


I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2010 (Second) Regular Session

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Folio

Bill No. 447-30 (COR)

Introduced by:

B.J.F. Cruz 

AN ACT RELATIVE TO RESTORING CERTAIN EXEMPTIONS TO GUAM'S SOLID WASTE TIPPING AND USER FEES BY AMENDING § 51118 OF CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Intent.

In anticipation of the Government of Guam receiving from the U.S. Department of Agriculture (USDA) an \$88.5 million loan and \$15 million in grants for the construction of a new landfill, Public Law 30-131 was enacted to repeal certain provisions of Guam law that were in conflict with USDA lending requirements; specifically, that no free service or use of the new landfill facility will be permitted. *I Maga' Lahen Guåhan* has since decided not to accept the loan. It is therefore the intent of *I Liheslaturan Guåhan* to restore specific exemptions to Mayors, Vice Mayors and 'good citizens' that were in place before the enactment of Public Law 30-131.

Section 2. § 51118 of Chapter 51, Title 10 of the Guam Code Annotated is hereby *amended* to read:

“§ 51118. Tipping/User Fees and Solid Waste Operations Fund.

1 (a) Legislative Intent. Tipping and user fees shall provide a financing
2 source for government of Guam costs and expenses directly related to the
3 closure of the Ordot landfill, the development, design, construction,
4 operation and final closure of a new sanitary landfill and the Ordot Landfill,
5 as well as other solid waste management facilities that are contracted or may
6 be established by this Act and in accordance with the plan and annual fiscal
7 year appropriation for the Division of Solid Waste Management of DPW.

8 (1) Tipping/user fees will vary depending on the nature of
9 collection, privatized contract for residential dwellings or hired
10 commercial collectors for other municipal solid wastes outlets.

11 (2) For residential or dwelling, the charge is a user fee which
12 includes the collection fee with the disposal tipping fee.

13 (3) For commercial, including multi-family dwellings and
14 government agencies, the charge is a disposal tipping fee and does not
15 include collection fees independently charged by commercial waste
16 haulers.

17 (b) Effective Date of Charging Tipping Fees. The commercial and
18 residential tipping fees established in this § 51118 are charged beginning the
19 first day of the month following the adoption of supporting rules and
20 regulations by DPW under the Administrative Adjudication Law.

21 (c) Business and Governmental Tipping Fees. A tipping fee of Four
22 Dollars (\$4.00) per cubic yard, uncompacted, is hereby established for
23 business and government generators. For compacted trash, a tipping fee of
24 Four Dollars (\$4.00) per cubic yard multiplied by the compaction ratio of
25 any vehicle or container with compaction equipment, is hereby established
26 for business and government generators. Commercial and government
27 collectors shall provide the Department of Public Works the compaction

1 ratios of all equipment used to haul solid waste to the landfill to insure the
2 accurate assessment of tipping fees for compacted trash. This fee does *not*
3 include collection charges that are independently set by licensed commercial
4 collectors.

5 (d) Residential Tipping Fees. A residential tipping fee, which includes
6 collection charges, is hereby established for residential generators in the
7 amount of Eight Dollars (\$8.00) per dwelling per month.

8 (e) PUC Rate-making. The Public Utilities Commission of Guam
9 ['PUC'] is hereby authorized to establish and amend commercial,
10 government and residential tipping and user fees [including without
11 limitation a self-drop fee, a variable residential tipping fee and a targeted
12 lifeline rate for residential tipping fee, *collectively referred to as 'tipping*
13 *fees'*], which when established shall replace those previously created by law
14 or by the Department of Public Works ['DPW']. Tipping fees established by
15 PUC shall be based on volume and on an actuarial analysis of costs of
16 service. Rate-making authority, which was previously given to the DPW
17 under this Section, is hereby *revoked*. PUC is empowered to undertake a
18 focused management audit of the existing operations of the DPW Division
19 of Solid Waste Management. In performing its duties under this Section,
20 PUC shall have the full authority and powers conferred upon it by its
21 enabling legislation, 12 GCA 12000 *et. sec.*, including the audit power
22 conferred upon it by Public Laws 25-05:12 and 26-78:2.

23 (f) Solid Waste Operations Fund. All tipping, user and other fees
24 authorized under this Section and collected based on duly established rules
25 and regulations or on a PUC rate order shall be deposited in a special fund
26 designated and hereby established as the Solid Waste Operations Fund. All
27 tipping/user fees in the Fund shall be used *solely* for solid waste

1 management practices and, pursuant to PUC order, for the payment of
2 regulatory costs and expenses as may be incurred by PUC in performing its
3 regulatory duties under Subsection (e).

4 (g) Notification to Department of Interior. Within thirty (30) days of
5 the enactment of this Act, the Governor shall notify the Department of
6 Interior of the establishment of tipping fees, for the purpose of releasing
7 Federal funds available to resolve environmental issues relative to the Ordot
8 Landfill. Unless otherwise restricted by any conditions, Federal-funding will
9 be allocated between the Ordot Landfill compliance mitigation work and
10 closure.

11 (h) DPW to Develop Variable Residential Tipping Fees In recognition
12 of the fact that the initial residential tipping fee established by Public Law
13 Number 24-272 is a flat fee, which discourages trash reduction, penalizes
14 smaller families and subsidizes large residential generators of waste, the
15 Department of Public Works shall develop a plan to institute a sliding scale
16 of residential tipping fees. The sliding scale shall, at a minimum, charge
17 residential generators based on the amount of waste produced and picked up
18 by the department. The plan shall also address the methodology for billing
19 individual residential customers based on the revised variable tipping fee.
20 The plan shall be submitted to *I Liheslaturan Guåhan* within four (4) months
21 of enactment of this Act.

22 (h) (1) Lifeline Rates for Tipping Fees. Notwithstanding any other
23 provision of law, the Department of Public Works shall, through the
24 development of rules and regulations pursuant to the Administrative
25 Adjudication Law, establish and modify from time to time, Targeted Lifeline
26 Rates for Residential Tipping Fees covering pick-up and delivery of
27 residential trash *only* that are consistent with and meeting the low income

1 eligibility criteria, requirement, policies or procedures established by the
2 Guam Housing and Urban Renewal Authority ('GHURA') applicable to their
3 Low Income Public Housing Program.

4 (i) Self-Drop Fee Established. Any person or entity that is *not* a
5 business or government generator shall be billed Two Dollars (\$2.00) per
6 vehicle load of solid waste delivered to a landfill operated by the
7 Department or its contractor; provided, that the vehicle load capacity is one
8 (1) ton or less. Vehicles in excess of said load capacity shall be billed a rate
9 that is based on an established formula developed by the Department.

10 (j) Temporary Exemption from Tipping Fees for Municipal Waste
11 Collection. For a period of one (1) year commencing the date of the
12 enactment of this Act, all waste collected by any Mayor or Vice-Mayor in
13 the performance of their official duties, and transported to a landfill operated
14 by the Department or its contractor, shall be exempt from all tipping fees.
15 The Department of Public Works shall monitor and record the amount of
16 solid waste delivered by Mayors and Vice-Mayors under this Section. This
17 information shall be provided on a quarterly basis to the Mayors Council, *I*
18 *Maga' lahen Guåhan, and I Liheslaturan Guahån* for the purpose of
19 determining an appropriate budget for each municipality following the end
20 of the exemption.

21 (k) 'Good Citizen' Exemption Established. Any individual, registered
22 non-profit organization, or other person who intends to volunteer their
23 resources for the purpose of cleaning up and collecting trash and litter from
24 public places or facilities may be granted a temporary exemption from the
25 fees established herein by securing a written exemption from the Department
26 of Public Works in advance of their planned collection activities. The

1 Department of Public Works shall determine the manner, time limit and
2 procedure by which such an exemption may be granted and honored.

3 (l) Temporary Exemption of Tipping Fees Following a Force Majeure.
4 Following a force majeure, *I Maga'lahen Guåhan* shall be authorized to
5 suspend tipping fees for all solid waste collected and transported to a landfill
6 that is operated by the Department or its contractor for a period *not to exceed*
7 sixty (60) days.

8 (m) Exemption from Tipping Fees for Municipal Waste Collection.
9 All Mayors or Vice-Mayors who collect waste in the performance of their
10 official duties shall be allowed to dump the waste at the Ordot landfill, the
11 Agat transfer station and any other landfill or transfer station operated by the
12 Department of Public Works ('DPW'), or its contractor. The Mayors or
13 Vice-Mayors shall be exempt from all tipping fees when dumping the waste
14 collected in their official capacity."

15 **Section 3. Effective Date.** This Act shall be effective immediately following
16 enactment into law.

17 **Section 4. Severability.** If any provision of this Act, or its application to
18 any person or circumstances is held invalid, the invalidity shall not affect other
19 provisions or applications of this Act which can be given effect without the invalid
20 provision or application, and to this end the provisions of this Act are severable.