

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

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B.J.F.

Bill No. 332-70 (COR)

Introduced by:

B.J.F. Cruz 

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

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Intent.

3 The Government of Guam expects to receive from the U.S.
4 Department of Agriculture (USDA) an \$88.5 million loan and \$15 million in
5 grants for the construction of a new landfill. Certain provisions of Guam
6 law are in conflict with USDA lending requirements; specifically, that no
7 free service or use of the facility will be permitted.

8 The USDA loan, used in lieu of the 2009 Solid Waste Management
9 System Bond, provides an opportunity for the Government of Guam to
10 divert bond proceeds to such other important capital improvement projects
11 as the construction of a new multi-purpose cultural, convention and

1 performing arts center, a Guam museum facility, a new John F. Kennedy
2 High School, the expansion of the Guam Memorial Hospital, and other
3 much needed facilities.

4 Since the USDA loan may be used only for solid waste management
5 projects, GovGuam must ensure the sound financial standing of the Solid
6 Waste Operations Fund, which is the depository of solid waste tipping and
7 user fees administered by the Department of Public Works Solid Waste
8 Division.

9 It is the intent of *I Liheslaturan Guåhan* to ensure that the terms and
10 requirements of the USDA loan are met by eliminating certain solid waste
11 tipping fee exemptions under § 51118 of Chapter 51, Title 10 of the Guam
12 Code Annotated.

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

15 **“§ 51118. Tipping/User Fees and Solid Waste Operations Fund.**

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

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

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

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

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

15 (c) Business and Governmental Tipping Fees. A tipping fee of
16 Four Dollars (\$4.00) per cubic yard, uncompacted, is hereby
17 established for business and government generators. For compacted
18 trash, a tipping fee of Four Dollars (\$4.00) per cubic yard multiplied
19 by the compaction ratio of any vehicle or container with compaction
20 equipment, is hereby established for business and government
21 generators. Commercial and government collectors shall provide the
22 Department of Public Works the compaction ratios of all equipment
23 used to haul solid waste to the landfill to insure the accurate

1 assessment of tipping fees for compacted trash. This fee does *not*
2 include collection charges that are independently set by licensed
3 commercial collectors.

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

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

1 (f) Solid Waste Operations Fund. All tipping, user and other
2 fees authorized under this Section and collected based on duly
3 established rules and regulations or on a PUC rate order shall be
4 deposited in a special fund designated and hereby established as the
5 Solid Waste Operations Fund. All tipping/user fees in the Fund shall
6 be used *solely* for solid waste management practices and, pursuant to
7 PUC order, for the payment of regulatory costs and expenses as may
8 be incurred by PUC in performing its regulatory duties under
9 Subsection (e).

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

17 (h) DPW to Develop Variable Residential Tipping Fees In
18 recognition of the fact that the initial residential tipping fee
19 established by Public Law Number 24-272 is a flat fee, which
20 discourages trash reduction, penalizes smaller families and
21 subsidizes large residential generators of waste, the Department of
22 Public Works shall develop a plan to institute a sliding scale of
23 residential tipping fees. The sliding scale shall, at a minimum, charge

1 residential generators based on the amount of waste produced and
2 picked up by the department. The plan shall also address the
3 methodology for billing individual residential customers based on
4 the revised variable tipping fee. The plan shall be submitted to *I*
5 *Liheslaturan Guåhan* within four (4) months of enactment of this Act.

6 (h) (1) Lifeline Rates for Tipping Fees. Notwithstanding any
7 other provision of law, the Department of Public Works shall,
8 through the development of rules and regulations pursuant to the
9 Administrative Adjudication Law, establish and modify from time to
10 time, Targeted Lifeline Rates for Residential Tipping Fees covering
11 pick-up and delivery of residential trash *only* that are consistent with
12 and meeting the low income eligibility criteria, requirement, policies
13 or procedures established by the Guam Housing and Urban Renewal
14 Authority ('GHURA') applicable to their Low Income Public Housing
15 Program.

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

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

13 ~~(k) 'Good Citizen' Exemption Established. Any individual,~~
14 ~~registered non-profit organization, or other person who intends to~~
15 ~~volunteer their resources for the purpose of cleaning up and~~
16 ~~collecting trash and litter from public places or facilities may be~~
17 ~~granted a temporary exemption from the fees established herein by~~
18 ~~securing a written exemption from the Department of Public Works~~
19 ~~in advance of their planned collection activities. The Department of~~
20 ~~Public Works shall determine the manner, time limit and procedure~~
21 ~~by which such an exemption may be granted and honored.~~

22 ~~(l) Temporary Exemption of Tipping Fees Following a Force~~
23 ~~Majeure. Following a force majeure, I Maga'lahen Guåhan shall be~~

1 authorized to suspend tipping fees for all solid waste collected and
2 transported to a landfill that is operated by the Department or its
3 contractor for a period *not to exceed* sixty (60) days.

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

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

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