shall be
7 compensated at the rate of One Thousand Dollars (\$1,000.00) per month
8 for their services. All funds required for the operation of the
9 Commission shall be obtained by subscription from the Authorities
10 administered by the Commission, pursuant to such formula as the
11 Commission shall devise. Commissioners shall *not* be eligible for
12 government of Guam retirement or insurance benefits, or other benefits
13 associated with government of Guam employment. Commissioners
14 who are government of Guam retirees may serve on the Commission
15 without giving up their retirement benefits.”

16 **Section 6.** Section 14106(a) of Article 1, Chapter 14 of Title 12 of
17 the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

18 “(a) The Board shall appoint a general manager who shall be its
19 chief executive officer and shall serve at its pleasure. The general
20 manager shall, at a *minimum*, possess the following qualifications:

21 (1) A combined *minimum* of ten (10) years of
22 documented experience successfully managing a public or
23 private utility, or business activity similar to or greater in
24 scope and size to the Authority; and either:

1 (i) graduation from an accredited institution
2 of higher education with a bachelor's degree in
3 business or public sector management or closely
4 related field or discipline, *or*

5 (ii) graduation from an accredited institution
6 of higher education with a bachelor's degree in
7 engineering or engineering technology.

8 The Board shall fix the general manager's compensation,
9 notwithstanding any other provision of law. The general manager
10 shall have full charge and control of the construction of the works
11 of the Authority and their maintenance and operation, and also of
12 the administration of the business affairs of the Authority.

13 The Board may contract with a corporation to perform any
14 or all of the duties, and to exercise any or all of the powers of the
15 general manager as provided in this Section, and the general
16 manager, *subject* to the approval of the Board, may contract with a
17 corporation to perform some of the duties or to render expert and
18 technical assistance in the operation of the Authority. Such a
19 management contract shall be for *no longer than* three (3) years
20 duration. A corporation contracted pursuant to this Section must
21 have a *minimum* of seven (7) years experience in the operation of a
22 water or wastewater utility of similar or greater scope than the
23 Authority."

1 **Section 7.** Section 14108 of Article 1, Chapter 14 of Title 12 of the
2 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

3 **“Section 14108. Chief Financial Officer.** The Board
4 shall appoint a chief financial officer who shall serve at its pleasure. The
5 chief financial officer shall be a Certified Public Accountant.

6 The Board shall fix the chief financial officer’s compensation. The
7 chief financial officer shall have full charge and control of the fiscal,
8 business and accounting operations of the Authority, *subject* to the
9 supervision of the Board.”

10 **Section 8.** Section 8108(a) of Article 1, Chapter 8 of Title 12 of the
11 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

12 “(a) The Board shall appoint a general manager who shall be its
13 chief executive officer and shall serve at its pleasure. The general
14 manager shall, at a *minimum*, possess the following qualifications:

15 (1) a combined *minimum* of ten (10) years of documented
16 experience successfully managing a public or private utility or
17 business activity similar, or greater, in scope and size to the
18 Authority, and *either*:

19 (i) graduate from an accredited institution of higher
20 education with a bachelor’s degree in business or public
21 sector management, or closely related field or discipline, *or*

22 (ii) graduate from an accredited institution of higher
23 learning with a bachelor’s degree in engineering or
24 engineering technology.

1 The Board shall fix the general manager's compensation,
2 notwithstanding any other provision of law. The general manager shall
3 have full charge and control of the construction of the works of the
4 Authority and their maintenance and operation, and also of the
5 administration of the business affairs of the Authority.

6 The Board may contract with a corporation to perform any or all
7 of the duties, and to exercise any or all of the powers of the general
8 manager as provided in this Section; and the general manager, *subject* to
9 the approval of the Board, may contract with a corporation to perform
10 some of the duties, or to render expert and technical assistance, in the
11 operation of the Authority. Such a management contract shall be for *no*
12 *longer than* three (3) years duration. A corporation contracted pursuant
13 to this Section must have a *minimum* of seven (7) years experience in the
14 operation of an electrical power utility of similar, or greater, scope than
15 the Authority."

16 **Section 9.** Section 8110 of Article 1, Chapter 8 of Title 12 of the
17 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

18 **"Section 8110. Chief Financial Officer.** The Board
19 shall appoint a chief financial officer who shall serve at its pleasure. The
20 chief financial officer shall be a Certified Public Accountant and should
21 have Federal Energy Regulatory Commission ('FERC') knowledge and
22 experience.

23 The Board shall fix the chief financial officer's compensation. The
24 chief financial officer shall have full charge and control of the fiscal,

1 business and accounting operations of the Authority, *subject* to the
2 supervision of the Board.”

3 **Section 10.** Section 14104.1 is hereby *added* to Article 1, Chapter 14
4 of Title 12 of the Guam Code Annotated to read as follows:

5 “**Section 14104.1. Contractual Restrictions.** Any contract by the
6 Authority to contract maintenance services relative to sewage pumps,
7 booster pumps, and all pumps and other facilities directly associated
8 with water wells shall be *subject* to the following provisions:

9 (a) any procurement of service or goods, shall be *entirely*
10 subject to the Procurement Laws of Guam, and all applicable rules
11 and regulations;

12 (b) all successful bidders must have a *minimum* of three (3)
13 years of demonstrated expertise in the maintenance of electro-
14 mechanical pump devices; *and*

15 (c) no contract for service awarded shall be for a duration
16 of *more than* two (2) years, and must include provisions for
17 periodic and timely inspections of all facilities whose maintenance
18 is contracted, with provisions for the revocation of contracts,
19 without penalty to the Authority, for any breach of contract or
20 failure to provide adequate service, as contracted.

21 No other contract, beyond the maintenance contracts specifically
22 detailed in this Section, may be entered into by the Authority for a
23 duration in excess of one (1) year, *except* as permitted under the terms of

1 the build, operate and transfer program ("BOT") *specifically* authorized in
2 Guam law or as otherwise permitted herein."

3 **Section 11.** Section 8109 of Article 1, Chapter 8 of Title 12 of the
4 Guam Code Annotated is hereby *repealed*.

5 **Section 12.** Section 14107 of Article 1, Chapter 14 of Title 12 of the
6 Guam Code Annotated is hereby *repealed*.

7 **Section 13. Transition.** The appointed Boards of Directors
8 for the Guam Waterworks Authority ("GWA") and the Guam Power
9 Authority ("GPA") shall continue to exercise authority over their respective
10 Authorities *until* January 1, 2003 at which time the elected Consolidated
11 Utilities Commission established by this Act shall take office. At such time
12 the appointed Boards of Directors for GWA and GPA shall cease to exist.

13 The qualifications for the respective General Managers and Chief
14 Financial Officers of the Authorities detailed herein are effective upon the
15 date of enactment of this Act, *except* that the incumbent General Managers
16 and Chief Financial Officers may continue to perform their duties *until* their
17 successors, *if any* are required, are appointed; *provided*, that *if* qualified
18 successors have *not* yet been appointed by January 1, 2003, the Consolidated
19 Utilities Commission must appoint new General Managers and Chief
20 Financial Officers for the respective Authorities within thirty (30) days thereof
21 *if* the incumbent General Managers and Chief Financial Officers do *not* meet
22 their respective qualifications detailed in this Act. The contractual restrictions
23 detailed herein in § 10 of this Act are effective upon the date of enactment of
24 this Act.

1 **Section 14. Liberal Interpretation.** Should any Section of this
2 Act be seen as conflicting with any portion of the enabling laws establishing
3 the Guam Power Authority (“GPA”) or the Guam Waterworks Authority
4 (“GWA”) that are *not* amended by this Act, or any law of Guam previously
5 enacted, the conflict is to be interpreted in favor of this Act.

6 **Section 15. As-built Requirement.** The Guam
7 Waterworks Authority (“GWA”) shall submit to *I Liheslaturan Guåhan* within
8 sixty (60) days of the effective date of this Act, a report detailing the location
9 and working condition of every portion of the water and wastewater
10 infrastructure under the purview of the Authority, including, but *not* limited
11 to, all sewage lines, sewage treatment plants, sewage pumps and stations, all
12 water lines, booster pumps, wells, reservoirs and all related facilities.

13 *If* the Authority is unable to comply with this request, the Authority
14 shall contract at the soonest possible moment with a contractor experientially
15 competent to analyze and study the existing water and wastewater
16 infrastructure, and complete the report mandated by this Section. Any
17 contract entered into pursuant to this Section shall *only* be awarded in full
18 compliance with the procurement laws and regulations of the government of
19 Guam.

20 **Section 16. PUC to Continue to Regulate Rates.** The
21 Public Utilities Commission (“PUC”) shall continue to have jurisdiction in
22 regulating and setting rates for *both* the Guam Waterworks Authority
23 (“GWA”) and the Guam Power Authority (“GPA”). Nothing in this Act shall

1 be construed as impairing the powers, duties or effectiveness of the PUC in
2 relation to GWA or GPA.

3 **Section 17. Repeal of GPC.** All the powers, duties, responsibilities
4 and jurisdiction of the former Guam Planning Council (“GPC”) are hereby
5 transferred to the Bureau of Statistics and Plans. All records, equipment,
6 documents, and otherwise any physical property in the possession of the GPC
7 shall be transferred to the custody of the Bureau of Statistics and Plans. Any
8 funds of any nature under the control of the GPC shall be transferred to the
9 control of the Bureau of Statistics and Plans.

10 **Section 18. DOA and GMTA Consolidation.**

11 **(a) Legislative Findings.** *I Liheslaturan Guåhan* finds that
12 in reality, the Guam Mass Transit Authority (“GMTA”) has outsourced
13 all of its duties, including the bus operations, bus washing and dispatch
14 services. As such, GMTA simply administers contracts. The function of
15 contract administration can easily be performed by an alternative
16 government agency.

17 **(b) GMTA Abolished.** The Guam Mass Transit Authority
18 (“GMTA”) is hereby abolished. Chapter 6 of Title 12 of the Guam Code
19 Annotated is hereby *repealed*. All the powers, duties, responsibilities
20 and jurisdiction of the former GMTA are hereby transferred to the
21 Department of Administration (“DOA”).

22 **Section 19.** Section 3101 of Article 1, Chapter 3 of Division 1 of
23 Title 5 of the Guam Code Annotated is hereby *repealed and reenacted* to read as
24 follows:

1 **“Section 3101. Department of Administration.** There is
2 within the Executive Branch of the government of Guam a Department
3 of Administration (“DOA”). The Director of DOA is the head of DOA.
4 The Director of DOA is appointed by *I Maga’lahen Guåhan* with the
5 advice and consent of *I Liheslaturan Guåhan*.

6 DOA shall have the *exclusive* franchise for the furnishing of public
7 transportation within Guam and on its roads and highways. *Except* for
8 private parking facilities, and for parking facilities maintained and
9 operated by the A.B. Won Pat Guam International Airport Authority,
10 DOA shall have the *exclusive* franchise within the government of Guam
11 for the collection of fees for the furnishing of public parking within
12 Guam.”

13 **Section 20. (a) Transfer of GMTA Personnel to DOA.**

14 All classified employees filling positions with the Guam Mass Transit
15 Authority (“GMTA”) *prior* to August 1, 2001 shall be transferred to the
16 Department of Administration (“DOA”). The classified employees shall
17 be transferred with all duties, responsibilities and compensation intact,
18 and with no lapses in service to the government of Guam. The position
19 of GMTA general manager and assistant general manager are hereby
20 abolished.

21 The Director of DOA shall have the power to reorganize and
22 realign positions in conformance with the rules and regulations of the
23 Civil Service Commission (“CSC”) and all other applicable laws of
24 Guam. Employees transferred from the former GMTA shall be entitled

1 to the same retirement, workmen's compensation and hospital
2 insurance benefits as those to which government of Guam employees
3 are entitled.

4 (b) No money shall be expended or transferred to pay for the
5 transfer or hiring of the GMTA director, general manager, deputy
6 director or assistant general manager.

7 (c) **Transfer of Duties.** *Except* as otherwise specifically
8 provided, DOA shall hereby assume all the powers, duties and
9 responsibilities of GMTA as set out in this Act, and any other section of
10 law. Any regulation or other action adopted, prescribed, taken or
11 performed by the former GMTA or by any of its officers in the
12 administration of a program, the performance of a power, duty or
13 responsibility, or the exercise of any function transferred by this Act
14 shall remain in effect and shall be deemed to be a regulation or action of
15 DOA or of any of its officers to whom the program, power, duty,
16 responsibility or function is transferred.

17 (d) **Transfer of Records and Equipment.** Upon the transfer of
18 functions as provided in this Act, DOA shall have possession and
19 control of all books, records, papers, maps, plans, documents, offices,
20 equipment, supplies, money, funds, appropriations, licenses, permits,
21 agreements, contracts, claims, judgments, land, and other property, real
22 or personal, connected with the administration of, or held for the benefit
23 or use of, the former GMTA.

1 **(e) Public Transportation Funds.** All revenue generated by
2 DOA resulting from the operation of Guam’s mass transit system,
3 including fares and fees collected from riders, shall be deposited into the
4 Public Transit Fund (“Fund”), which is hereby created. The funds shall
5 be used by DOA for the operations of the mass transit system. The
6 funds shall be audited annually by an independent certified public
7 accountant or by the Public Auditor.

8 **(f) Transportation Contracts.** Notwithstanding any other
9 provisions of law, all contracts to be entered into that deal with the
10 operations of the mass transit system shall be approved through *I*
11 *Liheslaturan Guåhan*.

12 **(g) Designation as State Agency.** DOA is hereby
13 designated as the “state agency” for purposes of receiving Federal
14 funding for mass transit operations.

15 **(h) Transport Care Attendants.** A Transport Care Attendant
16 shall be made available when services are required during transporting
17 individuals with disabilities, as defined hereafter in accordance with the
18 Americans with Disabilities Act (“ADA”).

19 The CSC shall establish the position descriptions, duties and
20 responsibilities, and compensation of such positions. The Transport
21 Care Attendant shall *only* provide services while stationed in the vehicle
22 while in motion, and may assist the driver with individuals with
23 disabilities when entering and exiting the vehicle, when needed. The
24 Transport Care Attendant shall be required to be certified in First Aid

1 and Cardio Pulmonary Resuscitation ("CPR") and proficient in properly
2 assisting individuals with disabilities to maintain a safe environment in
3 the vehicle.

4 An individual with disabilities determined by GMTA to require a
5 Transport Care Attendant shall *not* be grounds for exclusion from use of
6 the transportation system. No individual with disabilities may be
7 excluded from the use of transportation services, *unless* there is clear
8 and convincing evidence that the individual is a direct threat to oneself
9 and others, even with the presence of a Transport Care Attendant.

10 GMTA shall conduct a fair hearing within five (5) working days
11 upon receipt of notice to the individual. Notice to the individual shall
12 be served within twenty-four (24) hours of the complaint. No service
13 may be withheld until the determination of the fair hearing has been
14 issued. The government contract for transportation of persons with
15 disabilities shall allow for an *increase* to cover the cost of the Transport
16 Care Attendant.

17 **Section 21. Creation of the Guam Transportation Commission.**

18 A new commission, called the Guam Transportation Commission ("GTC"), is
19 hereby formed. The GTC shall consist of five (5) directors appointed by *I*
20 *Maga'lahaen Guåhan* with the advice and consent of *I Liheslaturan Guåhan*. *I*
21 *Maga'lahaen Guåhan* will designate, from among the members of the Board thus
22 appointed, the president and vice-president of the Authority. *I Maga'lahaen*
23 *Guåhan* shall select one (1) each: a person with disabilities who rides the
24 Paratransit System, a member of GSTAT, DISID, Guam Developmental

1 Disabilities Council and a member of the public to fill the positions on the
2 GTC.

3 The Directors and officers thus appointed and designated shall hold
4 office for terms of three (3) years, *unless* sooner removed by *I Maga'lahen*
5 *Guåhan*, and shall be paid at the rate of Fifty Dollars (\$50.00) per day, for each
6 day on which the Board meets; *provided*, however, that such compensation
7 shall *not* exceed One Hundred Dollars (\$100.00) per month. They may be
8 reimbursed for reasonable expenses incurred in carrying out their
9 responsibilities.

10 **Section 22. References to GMTA.** *Unless* otherwise provided in this
11 Act, any reference in any law to the Guam Mass Transit Authority ("GMTA")
12 shall hereafter mean and be read as the Department of Administration
13 ("DOA"), and all references therein to the Director or General Manager of
14 GMTA shall hereafter mean and be read as the Director of DOA. All
15 references in any contract, Executive Order, rule, regulation or document to
16 GMTA or Director, or General Manager of GMTA shall mean and be read as
17 DOA and Director of DOA, respectively. All references to GMTA or Director
18 or General Manager of GMTA in any contract, Executive Order, rule,
19 regulation or document dealing with the functions herein transferred shall
20 mean and be read as DOA and Director of DOA, respectively.

21 **Section 23. Transition Team Created.**

22 (a) **Transition Team.** There is hereby created a Transition
23 Team to help ensure a smooth conversion from the Guam Mass Transit

1 Authority ("GMTA") to the Department of Administration ("DOA").

2 The Transition Team shall include the following:

3 (1) the Director, or a designee of GMTA; *and*

4 (2) the Director, or a designee of DOA.

5 **(b) Authority.** The Transition Team shall have ninety (90)
6 days from the enactment of this Act to do the following:

7 (1) ensure the smooth transition of the operations of
8 GMTA to DOA;

9 (2) ensure that there is no lapse of mass transit services
10 provided by the government of Guam; *and*

11 (3) examine and recommend any other facts or data as
12 may be necessary to ensure the smooth transition from the
13 consolidation of GMTA and DOA.

14 **(c) Effective Date.** Sections 18-22 and Sections 24-25 of this
15 Act shall be effective ninety (90) days after the enactment of this Act.

16 **Section 24.** Section 26503(c) of Article 5, Chapter 26, Division 2 of
17 Title 11 of the Guam Code Annotated is hereby *repealed and reenacted* to read
18 as follows:

19 "(c) A portion of the revenues in the Public Transit Fund shall be
20 used for the operation of the mass transit system by the Department of
21 Administration."

22 **Section 25. Transfer of Appropriations and Other Funds.**

23 The Bureau of Budget and Management Research ("BBMR") may direct the
24 transfer of unexpended balances of appropriations and other funds available

1 for use in connection with any function affected by the reorganization
2 prescribed by this Act that the Director of BBMR determines to be necessary
3 to facilitate the reorganization, or for use in connection with the functions
4 affected by the reorganization; *provided*, that any unexpended balances of
5 appropriations and other funds so transferred shall be used *only* for purposes
6 that were authorized. All funds currently contained in Guam Mass Transit
7 Authority (“GMTA”) bank accounts, savings accounts and Time Certificates
8 of Deposits shall be transferred into the Public Transit Fund for DOA to use in
9 operating the mass transit system.

10 **Section 26. Consolidation of DOC and GEDA with the Bureau of**
11 **Statistics and Plans.**

12 (a) **Bureau of Statistics and Plans Established.** All references
13 to the Bureau of Planning in Article 2 of Chapter 1 of Title 5 of the Guam
14 Code Annotated, and elsewhere in Guam law shall be replaced by
15 Bureau of Statistics and Plans.

16 (b) Section 1209(i) is hereby *added* to Article 2, Chapter 1 of Title
17 5 of the Guam Code Annotated to read as follows:

18 “(i) **Statistics.** To conduct research and to disseminate
19 statistical findings relative to producing data needed for economic
20 and social planning on Guam.”

21 (c) **Abolition of Department of Commerce.** The Guam
22 Economic Development and Commerce Authority (“Authority”)
23 succeeds to, and is vested with, all the powers, duties, responsibilities
24 and jurisdiction of the former Department of Commerce (“DOC”).

1 **Section 27.** Section 3110 of Article 1, Chapter 3 of Title 5 of the
2 Guam Code Annotated is hereby *repealed*.

3 **Section 28.** Chapter 70 of Division 7 of Title 5 of the Guam Code
4 Annotated is hereby *repealed*.

5 **Section 29.** Section 50101 of Chapter 50, Division 2 of Title 12 of
6 the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

7 **"Section 50101. Guam Economic Development and Commerce**
8 **Authority.** There is hereby created a public corporation to be
9 known as the Guam Economic Development and Commerce Authority
10 ('Authority') with functions, powers and responsibilities as hereinafter
11 provided. Any reference in any law to the Guam Economic
12 Development Authority ('GEDA') shall mean and be read as the Guam
13 Economic Development and Commerce Authority, and all references
14 therein to the Administrator of GEDA shall mean and be read as the
15 Administrator of the Guam Economic Development and Commerce
16 Authority. All references in any contract, Executive Order, rule,
17 regulation or document to GEDA, or to the Administrator of GEDA,
18 shall mean and be read as the Guam Economic Development and
19 Commerce Authority, and the Administrator of the Guam Economic
20 Development and Commerce Authority, respectively.

21 All references to GEDA or to the Administrator of GEDA in any
22 contract, Executive Order, rule, regulation or document dealing with the
23 functions herein transferred shall mean and be read as the Guam
24 Economic Development and Commerce Authority and the

1 Administrator of the Guam Economic Development and Commerce
2 Authority, respectively.”

3 **Section 30.** Section 50103(n) is hereby *added* to Chapter 50,
4 Division 2 of Title 12 of the Guam Code Annotated to read as follows:

5 “(n) The Authority shall promote and encourage the expansion
6 and development of markets for the products of Guam.”

7 **Section 31.** Section 50103(o) is hereby *added* to Chapter 50,
8 Division 2 of Title 12 of the Guam Code Annotated to read as follows:

9 “(o) The Authority shall promote and encourage the location and
10 development of new businesses on Guam, as well as the retention and
11 expansion of existing businesses, with particular emphasis upon
12 encouraging the tourist and the large-scale fisheries industries.”

13 **Section 32.** Section 50103(p) is hereby *added* to Chapter 50,
14 Division 2 of Title 12 of the Guam Code Annotated to read as follows:

15 “(p) The Authority shall have authority over and supervise the
16 Chamorro Village (*‘I Sengsong Chamorro’*).”

17 **Section 33.** Article 2 is hereby *added* to Chapter 50, Division 2 of
18 Title 12 of the Guam Code Annotated to read as follows:

19 **“Article 2.**

20 **Guam Product Seal.**

21 **Section 50201.** Seal Created.

22 **Section 50202.** Administration.

23 **Section 50203.** Guam Product Seal Fund.

24 **Section 50204.** Responsibilities.

25 **Section 50205.** Definitions.

| | | |
|---|-----------------------|---------------------------------|
| 1 | Section 50206. | Eligibility. |
| 2 | Section 50207. | Violations. |
| 3 | Section 50208. | Fines. |
| 4 | Section 50209. | Recovery of Merchandise. |
| 5 | Section 50210. | Penalty. |
| 6 | Section 50211. | Collection. |

7
8 **Section 50201. Seal Created.** There is created a Guam
9 Product Seal to identify products manufactured on Guam.

10 **Section 50202. Administration.** The Guam Economic
11 Development and Commerce Authority ('Authority') shall administer
12 the provisions of this Chapter and shall promulgate rules and
13 regulations, in accordance with the Administrative Adjudication Law,
14 to carry out the purposes of this Chapter.

15 **Section 50203. Guam Product Seal Fund.** There is established
16 a fund to be known as the Guam Product Seal Fund, which shall be
17 maintained separate and apart from any other funds of the government
18 of Guam. Independent records and accounts shall be maintained in
19 connection therewith. Funds of the Guam Product Seal Fund shall be
20 used *exclusively* for the administration and operations of the Guam
21 Product Seal Program. All funds collected from fees, charges or fines
22 levied pursuant to this Chapter shall be deposited into the Guam
23 Product Seal Fund.

24 **Section 50204. Responsibilities.** The Authority shall:

1 (a) develop, or have developed, a design for the Guam
2 Product Seal;

3 (b) assess the local value added in the production
4 processes of manufacturers applying for permission to place the
5 seal upon their products;

6 (c) issue permits for use of the seal to eligible applicants;

7 (d) ensure ongoing compliance with the eligibility
8 requirements by all manufacturers who have been issued permits;

9 (e) conduct field investigations of products bearing the
10 seal, *both* on its own initiative and in response to information and
11 complaints received from the public;

12 (f) levy fines on manufacturers, importers, distributors
13 and retailers found to be in violation of this Chapter;

14 (g) transmit information regarding the levy of fines to the
15 Department of Revenue and Taxation; *and*

16 (h) take appropriate steps to notify businesses about the
17 requirements of this Chapter.

18 **Section 50205. Definitions.** For purposes of this
19 Chapter:

20 (a) '*Value added*' shall be the difference between the
21 wholesale price of the product, *if* sold at wholesale, or the retail
22 price of the product, *if* sold directly by the manufacturer, and the
23 sum of both the total landed cost of all material components of the
24 product that have been brought into Guam and the total landed

1 cost of materials, *excluding* machinery used in the production
2 process that have been brought into Guam.

3 (b) '*Substantial transformation*' shall mean the conversion
4 of commodities into products of a different and distinguishable
5 commercial use or character.

6 **Section 50206. Eligibility.** The Guam Product Seal may be
7 used *only* on a product manufactured on Guam that results from a
8 substantial transformation of the materials used in the creation of the
9 product and for which a *minimum* of fifty percent (50%) of the value of
10 the product has been added on Guam. To obtain a permit to use the
11 seal, a manufacturer must apply to the Authority. A permit to use the
12 Guam Product Seal shall be effective for one (1) year.

13 **Section 50207. Violations.**

14 (a) It shall be unlawful for any business to place a Guam
15 Product Seal on a product *if* the business does *not* have a current
16 permit allowing the product to have such a seal.

17 (b) It shall be unlawful for any business establishment to
18 state or imply in an advertisement or display of any type,
19 including packaging, that a manufactured product is made on
20 Guam *if* the product does *not* have a Guam Product Seal on it.

21 (c) It shall be unlawful for any business establishment to
22 sell a product that has the word 'Guam' or 'Chamorro,' or a
23 derivation of such words on the product *if* such product was *not*

1 manufactured on Guam, *unless* the place where the product was
2 manufactured is clearly labeled on the product.

3 **Section 50208. Fines.** For each violation of Subsection

4 (a) of § 51107 of this Chapter, the Authority shall levy a fine against the
5 firm in an amount equal to or greater than Two Thousand Five
6 Hundred Dollars (\$2,500.00), but *not* to exceed Five Thousand Dollars
7 (\$5,000.00) per type of product. For each violation of §§ 51106(b) or (c)
8 of this Chapter, the Authority shall levy a fine against the firm in an
9 amount equal to or greater than Five Hundred Dollars (\$500.00), but *not*
10 to exceed Two Thousand Dollars (\$2,000.00) per type of product.
11 Separate fines shall be levied each separate time a business is found to
12 have violated § 51106 of this Chapter. Such fines shall be payable to the
13 Department of Revenue and Taxation and shall be credited to the
14 General Fund.

15 **Section 50209. Recovery of Merchandise.** In the case of any
16 violation of § 51106(a) of this Chapter, the Authority shall order the firm
17 to recover from wholesalers and retailers and to take off the market all
18 products sold with a Guam Product Seal for which the firm did *not* have
19 a permit when the seal was placed upon the product.

20 **Section 50210. Penalty.**

21 (a) The Department of Revenue and Taxation shall revoke
22 the business license of any firm *if*, after a hearing, it determines
23 that the firm:

1 (1) failed to pay a fine levied pursuant to § 51107 of
2 this Chapter within ninety (90) days *after* the fine was levied;

3 *or*

4 (2) failed to recover merchandise in accordance with
5 an order issued pursuant to § 51108 of this Chapter within
6 ninety (90) days after the order was issued.

7 (b) The Department of Revenue and Taxation shall *not*
8 renew the business license of any business *if* the business has *not*
9 paid a fine levied pursuant to this Chapter.

10 **Section 50211. Collection.** The Department of Revenue
11 and Taxation is responsible for the collection of all fines levied by the
12 Authority pursuant to § 51107 of this Chapter.”

13 **Section 34.** Article 3 is hereby *added* to Chapter 50, Division 2 of
14 Title 12 of the Guam Code Annotated to read as follows:

15 “Article 3.

16 **Public Market.**

17 **Section 50301. Purpose.**

18 **Section 50302. Public Market Revolving Fund.**

19
20 **Section 50301. Purpose.** The Guam Economic Development
21 and Commerce Authority shall maintain and operate under its control a
22 public market, or markets, for Guam products at such place or places as
23 the Administrator may deem proper. Any such market shall be
24 maintained and operated at all times in a sanitary and orderly manner,
25 beneficial to both producers and patrons alike. Producers and sellers

1 desiring to use space within such market to display or sell their produce
2 shall be levied a uniform fee based upon the amount of space used and
3 period of such use.

4 **Section 50302. Public Market Revolving Fund.**

5 (a) There is established a fund to be known as the '*Public*
6 *Market Revolving Fund*,' which shall be maintained separate and
7 apart from any other funds of the government of Guam.
8 Independent records and accounts shall be maintained in
9 connection therewith.

10 (b) Funds of the Public Market Revolving Fund shall be
11 used *exclusively* for the administration, operation and maintenance
12 of the Public Market.

13 (c) All funds collected from fees levied pursuant to §
14 51301 shall be deposited in the Public Market Revolving Fund."

15 **Section 35.** Section 1401 of Article 4, Chapter 1, Division 1 of Title
16 5 of the Guam Code Annotated is hereby *amended* to read as follows:

17 **"Section 1401. Economic Planning Council.** There is
18 within the Office of *I Maga'lahaen Guåhan* an Economic Planning Council
19 to be comprised of nine (9) members. Of the nine (9) members, four (4)
20 members shall be selected by *I Maga'lahaen Guåhan* from among those
21 who head the following agencies: the Department of Agriculture
22 ('DOA'), the Guam Economic Development and Commerce Authority,
23 the Guam Housing and Urban Renewal Authority ('GHURA'), the
24 Guam Housing Corporation ('GHC'), the Department of Labor ('DOL'),

1 the Agency for Human Resources Development ('AHRD'), the Bureau
2 of Budget and Management Research ('BBMR'), the Department of
3 Revenue and Taxation ('DRT'), the A. B. Won Pat Guam International
4 Airport Authority ('GIAA'), the Port Authority of Guam ('PAG'), the
5 Guam Community College ('GCC'), the University of Guam ('UOG'),
6 the Guam Advisory Council of Vocational Rehabilitation, the Bureau of
7 Statistics and Plans, and the Guam Visitors Bureau ('GVB').

8 In addition to the agency members, there shall be four (4)
9 members from the business community and community-at-large chosen
10 by *I Maga'lahren Guåhan* with the advice and consent of *I Liheslaturan*
11 *Guåhan*. The ninth (9th) member of the Council shall be chosen by the
12 other eight (8) members. The non-agency members shall receive the
13 sum of Fifty Dollars (\$50.00) for each attendance at a meeting of the
14 Council, *not* to exceed One Hundred Dollars (\$100.00) per month."

15 **Section 36.** Section 76102 of Chapter 76, Division 2 of Title 12 of
16 the Guam Code Annotated is hereby *amended* to read as follows:

17 **"Section 76102. Board of Trustees.**

18 (a) All functions and powers of GTAF shall be vested in
19 and be exercised by and under the direction of a Board of Trustees
20 ('Board'), which is hereby created. The Board shall be composed
21 of eleven (11) voting members and four (4) *ex officio* members. The
22 Chairperson of the Board of Directors of the Authority shall
23 concurrently serve as Chairperson of the Board, whose voting
24 members shall be:

1 (1) the Director, or a designee of the Marine
2 Laboratory of the University of Guam ('UOG');

3 (2) the Mayor, or a designee of the Municipality of
4 Yona;

5 (3) the President, or a designee of the Guam Mayors'
6 Council;

7 (4) two (2) at-large from the community appointed
8 by *I Maga'lahaen Guåhan*;

9 (5) two (2) representatives from the Guam Chamber
10 of Commerce, selected by its Board of Directors;

11 (6) the Chairperson, or a designee of the Board of
12 Directors of the Guam Visitors Bureau ('GVB');

13 (7) the Chairperson, or a designee of the Board of
14 Directors of the Guam Hotel and Restaurant Association;
15 *and*

16 (8) the Director, or a designee of the Department of
17 Education ('DOE').

18 (b) Members selected by *I Maga'lahaen Guåhan* and the
19 Chamber of Commerce shall serve four (4) year terms. Non-
20 voting, *ex officio* members shall include the following:

21 (1) the Director, or a designee of the Guam
22 Environmental Protection Agency ('GEPA');

1 (2) a representative of the Department of
2 Agriculture's ('DOA's') Division of Aquatic and Wildlife
3 Resources, to be selected by the Director of DOA; *and*

4 (3) the Administrator, or a designee of the
5 Authority."

6 **Section 37.** Section 68605 of Article 6, Chapter 68, Division 2 of
7 Title 21 of the Guam Code Annotated is hereby *amended* to read as follows:

8 **"Section 68605. Task Force Membership.** The Director of the
9 Bureau of Statistics and Plans shall serve as the Chairperson of the Task
10 Force. In addition, the Task Force will include the Director of the
11 Department of Land Management ('DLM'), the Administrator of the
12 Guam Environmental Protection Agency ('GEPA'), the Administrator of
13 the Guam Economic Development and Commerce Authority, the
14 General Manager of Guam Visitors Bureau ('GVB'), all Mayors from the
15 Villages specified in § 68601, hereinabove, a representative of the
16 Chamber of Commerce and a member of the public at large to be chosen
17 by *I Maga'lahaen Guåhan*.

18 The Chamber of Commerce may, *however*, decline to participate in
19 this Task Force. Each Director or Administrator may appoint a
20 permanent representative from that person's office to attend meetings in
21 that person's stead; *provided*, however, that the Director or
22 Administrator shall bear ultimate responsibility for the actions of such
23 representative."

1 **Section 38.** Section 1209.1 is hereby *added* to Article 2, Chapter 1 of
2 Title 5 of the Guam Code Annotated to read as follows:

3 **“Section 1209.1. Additional Duties of the Bureau.** The Bureau
4 shall carry out the following duties in addition to the functions specified
5 in § 1209 of this Chapter:

6 (a) facilitate cooperation with the U.S. Bureau of the
7 Census in collecting, compiling, analyzing, interpreting and
8 disseminating information concerning demographics, agriculture,
9 housing, manufacturing, businesses and government of Guam in
10 such forms as to be most valuable to Guam’s businesses and
11 industries, and of other places; and to act as the principal receiver,
12 depository and distributor of similar information provided by its
13 national and international counterparts;

14 (b) assume lead agency functions for the South Pacific
15 Commission and the Economic and Social Commission for Asia
16 and the Pacific;

17 (c) conduct the census under the auspices of the U.S.
18 Census Bureau;

19 (d) compile, collect, develop and publish quarterly
20 scientific indices and economic indicators, including, but *not*
21 limited to, economic growth, trade balances, exports and imports,
22 consumer prices and other information relating to economic
23 conditions;

1 (e) compile periodically a census of businesses and
2 industries on Guam, and analyze and publish this information in
3 such forms as to be most valuable to Guam's businesses and
4 industries; *and*

5 (f) in the event sufficient funds are *not* available to the
6 Bureau, to publish all of the material required by this Section; the
7 information gathered shall be published, *subject* to the following
8 priorities:

9 (i) consumer prices;

10 (ii) exports and imports;

11 (iii) trade balances; *and*

12 (iv) all other information deemed essential to be
13 published."

14 **Section 39.** Section 1209.2 is hereby *added* to Article 2, Chapter 1 of
15 Title 5 of the Guam Code Annotated to read as follows:

16 **"Section 1209.2. Information as Confidential.**

17 (a) The Director shall have the *sole* authority to approve
18 the contents of reports or data and the timing or release of
19 information by the Bureau.

20 (b) Neither the Director nor any other officer or employee
21 of the Authority, or the Office of *I Maga'lahaen Guåhan* may use the
22 information furnished under the provisions of this Article for any
23 purpose other than the statistical purposes for which it is
24 supplied, or make any publication whereby the data furnished by

1 any particular establishment or individual under this Article can
2 be identified.

3 (c) Whoever, being the owner, official, agent, person in
4 charge, or assistant person in charge, of any company, business,
5 institution, establishment, or organization of any nature
6 whatsoever, neglects or refuses, when requested by the Director or
7 other authorized officer or employee of the Bureau to answer
8 completely and correctly to the best of that person's knowledge all
9 questions pertinent to the duties of the Authority set forth in §
10 1209.1 of this Title, and relating to that person's company,
11 business, institution, establishment or other organization, or to
12 records or statistics in that person's official custody, contained in
13 any census or other schedule prepared and submitted to that
14 person under authority of this Article, shall be fined *not more than*
15 Five Hundred Dollars (\$500.00), or imprisoned *not more than* sixty
16 (60) days, or both; and if that person willfully gives a false answer
17 to any such question, that person shall be fined *not more than* One
18 Thousand Dollars (\$1,000.00), or imprisoned *not more than* one (1)
19 year, or both.

20 (d) Whoever, being an officer or an employee of the
21 Bureau, publishes or communicates, without the written authority
22 of the Director, any information coming into that person's
23 possession by reason of that person's employment under the
24 provisions of this Article shall be fined *not more than* One

1 Thousand Dollars (\$1,000.00), or imprisoned *not more than* one (1)
2 year, or both.”

3 **Section 40.** Section 16132 is hereby *added* to Chapter 16, Division 3
4 of Title 17 of the Guam Code Annotated to read as follows:

5 **“Section 16132. Designation of UOG as Lead Agency for**
6 **Aquaculture.** The University of Guam (‘UOG’) is hereby designated
7 as the lead agency for the development of the aquaculture industry on
8 Guam; and as such, UOG shall have purview over all matters related to
9 the development of aquaculture on Guam.”

10 **Section 41. Transfer of Department of Commerce Personnel.**

11 All personnel of the Department of Commerce (“DOC”) who are
12 members of the classified service of the government of Guam, upon the
13 transfer of functions pursuant to this Act, shall be transferred as specified in
14 this Act with all duties, responsibilities and compensation intact, and with no
15 lapses in service to the government of Guam. The Administrator of the Guam
16 Economic Development and Commerce Authority, *subject* to the approval of
17 the Board of Directors, the Director of the Bureau of Statistics and Plans, and
18 the President of the University of Guam (“UOG”), in the interest of improved
19 departmental management, shall have the power to reorganize and realign
20 positions in conformance with the rules and regulations of the Civil Service
21 Commission (“CSC”) and all other applicable laws of Guam.

22 (a) All personnel identified in the Director’s Office, Economic
23 Research Center, and the Economic Development and Planning
24 Divisions on the date of enactment of this Act who are members of the

1 classified service of the government of Guam shall be transferred to the
2 Bureau of Statistics and Plans.

3 (b) All personnel within the Business and Overseas Affairs and
4 the Chamorro Village on the date of enactment of this Act who are
5 members of the classified service of the government of Guam shall be
6 transferred to the Guam Economic Development and Commerce
7 Authority.

8 (c) All personnel within the Guam Aquaculture Development
9 and Training Center on the date of enactment of this Act who are
10 members of the classified service of the government of Guam shall be
11 transferred to UOG.

12 **Section 42. Records and Equipment Transfer.** Upon the transfer of
13 functions as provided for in this Act, the Guam Economic Development and
14 Commerce Authority, Bureau of Statistics and Plans, and the University of
15 Guam ("UOG") shall have possession and control of all appropriate
16 Divisions' books, records, papers, maps, plans, documents, offices,
17 equipment, supplies, money, funds, appropriations, licenses, permits,
18 agreements, contracts, claims, judgments, land, and other property, real or
19 personal, connected with the administration of, or held for the benefit or use
20 of, the former Department of Commerce ("DOC") in accordance with this Act.

21 **Section 43. Transfer of Duties.** *Except* as otherwise specifically
22 provided, the Guam Economic Development and Commerce Authority,
23 Bureau of Statistics and Plans, and the University of Guam ("UOG") shall
24 hereby assume all the powers, duties and responsibilities of the Department

1 of Commerce (“DOC”) as set out in this Act and any other relevant section of
2 law. Any regulation or other action adopted, prescribed, taken or performed
3 by the former DOC, or by any of its officers in the administration of a
4 program, the performance of a power, duty or responsibility, or the exercise
5 of any function transferred by this Act shall remain in effect and shall be
6 deemed to be a regulation or action of the appropriate department or agency,
7 or of any of its officers to whom the program, power, duty, responsibility or
8 function is transferred.

9 **Section 44. References to Commerce.** *Unless* otherwise provided for
10 in this Act, any reference in any law, contract, Executive Order, rule,
11 regulation or document to the Department of Commerce (“DOC”), or dealing
12 with the functions of the DOC shall hereafter mean and be read as the Guam
13 Economic Development and Commerce Authority, Bureau of Statistics and
14 Plans, or the University of Guam (“UOG”), as applicable and in accordance
15 with this Act. All references therein to the Director of DOC shall hereafter
16 mean and be read as the Administrator of the Guam Economic Development
17 and Commerce Authority, the Director of the Bureau of Statistics and Plans,
18 or the President of UOG, as applicable and in accordance with this Act.

19 **Section 45. Funds Transfer.** The Bureau of Budget and
20 Management Research (“BBMR”), as directed by this Act, shall direct the
21 transfer of unexpended balances of appropriations and other funds available
22 for use in connection with any function affected by the reorganization
23 prescribed by this Act that the Director of BBMR determines to be necessary
24 to facilitate the reorganization, or for use in connection with the functions

1 affected by the reorganization; *provided*, that any unexpended balances of
2 appropriations and other funds so transferred shall be used, as to
3 appropriations, *only* for purposes that were authorized by the appropriation,
4 and, as to other available funds, *only* for purposes authorized as of the
5 effective date of this Act.

6 **Section 46. Promulgation of Rules and Regulations.**

7 The Guam Economic Development and Commerce Authority Board of
8 Directors, the Bureau of Statistics and Plans and the University of Guam
9 (“UOG”) may make, alter, amend or repeal rules and regulations, pursuant to
10 the Administrative Adjudication Law, as required to carry out the purposes of
11 this Act. Nothing in this Act shall be deemed to invalidate the existing rules
12 and regulations of any agency affected by this Act, nor the requirement to
13 make, alter, amend or repeal rules and regulations, nor cause the
14 postponement of the implementation of this Act.

15 **Section 47. (a) Transition Team Created.** There is hereby
16 created a Transition Team to help ensure a smooth conversion from the
17 Department of Commerce (“DOC”) and the Guam Economic
18 Development Authority (“GEDA”) to the Guam Economic
19 Development and Commerce Authority, the University of Guam
20 (“UOG”) and the Bureau of Statistics and Plans. The Transition Team
21 shall include the following:

- 22 (1) the Director, or a designee of DOC;
23 (2) the Administrator, or a designee of GEDA;
24 (3) the President, or a designee of UOG; *and*

1 (4) the Director, or a designee of the Bureau of Statistics
2 and Plans.

3 (b) **Authority.** The Transition Team shall have ninety (90) days
4 from the enactment of this Act to do the following:

5 (1) ensure the smooth transition of the operations of DOC
6 and GEDA to the Guam Economic Development and Commerce
7 Authority, UOG and the Bureau of Statistics and Plans;

8 (2) ensure that there is no lapse of services formerly
9 provided by the DOC and GEDA; *and*

10 (3) examine and recommend any other facts, or data as
11 may be necessary to ensure the smooth transition from the
12 consolidation of DOC and GEDA.

13 (c) **Effective Date.** Sections 26-46 of this Act shall be effective
14 ninety (90) days *after* the enactment of this Act.

15 **Section 48. Revocation of GOICC.** Any Executive
16 Order establishing the Guam Occupational Information Coordinating
17 Committee ("GOICC") is hereby declared void, a nullity and without effect.

18 **Section 49. Revocation of SCOVE.** *I Liheslaturan Guåhan*
19 recognizes the importance of offering vocational education programs of study
20 in the school system. Any Executive Order establishing the State Council on
21 Vocational Education ("SCOVE") is hereby declared void, a nullity and
22 without effect. Functions required of SCOVE shall be met by the Guam
23 Community College ("GCC") Board of Trustees.

1 **Section 50. Repeal of Guam Health Planning and Development**
2 **Agency as a Division of DISID.** Sections 1 through 8 of Public Law
3 Number 24-92 are hereby *repealed*. The Guam Health Planning and
4 Development Agency is hereby abolished, as a Division of the Department of
5 Integrated Services for Individuals with Disabilities (“DISID”), or as a
6 separate agency. Any previous Executive Order promulgated to establish the
7 Guam Health Planning and Development Agency is hereby rendered a nullity
8 and without force. Any classified employees displaced as a result of this
9 action shall be transferred to the Bureau of Statistics and Plans.

10 **Section 51.** Any board, commission, council or oversight body that has
11 *not* met in the last twelve (12) months, with the *exception* of bodies relating to
12 the Department of Education (“DOE”), the Guam Community College
13 (“GCC”), the University of Guam (“UOG”) and the Guam Memorial Hospital
14 Authority (“GMHA”), shall hereby be abolished.

15 Any powers vested in said boards, commissions or councils shall revert
16 to the previous authority empowered with handling the respective mandate.
17 In the event a body was created within a governmental entity to generally
18 manage the affairs of matters relating to said entity, that government entity
19 shall assume the powers given to any body abolished by this Section.

20 Should *I Maga’lahen Guåhan* identify the continued need for such a
21 board, commission, council or oversight body, *I Maga’lahen Guåhan* shall
22 provide *I Liheslaturan Guåhan* within thirty (30) days of the enactment of this
23 Act justification for the reformulation of such body and a list of appropriate
24 mandates.

1 **Section 52. Transfer of Animal Quarantine Program and the Animal**
2 **Control Program from DPH&SS to DOA.** (a) All references to
3 *“Department of Public Health and Social Services”* in Articles 1 and 3 of
4 Chapter 34 of Title 10 of the Guam Code Annotated shall be changed to
5 read *“Department of Agriculture,”* and all references to the *“Director of the*
6 *Department of Public Health and Social Services”* shall be changed to read
7 *“Director of the Department of Agriculture.”*

8 (b) All positions of Animal Control Officers and Animal
9 Caretakers are transferred from the Department of Public Health and
10 Social Services (“DPH&SS”) to the Department of Agriculture (“DOA”),
11 along with the budgetary funding for those positions.

12 (c) The property, equipment, supplies and operations of the
13 Yigo Animal Shelter are transferred from DPH&SS to DOA.

14 (d) Any Memorandum of Understanding between DPH&SS and
15 the Department of Corrections (“DOC”) relating to the picking up of
16 dead animals shall be amended to be between DOA and DOC. Any
17 Memorandum of Understanding between DPH&SS and Guam Animals
18 In Need (“GAIN”) relating to operating the Yigo Animal Shelter and
19 adoption program shall be amended to be between DOA and GAIN.

20 (e) All responsibility and statutory authority for the clearance of
21 imported animals at ports of entry on Guam shall be transferred from
22 the Customs and Quarantine Agency to DOA’s Plant Protection and
23 Quarantine Division.

1 (f) The effective date of the provisions of this Section shall be
2 ninety (90) days *after* the effective date of this Act.

3 **Section 53.** Section 1909.1 is hereby *added* to Chapter 19 of Title 1
4 of the Guam Code Annotated to read as follows:

5 **“Section 1909.1. Confidentiality of Investigations.**

6 (a) *Except* pursuant to a subpoena issued by a court of
7 competent jurisdiction for good cause shown, or the powers
8 afforded *I Liheslaturan Guåhan* under Legislative Investigative
9 Powers, Chapter 3 of Title 2 of the Guam Code Annotated, the
10 Public Auditor shall *not* be required to disclose any working
11 papers. For the purposes of this Section, *‘working papers’* means
12 the notes, internal memoranda and records of work performed by
13 the Public Auditor on audits and other investigations made
14 pursuant to this Chapter, including any and all project evidence
15 collected and developed by the Public Auditor.

16 (b) Information received by the Public Auditor alleging
17 criminal activity or alleging wrongful use of government funds or
18 property is privileged. Neither the Public Auditor or any person
19 employed by the Public Auditor shall disclose the identity of the
20 person providing that information, *unless* such failure to disclose
21 infringes upon the Constitutional rights of the accused. Nor shall
22 the Public Auditor, nor any person employed by the Public
23 Auditor, be required to produce any records, documentary
24 evidence, opinions or decisions relative to such privileged

1 communication or information (i) in connection with any criminal
2 case, criminal proceeding or any administrative hearing of
3 whatever nature, *or* (ii) by way of any discovery procedure.

4 (c) Any person arrested or charged with a criminal
5 offense may petition the Court for an *in camera* inspection of the
6 records of a privileged communication or information received by
7 the Public Auditor, and which is material to the criminal charge
8 brought against the person. The petition shall allege facts
9 showing that such records would: (i) provide evidence favorable
10 to the accused; (ii) be relative to the issue of guilt; *and* (iii) cause a
11 deprivation of a constitutional right *if* such communication or
12 information is *not* disclosed. *If* on the basis of such criteria, the
13 Court determines that the person is entitled to all or any part of
14 such records, it may order its production and disclosure to the
15 degree necessary, protecting to the extent possible, the identity of
16 the person who has informed the Public Auditor of such matter.

17 (d) Disclosure of a privileged communication or
18 privileged information in violation of this Section shall be a felony
19 of the third degree."

20 **Section 54.** Section 1921 is hereby *added* to Chapter 19 of Title 1 of
21 the Guam Code Annotated to read as follows:

22 **"Section 1921. Supervision of Audits in Autonomous**
23 **Agencies and Grantees, Manpower Audits.** The Public Auditor
24 *is specifically* authorized to supervise audits, or at the Public Auditor's

1 discretion, perform audits, of autonomous agencies and
2 instrumentalities of the government of Guam, inclusive of, but *not*
3 limited to, the Guam Visitors Bureau ('GVB'), the Guam Economic
4 Development Authority ('GEDA'), the Port Authority of Guam ('PAG'),
5 the A. B. Won Pat Guam International Airport Authority ('GIAA'), the
6 University of Guam ('UOG'), the Guam Community College ('GCC'),
7 the Guam Memorial Hospital Authority ('GMHA'), the Guam Housing
8 Corporation ('GHC'), the Guam Housing and Urban Renewal Authority
9 ('GHURA'), the Guam Power Authority ('GPA'), the Guam Waterworks
10 Authority ('GWA'), the Guam Telephone Authority ('GTA'), and the
11 Government of Guam Retirement Fund.

12 The Public Auditor is authorized to supervise audits of all funds
13 in *excess* of Three Hundred Thousand Dollars (\$300,000.00) for a single
14 fiscal year from the government of Guam that are given in grant or
15 subsidy to non-profit or profit-making groups, inclusive of the GVB.
16 The Public Auditor is authorized to audit the hiring practices,
17 manpower levels and staffing patterns of all departments, agencies and
18 bureaus of the Executive Branch of the government of Guam, and to
19 determine and report to *I Maga'lahañ Guåhan, I Liheslaturan Guåhan* and
20 the Public Utilities Commission ('PUC'), as appropriate, on the necessity
21 and applicability of employment levels and categories to the department
22 or agency's purpose and function, as well as draw comparisons with
23 similar entities located elsewhere."

1 **Section 55. Severability.** *If* any provision of this Act or its
2 application to any person or circumstance is found to be invalid or contrary to
3 law, such invalidity shall *not* affect other provisions or applications of this Act
4 which can be given effect without the invalid provisions or application, and to
5 this end the provisions of this Act are severable.