



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

Refer to  
Legislative Secretary

MAY 12 1999

The Honorable Antonio R. Unpingco  
Speaker  
I Mina'Bente Singko na Liheslaturan Guåhan  
Twenty-Fifth Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Hagåtña, Guam 96910

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 53 (COR), "AN ACT TO REFORM THE SUNSHINE ACT OF GUAM TO EXPEDITE PUBLIC INFORMATION REQUESTS AND TO ALLOW ELECTRONIC REQUESTS FOR INFORMATION, TO BE KNOWN AS "THE SUNSHINE REFORM ACT OF 1999"", which I have signed into law today as **Public Law No. 25-06**.

The first "freedom of information" legislation passed by the government of Guam was introduced by myself and passed in the Eighteenth Guam Legislature. I have always been a proponent of open government.

This legislation includes provisions specifying that requests for information from the government may be made by e-mail. It also shortens the response time of government agencies to respond to "freedom of information" requests from the current 10 days to 4 days. Finally, the bill shifts the determination of specific items which are releasable to the public to i Liheslatura, through public hearing, and legislative action, after 150 days.

Guam's prior Sunshine law does not prohibit requests for public information through e-mail. An e-mail request would most certainly be a request in writing. Although most government agencies can handle e-mail requests for information, they may not be able to respond back to the

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<i>[Signature]</i>
Time	10:50am
Date	5-13-99

Office of the Speaker	
ANTONIO R. UNPINGCO	
Date	5-12-99
Time	1450
Rec'd by	<i>[Signature]</i>
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00217

requester with the information through e-mail. To the extent that this is possible, e-mail requests and responses can be entertained.

The shortening of response time of requests for information from the usual 10 days to 4 days is certainly desirable. For simple matters, this is very achievable, and 4 days response time will speed up the process. For complicated or lengthy requests, 4 days will not be adequate.

I Liheslatura should have included in this legislation the necessary policy guidelines to be applied to the release of all information of the government. It is not productive to require agencies to make up lists of specific items, after a bill is passed, and attempt to justify the inclusion of each of the the specific items as releasable or non-releasable to i Liheslatura in a collection of public hearings. Adequate guidelines for non-releasable items should have been included in this current legislation, prior to its passage, rather than contemplating "remedial legislation" before the bill is even passed.

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 Joanne M. S. Brown  
         Legislative Secretary

00217



**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**TWENTY-FIFTH GUAM LEGISLATURE**  
155 Hesler Street, Hagåtña, Guam 96910

April 30, 1999

The Honorable Carl T.C. Gutierrez  
*I Maga'lahaen Guåhan*  
*Ufisinan I Maga'lahi*  
Hagåtña, Guam 96910

Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Substitute Bill Nos. 53 (COR) and 134 (COR) which were passed by *I Mina'Bente Singko Na Liheslaturan Guåhan* on April 28, 1999.

Sincerely,

JOANNE M.S. BROWN  
Senator and Legislative Secretary

Enclosure (2)

*REC: POZ HENRY C. FLORES*  
*TIME: 5:46 pm DATE: 4/30/99*

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
1999 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 53 (COR), "AN ACT TO REFORM THE SUNSHINE ACT OF GUAM TO EXPEDITE PUBLIC INFORMATION REQUESTS AND TO ALLOW ELECTRONIC REQUESTS FOR INFORMATION, TO BE KNOWN AS "THE SUNSHINE REFORM ACT OF 1999," was on the 28<sup>th</sup> day of April, 1999, duly and regularly passed.



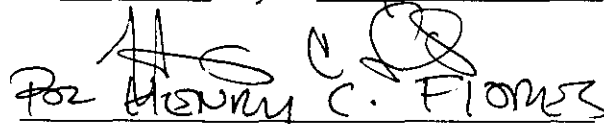
ANTONIO R. UNPINGCO  
Speaker

Attested:



JOANNE M.S. BROWN  
Senator and Legislative Secretary

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This Act was received by *I Maga'lahaen Guahan* this 30<sup>th</sup> day of APRIL, 1999,  
at 5:46 o'clock P.M.



Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:



CARL T. C. GUTIERREZ  
*I Maga'lahaen Guahan*

Date: 5-12-99

Public Law No. 25-06

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN  
1999 (FIRST) Regular Session**

**Bill No. 53 (COR)**

As substituted by the Committee  
on Rules, Government Reform,  
Reorganization and Federal Affairs  
and amended on the Floor.

Introduced by:

Mark Forbes  
L. F. Kasperbauer  
F. B. Aguon, Jr.  
E. B. Calvo  
J. M.S. Brown  
K. S. Moylan  
E. C. Bermudes  
A. C. Blaz  
M. G. Camacho  
A.C. Lamorena, V  
C. A. Leon Guerrero  
V. C. Pangelinan  
J. C. Salas  
S. A. Sanchez, II  
A. R. Unpingco

**AN ACT TO REFORM THE SUNSHINE ACT OF  
GUAM TO EXPEDITE PUBLIC INFORMATION  
REQUESTS AND TO ALLOW ELECTRONIC  
REQUESTS FOR INFORMATION, TO BE KNOWN  
AS "THE SUNSHINE REFORM ACT OF 1999."**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that:

4           (1) public access to information is a fundamental right of  
5 citizens and a necessity for an informed electorate, and the denial of that  
6 information to citizens and the media is therefore *not* acceptable in the  
7 government of Guam;

8           (2) the Sunshine Act of Guam and the Federal Freedom of  
9 Information Act have been valuable means through which any citizen  
10 can learn how the government operates;

11           (3) those same acts have led to the disclosure of waste, fraud,  
12 abuse and wrongdoing in the government, locally and nationally;

13           (4) while few requests for public information are filed in  
14 government of Guam agencies by the public and the media, those  
15 requests are *not* fulfilled as quickly or as often as possible;

16           (5) government agencies increasingly use computers to conduct  
17 agency business and to store publicly valuable agency records and  
18 information; *and*

19           (6) government agencies should use new technology to enhance  
20 public access to agency records and information.

21 *I Liheslaturan Guåhan* therefore intends to:

22           (1) foster democracy by ensuring public access to agency  
23 records and information;

1 (2) improve and expedite public access to agency records and  
2 information;

3 (3) shorten statutory time limits for agency response to requests  
4 for public information and ensure compliance with those statutory time  
5 limits; *and*

6 (4) maximize the usefulness of agency records and information  
7 by taking advantage of computer technology.

8 **Section 2.** Article 1 of Chapter 10 of Title 5 of the Guam Code  
9 Annotated is hereby *repealed and reenacted* to read as follows:

10 **"ARTICLE 1.**

11 **SUNSHINE LAW.**

12 **Section 10101. Short Title.**

13 **Section 10102. Definitions.**

14 **Section 10103. Right of Inspection of Public Documents.**

15 **Section 10104. Electronic Communications.**

16 **Section 10105. Efficient Disclosure of Records.**

17 **Section 10106. Posting Guidelines.**

18 **Section 10107. Annual report.**

19 **Section 10108. Limitation on Right of Inspection.**

20 **Section 10109. Disclosure to Proper Officials.**

21 **Section 10110. Purpose of Request Irrelevant.**

22 **Section 10111. Court Proceedings.**

23 **Section 10112. Penalties for Nondisclosure.**

24 **Section 10113. Judicial Records.**

1  
2           **Section 10101. Short Title.**       This Chapter shall be known,  
3 and may be cited, as the '*Sunshine Reform Act of 1999.*'

4           **Section 10102. Definitions.**           As used in this Chapter:

5           (a) '*Agency*' means any authority of the government and  
6 includes a department, institution, board, bureau, commission,  
7 council, committee of Guam government, branch, autonomous  
8 instrumentality, public corporation funded by public taxes or  
9 funds, or other public entity of the government of Guam, whether  
10 or not it is within or subject to review by another agency.

11           (b) '*Director*' means the person directly responsible for  
12 overseeing the daily operations of an agency, or the person  
13 serving in an acting capacity as director at the time of any request  
14 for copies of public records.

15           (c) '*Person*' includes any natural person, corporation,  
16 partnership, limited liability company, firm or association.

17           (d) '*Public records*' includes any writing containing  
18 information relating to the conduct of the public's business  
19 prepared, owned, used, or retained by any state or local agency in  
20 any format, including an electronic format.

21           **Section 10103. Right of Inspection of Public Documents.**

22           (a) Every person has the right to inspect and take a copy  
23 of any public document on Guam, *except* as otherwise expressly



1 prohibited in law, and *except* as provided in §10108 of this  
2 Chapter.

3 (b) Public records are open to inspection at all times  
4 during the office hours of the agency and every person has a right  
5 to inspect any public record, *except* as hereafter provided. Any  
6 segregable portion of a record shall be available for inspection by  
7 any person requesting the record after deletion of the portions that  
8 are exempted by law.

9 (c) *Except* with respect to public records exempt from  
10 disclosure by express provisions of the law, each agency, upon a  
11 request for a copy of records that reasonably describes an  
12 identifiable record or records, shall make the records promptly  
13 available to any person, upon payment of fees covering direct  
14 costs of duplication, or a statutory fee, if applicable. Upon  
15 request, an exact copy shall be provided, *unless* impracticable to  
16 do so.

17 (d) Each agency, upon a request for a copy of public  
18 records shall, within four (4) working days from receipt of the  
19 request, comply with the request if the records requested are  
20 disclosable public records in the possession of the agency. *If* the  
21 records being requested partially contain information exempted  
22 from disclosure by this Chapter or by another law, the agency  
23 shall redact the exempt information only and release the non-  
24 exempt information in the records, citing the exemptions in law

1 that require the information to be redacted. *If* the records in whole  
2 contain information *not* disclosable by this Chapter or another  
3 law, and contain no information that can be released, the agency  
4 shall notify the person requesting the records within four (4)  
5 working days from receipt of the request, and cite the exemptions  
6 in law that prohibit disclosure of the records.

7 (e) In unusual circumstances, the time limit prescribed in  
8 this Section may be extended up to ten (10) days, including  
9 Saturdays, Sundays and legal holidays, by written notice by the  
10 director of the agency or the director's designee to the person  
11 making the request, setting forth the reasons for the extension and  
12 the date on which a determination is expected to be dispatched.  
13 As used in this Section, '*unusual circumstances*' means:

14 (1) the need to search for and collect the requested  
15 records from field facilities or other establishments that are  
16 separate from the office processing the request; *or*

17 (2) the need to search for, collect and appropriately  
18 examine more than ten (10) separate and distinct records  
19 which are demanded in a single request, or records that in  
20 total, are contained in five hundred (500) or more pages, or  
21 contain about two hundred fifty thousand (250,000) words,  
22 whichever is more.

23 **Section 10104. Electronic Communications.** (a)

24 An agency shall treat an electronic mail request for public

1 records the same as it treats paper and oral requests for records.  
2 The same deadlines apply to electronic mail requests as other  
3 requests, and to ensure that electronic requests are complied with  
4 quickly, the agency shall check its electronic mail every work day.

5 (b) In making any record available to a person under this  
6 Chapter, an agency shall provide the record in any form or format  
7 requested by the person *if* the record is readily reproducible by the  
8 agency in that form or format. Each agency shall make reasonable  
9 efforts to maintain its records in forms or formats that are  
10 reproducible in electronic form, through electronic mail or on  
11 computer disk.

12 **Section 10105. Efficient Disclosure of Records.** (a) To  
13 ensure expedient disclosure of records by an agency, the Director  
14 of an agency shall require all personnel in charge of receiving any  
15 incoming mail, electronic mail, faxed documents or other  
16 communications to immediately notify the Director or his  
17 designee upon receipt of a request for records under this Chapter.

18 (b) Upon receipt of a request for records under this  
19 Chapter, the Director of an agency or his designee shall  
20 immediately assign the request to be fulfilled or responded to by  
21 an employee of the agency.

22 (c) Each agency shall organize paper and computer files  
23 so that documents can be retrieved and copied quickly for  
24 expedient disclosure of records under this Chapter.

1           **Section 10106. Posting Guidelines.** (a) Every agency shall  
2 establish written guidelines for accessibility of records and stating  
3 the procedures to be followed when making its records available  
4 in accordance with this Chapter. The guidelines shall include a  
5 mailing address, fax number and electronic mail address to which  
6 a person can send requests for copies of public records. The  
7 guidelines shall also include the records exempted from disclosure  
8 of which the agency is a custodian, as prescribed in Subsection (b)  
9 of this Section. A copy of these guidelines shall be posted in a  
10 conspicuous public place at the offices of each agency, and a copy  
11 of the guidelines shall be available upon request free of charge to  
12 any person requesting the agency's records. Each agency shall  
13 also make the guidelines and list of disclosable and non-  
14 disclosable documents available by computer telecommunications  
15 within one (1) year of the effective date of this Chapter.

16           (b) Every public officer in charge of an agency having  
17 custody of records shall, within sixty (60) days after the effective  
18 date of this Act, compile a list containing categorized descriptions  
19 of all writing in the custody of the agency which said agency  
20 considers non-public and non-disclosable as prescribed in §10108  
21 of this Chapter, and submit the list to the Speaker of *I Liheslaturan*  
22 *Guåhan* for approval by *I Liheslaturan Guåhan*. The list for each  
23 agency shall be referred by the Rules Committee to the  
24 appropriate oversight committees, which shall hold a public  
25 hearing on each list before the list is put on *I Liheslaturan Guåhan's*

1 session agenda for approval. Such approved list shall be used as a  
2 guide for determination of non-disclosable records by agency  
3 employees and may be amended by *I Liheslaturan Guahan* at any  
4 time. All documents *not* included on this list shall be considered  
5 public writings. *If* no such list is promulgated by the agency  
6 within (60) days, all documents and records shall be public *unless*  
7 non-public and non-disclosable pursuant to §10108. If a list is *not*  
8 approved by *I Liheslaturan Guahan* within ninety (90) days of  
9 submission thereof, it shall be deemed approved on the expiration  
10 of the ninety (90) days.

11 **Section 10107. Annual Report.** (a) On or before February 1  
12 of each year, each agency shall submit to the Attorney General of  
13 Guam a report which shall cover the preceding fiscal year and  
14 which shall include:

15 (1) the number of determinations made by the  
16 agency *not* to comply with requests for records made to such  
17 agency under §10108 of this Chapter and the reasons for  
18 each such determination;

19 (2) the number of requests for records pending  
20 before the agency as of September 30 of the preceding year,  
21 and the median number of days that such requests had been  
22 pending before the agency as of that date;

1           (3) the number of requests for records received by  
2 the agency and the number of requests which the agency  
3 processed;

4           (4) the median number of days taken by the agency  
5 to process different types of requests; *and*

6           (5) the number of full-time staff of the agency  
7 devoted to processing requests for records under this  
8 Section, and the total amount expended by the agency for  
9 processing such requests.

10          (b) Each agency shall make each such report available to  
11 the public, including by computer telecommunications, or if  
12 computer telecommunications means have *not* been established by  
13 the agency, by other electronic means.

14          (c) The Attorney General of Guam shall make each report  
15 which has been made available by electronic means available at a  
16 single access point. The Attorney General of Guam shall notify  
17 the Legislative Secretary of *I Liheslaturan Guåhan*, no later than  
18 April 1 of the year in which each such report is issued, that such  
19 reports are available by electronic means.

20          (d) The Attorney General of Guam shall develop reporting  
21 and performance guidelines in connection with reports required  
22 by this Section by October 1, 1999, and may establish additional  
23 requirements for such reports as the Attorney General determines  
24 may be useful.

1           **Section 10108. Limitation on Right of Inspection.**       *Except*

2           as provided in §10109 of this Chapter, nothing in this Chapter shall be  
3           construed to require disclosure of records that are any of the following:

4                   (a) Records pertaining to pending litigation to which the  
5                   agency is a party, until the pending litigation has been finally  
6                   adjudicated or otherwise settled.

7                   (b) Records of complaints to, or investigations conducted  
8                   by, or records of intelligence information or security procedures  
9                   of, the office of the Attorney General or law enforcement agencies.

10           Other provisions of this Subsection notwithstanding, law  
11           enforcement agencies shall make public the following information,  
12           *except* to the extent that disclosure of a particular item of information  
13           would endanger the safety of a person involved in an investigation or  
14           would endanger the successful completion of the investigation or  
15           related investigation:

16                   (1) The full name and village of residence of every  
17                   individual arrested by the agency, the individual's physical  
18                   description including date of birth, color of eyes and hair, sex,  
19                   height and weight, the time and date of arrest, the time and date  
20                   of booking, the location of the arrest, the factual circumstances  
21                   surrounding the arrest, the amount of bail set, the time and  
22                   manner of release or the location where the individual is currently  
23                   being held, and all charges the individual is being held upon,  
24                   including any outstanding warrants from other jurisdictions and  
25                   parole or probation holds.

1           (2) The time, substance, and location of all complaints or  
2 requests for assistance received by the agency and the time and  
3 nature of the response thereto, including, to the extent the  
4 information regarding crimes alleged or committed or any other  
5 incident investigated is recorded, the time, date, and location of  
6 occurrence, the time and date of the report, the name and age of  
7 the victim, the factual circumstances surrounding the crime or  
8 incident, and a general description of any injuries, property, or  
9 weapons involved. The name of a victim of any crime may be  
10 withheld at the victim's request, or at the request of the victim's  
11 parent or guardian if the victim is a minor.

12           (c) Personnel, medical, or similar files, the disclosure of  
13 which would constitute an unwarranted invasion of personal  
14 privacy. All information regarding salary, and the name, age, and  
15 mailing address of each employee and public official shall be  
16 public record.

17           (d) Information required from any taxpayer in connection  
18 with the collection of taxes that is received in confidence and the  
19 disclosure of the information to other persons would result in  
20 unfair competitive disadvantage to the person supplying the  
21 information, *except* that total amounts of money owed to or owed  
22 by a person, and penalties levied against and owed by a person,  
23 shall be public information and *not* exempt from disclosure.

24           (e) Library circulation records kept for the purpose of  
25 identifying the borrower of items available in libraries, and library



1 and museum materials made or acquired and presented solely for  
2 reference or exhibition purposes. The exemption in this  
3 Subsection shall *not* apply to the records of fines imposed on the  
4 borrowers.

5 (f) Applications filed with any agency responsible for the  
6 regulation or supervision of the issuance of securities or of  
7 financial institutions, including, but not limited to, banks, savings  
8 and loan associations, credit unions and insurance companies.  
9 The exemption in this Subsection shall *not* apply to the records of  
10 loans or securities issued by an agency, the amount of money or  
11 credit issued to a person, information about the purpose and  
12 reasons for loans or securities issued by the agency, or identifying  
13 information about the person receiving the money or credit,  
14 including name, date of birth, occupation and place of residence.

15 (g) Test questions, scoring keys and other examination  
16 data used to administer a licensing examination, examination for  
17 employment, or academic examination. The exemption in this  
18 Subsection shall *not* apply to cumulative test scores on academic  
19 tests administered by the Department of Education, but shall  
20 apply to individual students' test scores.

21 (h) The home address and telephone number of any  
22 public official or government employee, *unless* the public official  
23 or employee gives expressed permission to disclose such  
24 information. The exemption in this Subsection shall *not* apply to

1 information provided by nominated board members, directors  
2 and other officials up for confirmation by *I Liheslaturan Guåhan*.

3 **Section 10109. Disclosure to Proper Officials.** The  
4 exemptions of records as prescribed in this Chapter shall *not* apply to  
5 public officials who prior to the adoption of this act had legal access to  
6 the records.

7 **Section 10110. Purpose of Request Irrelevant.** This Chapter  
8 does *not* allow limitations on access to a public record based upon the  
9 purpose for which the record is being requested, if the record is  
10 otherwise subject to disclosure.

11 **Section 10111. Court Proceedings.** (a) Any person making  
12 a request in any agency for public records pursuant to §10103  
13 shall be deemed to have exhausted his administrative remedies  
14 with respect to such request if the agency fails to comply with the  
15 applicable time limit provisions of that Section.

16 (b) Any person may institute proceedings for injunctive or  
17 declarative relief or writ of mandate in the Superior Court of  
18 Guam to enforce that person's right to inspect or to receive a copy  
19 of any public record or class of public records under this Chapter.  
20 The times for responsive pleadings and for hearings in these  
21 proceedings shall be set by the judge of the Court with the object  
22 of securing a decision as to these matters at the earliest possible  
23 time.

1           (c) Whenever it is made to appear by verified petition to  
2 the Superior Court of Guam that certain public records are being  
3 improperly withheld from a member of the public, the Court shall  
4 order the officer or person charged with withholding the records  
5 to promptly disclose the public record or show cause why the  
6 person should *not* do so. The Court shall decide the case after  
7 examining the record *in camera*, papers filed by the parties and any  
8 oral argument and additional evidence as the Court may allow.  
9 The burden is on the agency to sustain its action. All records shall  
10 be presumed public and the burden of establishing that a  
11 document or record is private shall be upon the agency or person  
12 claiming that the document on record should *not* be disclosed or  
13 inspected.

14           (d) *Except* as to cases the Court considers of greater  
15 importance, proceedings before the Superior Court, as authorized  
16 by this Section, and appeals therefrom, take precedence over all  
17 cases and shall be assigned for hearing and trial or for argument at  
18 the earliest practicable date and expedited in every way.

19           (e) If the Court finds that the public official's decision to  
20 refuse disclosure is *not* justified under this Chapter, the Court  
21 shall order the public official to make the record public. *If* the  
22 judge determines that the public official was justified in refusing  
23 to make the record public, the Court shall return the item to the

1 public official without disclosing its content with an order  
2 supporting the decision refusing disclosure.

3 **Section 10112. Penalties for Nondisclosure.** (a) If the  
4 Court finds that the public official's decision to refuse disclosure is  
5 *not* justified under this Chapter, the Court shall order the public  
6 official to pay a fine of One Thousand Dollars (\$1,000.00). The fine  
7 shall be a personal expense for the responsible official and in no  
8 way shall the fine be paid by the agency or the government of  
9 Guam.

10 (b) There is created the '*Government Ethics Fund*' to assist  
11 the Guam Ethics Commission in ensuring ethical conduct in the  
12 government of Guam. This fund shall *not* be commingled with the  
13 General fund and shall be kept in a separate bank account. Any  
14 fines collected under Subsection (a) of this Section shall be  
15 deposited in the Government Ethics Fund, are appropriated to the  
16 Guam Ethics Commission for ethical investigations, audits and  
17 analyses of financial disclosure forms. This appropriation is  
18 continuous, contingent on the annual submission of a detailed  
19 budget to *I Liheslaturan Guåhan*, not withstanding any other  
20 provision of law.

21 (c) Any officer or employee who acts arbitrarily or  
22 capriciously in withholding a public record from a requesting  
23 person shall be guilty of a misdemeanor.

1 (d) The Court shall award court costs and reasonable  
2 attorney fees to the plaintiff should the plaintiff prevail after initial  
3 filing of the complaint pursuant to this Section. The costs and fees  
4 shall be paid by the public agency of which the public official is a  
5 member or employee and shall *not* become a personal liability of  
6 the public official. If the Court finds that the plaintiff's case is  
7 clearly frivolous, it shall award court costs and reasonable  
8 attorney fees to the public agency.

9 **Section 10113. Judicial records.** The provisions of this Chapter  
10 shall *not* be deemed in any manner to affect the status of judicial records  
11 as it existed immediately prior to the effective date of this Section, nor to  
12 affect the rights of litigants, including parties to administrative  
13 proceedings, under the laws of discovery of Guam, nor to limit or  
14 impair any rights of discovery in a criminal case."

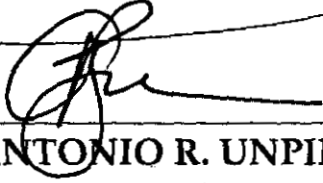
15 **Section 3. Effective Dates.** This Act shall be effective immediately  
16 upon its enactment. The existing lists of non-public writings shall remain  
17 non-public for one hundred fifty (150) days, or until a new list is promulgated  
18 pursuant to this Law, whichever is shorter.

19 **Section 4. Severability.** *If* any provision of this Law 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  
22 Law which can be given effect without the invalid provisions or application,  
23 and to this end the provisions of this Law are severable.

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
1999 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 53 (COR), "AN ACT TO REFORM THE SUNSHINE ACT OF GUAM TO EXPEDITE PUBLIC INFORMATION REQUESTS AND TO ALLOW ELECTRONIC REQUESTS FOR INFORMATION, TO BE KNOWN AS "THE SUNSHINE REFORM ACT OF 1999," was on the 28<sup>th</sup> day of April, 1999, duly and regularly passed.

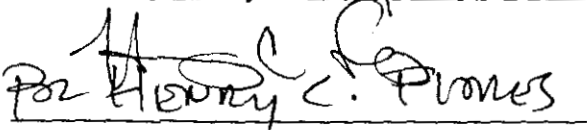
  
ANTONIO R. UNPINGCO  
Speaker

Attested:

  
JOANNE M.S. BROWN

Senator and Legislative Secretary

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This Act was received by *I Maga'lahen Guahan* this 30<sup>th</sup> day of April, 1999,  
at 5:46 o'clock P.M.

  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

\_\_\_\_\_  
CARL T. C. GUTIERREZ  
*I Maga'lahen Guahan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN  
1999 (FIRST) Regular Session**

**Bill No. 53 (COR)**

As substituted by the Committee  
on Rules, Government Reform,  
Reorganization and Federal Affairs  
and amended on the Floor.

Introduced by:

Mark Forbes  
L. F. Kasperbauer  
F. B. Aguon, Jr. \_\_\_\_\_  
E. B. Calvo  
J. M.S. Brown  
K. S. Moylan  
E. C. Bermudes  
A. C. Blaz  
M. G. Camacho  
A.C. Lamorena, V  
C. A. Leon Guerrero  
V. C. Pangelinan  
J. C. Salas  
S. A. Sanchez, II  
A. R. Unpingco

**AN ACT TO REFORM THE SUNSHINE ACT OF  
GUAM TO EXPEDITE PUBLIC INFORMATION  
REQUESTS AND TO ALLOW ELECTRONIC  
REQUESTS FOR INFORMATION, TO BE KNOWN  
AS "THE SUNSHINE REFORM ACT OF 1999."**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that:

4           (1) public access to information is a fundamental right of  
5 citizens and a necessity for an informed electorate, and the denial of that  
6 information to citizens and the media is therefore *not* acceptable in the  
7 government of Guam;

8           (2) the Sunshine Act of Guam and the Federal Freedom of  
9 Information Act have been valuable means through which any citizen  
10 can learn how the government operates;

11           (3) those same acts have led to the disclosure of waste, fraud,  
12 abuse and wrongdoing in the government, locally and nationally;

13           (4) while few requests for public information are filed in  
14 government of Guam agencies by the public and the media, those  
15 requests are *not* fulfilled as quickly or as often as possible;

16           (5) government agencies increasingly use computers to conduct  
17 agency business and to store publicly valuable agency records and  
18 information; *and*

19           (6) government agencies should use new technology to enhance  
20 public access to agency records and information.

21 *I Liheslaturan Guåhan* therefore intends to:

22           (1) foster democracy by ensuring public access to agency  
23 records and information;



1 (2) improve and expedite public access to agency records and  
2 information;

3 (3) shorten statutory time limits for agency response to requests  
4 for public information and ensure compliance with those statutory time  
5 limits; *and*

6 (4) maximize the usefulness of agency records and information  
7 by taking advantage of computer technology.

8 Section 2. Article 1 of Chapter 10 of Title 5 of the Guam Code  
9 Annotated is hereby *repealed and reenacted* to read as follows:

10 "ARTICLE 1.

11 SUNSHINE LAW.

12 Section 10101. Short Title.

13 Section 10102. Definitions.

14 Section 10103. Right of Inspection of Public Documents.

15 Section 10104. Electronic Communications.

16 Section 10105. Efficient Disclosure of Records.

17 Section 10106. Posting Guidelines.

18 Section 10107. Annual report.

19 Section 10108. Limitation on Right of Inspection.

20 Section 10109. Disclosure to Proper Officials.

21 Section 10110. Purpose of Request Irrelevant.

22 Section 10111. Court Proceedings.

23 Section 10112. Penalties for Nondisclosure.

24 Section 10113. Judicial Records.

1 prohibited in law, and *except* as provided in §10108 of this  
2 Chapter.

3 (b) Public records are open to inspection at all times  
4 during the office hours of the agency and every person has a right  
5 to inspect any public record, *except* as hereafter provided. Any  
6 segregable portion of a record shall be available for inspection by  
7 any person requesting the record after deletion of the portions that  
8 are exempted by law.

9 (c) *Except* with respect to public records exempt from  
10 disclosure by express provisions of the law, each agency, upon a  
11 request for a copy of records that reasonably describes an  
12 identifiable record or records, shall make the records promptly  
13 available to any person, upon payment of fees covering direct  
14 costs of duplication, or a statutory fee, if applicable. Upon  
15 request, an exact copy shall be provided, *unless* impracticable to  
16 do so.

17 (d) Each agency, upon a request for a copy of public  
18 records shall, within four (4) working days from receipt of the  
19 request, comply with the request if the records requested are  
20 disclosable public records in the possession of the agency. *If* the  
21 records being requested partially contain information exempted  
22 from disclosure by this Chapter or by another law, the agency  
23 shall redact the exempt information only and release the non-  
24 exempt information in the records, citing the exemptions in law

1 that require the information to be redacted. *If* the records in whole  
2 contain information *not* disclosable by this Chapter or another  
3 law, and contain no information that can be released, the agency  
4 shall notify the person requesting the records within four (4)  
5 working days from receipt of the request, and cite the exemptions  
6 in law that prohibit disclosure of the records.

7 (e) In unusual circumstances, the time limit prescribed in  
8 this Section may be extended up to ten (10) days, including  
9 Saturdays, Sundays and legal holidays, by written notice by the  
10 director of the agency or the director's designee to the person  
11 making the request, setting forth the reasons for the extension and  
12 the date on which a determination is expected to be dispatched.  
13 As used in this Section, '*unusual circumstances*' means:

14 (1) the need to search for and collect the requested  
15 records from field facilities or other establishments that are  
16 separate from the office processing the request; *or*

17 (2) the need to search for, collect and appropriately  
18 examine more than ten (10) separate and distinct records  
19 which are demanded in a single request, or records that in  
20 total, are contained in five hundred (500) or more pages, or  
21 contain about two hundred fifty thousand (250,000) words,  
22 whichever is more.

23 **Section 10104. Electronic Communications. (a)**

24 An agency shall treat an electronic mail request for public

1 records the same as it treats paper and oral requests for records.  
2 The same deadlines apply to electronic mail requests as other  
3 requests, and to ensure that electronic requests are complied with  
4 quickly, the agency shall check its electronic mail every work day.

5 (b) In making any record available to a person under this  
6 Chapter, an agency shall provide the record in any form or format  
7 requested by the person *if* the record is readily reproducible by the  
8 agency in that form or format. Each agency shall make reasonable  
9 efforts to maintain its records in forms or formats that are  
10 reproducible in electronic form, through electronic mail or on  
11 computer disk.

12 **Section 10105. Efficient Disclosure of Records.** (a) To  
13 ensure expedient disclosure of records by an agency, the Director  
14 of an agency shall require all personnel in charge of receiving any  
15 incoming mail, electronic mail, faxed documents or other  
16 communications to immediately notify the Director or his  
17 designee upon receipt of a request for records under this Chapter.

18 (b) Upon receipt of a request for records under this  
19 Chapter, the Director of an agency or his designee shall  
20 immediately assign the request to be fulfilled or responded to by  
21 an employee of the agency.

22 (c) Each agency shall organize paper and computer files  
23 so that documents can be retrieved and copied quickly for  
24 expedient disclosure of records under this Chapter.

1           **Section 10106. Posting Guidelines.** (a) Every agency shall  
2 establish written guidelines for accessibility of records and stating  
3 the procedures to be followed when making its records available  
4 in accordance with this Chapter. The guidelines shall include a  
5 mailing address, fax number and electronic mail address to which  
6 a person can send requests for copies of public records. The  
7 guidelines shall also include the records exempted from disclosure  
8 of which the agency is a custodian, as prescribed in Subsection (b)  
9 of this Section. A copy of these guidelines shall be posted in a  
10 conspicuous public place at the offices of each agency, and a copy  
11 of the guidelines shall be available upon request free of charge to  
12 any person requesting the agency's records. Each agency shall  
13 also make the guidelines and list of disclosable and non-  
14 disclosable documents available by computer telecommunications  
15 within one (1) year of the effective date of this Chapter.

16           (b) Every public officer in charge of an agency having  
17 custody of records shall, within sixty (60) days after the effective  
18 date of this Act, compile a list containing categorized descriptions  
19 of all writing in the custody of the agency which said agency  
20 considers non-public and non-disclosable as prescribed in §10108  
21 of this Chapter, and submit the list to the Speaker of *I Liheslaturan*  
22 *Guåhan* for approval by *I Liheslaturan Guåhan*. The list for each  
23 agency shall be referred by the Rules Committee to the  
24 appropriate oversight committees, which shall hold a public  
25 hearing on each list before the list is put on *I Liheslaturan Guåhan's*

1 session agenda for approval. Such approved list shall be used as a  
2 guide for determination of non-disclosable records by agency  
3 employees and may be amended by *I Liheslaturan Guahan* at any  
4 time. All documents *not* included on this list shall be considered  
5 public writings. *If* no such list is promulgated by the agency  
6 within (60) days, all documents and records shall be public *unless*  
7 non-public and non-disclosable pursuant to §10108. If a list is *not*  
8 approved by *I Liheslaturan Guahan* within ninety (90) days of  
9 submission thereof, it shall be deemed approved on the expiration  
10 of the ninety (90) days.

11 **Section 10107. Annual Report.** (a) On or before February 1  
12 of each year, each agency shall submit to the Attorney General of  
13 Guam a report which shall cover the preceding fiscal year and  
14 which shall include:

15 (1) the number of determinations made by the  
16 agency *not* to comply with requests for records made to such  
17 agency under §10108 of this Chapter and the reasons for  
18 each such determination;

19 (2) the number of requests for records pending  
20 before the agency as of September 30 of the preceding year,  
21 and the median number of days that such requests had been  
22 pending before the agency as of that date;

1           (3) the number of requests for records received by  
2 the agency and the number of requests which the agency  
3 processed;

4           (4) the median number of days taken by the agency  
5 to process different types of requests; *and*

6           (5) the number of full-time staff of the agency  
7 devoted to processing requests for records under this  
8 Section, and the total amount expended by the agency for  
9 processing such requests.

10          (b) Each agency shall make each such report available to  
11 the public, including by computer telecommunications, or if  
12 computer telecommunications means have *not* been established by  
13 the agency, by other electronic means.

14          (c) The Attorney General of Guam shall make each report  
15 which has been made available by electronic means available at a  
16 single access point. The Attorney General of Guam shall notify  
17 the Legislative Secretary of *I Liheslaturan Guåhan*, no later than  
18 April 1 of the year in which each such report is issued, that such  
19 reports are available by electronic means.

20          (d) The Attorney General of Guam shall develop reporting  
21 and performance guidelines in connection with reports required  
22 by this Section by October 1, 1999, and may establish additional  
23 requirements for such reports as the Attorney General determines  
24 may be useful.

1           **Section 10108. Limitation on Right of Inspection.**       *Except*  
2 as provided in §10109 of this Chapter, nothing in this Chapter shall be  
3 construed to require disclosure of records that are any of the following:

4           (a) Records pertaining to pending litigation to which the  
5 agency is a party, until the pending litigation has been finally  
6 adjudicated or otherwise settled.

7           (b) Records of complaints to, or investigations conducted  
8 by, or records of intelligence information or security procedures  
9 of, the office of the Attorney General or law enforcement agencies.

10          Other provisions of this Subsection notwithstanding, law  
11 enforcement agencies shall make public the following information,  
12 *except* to the extent that disclosure of a particular item of information  
13 would endanger the safety of a person involved in an investigation or  
14 would endanger the successful completion of the investigation or  
15 related investigation:

16           (1) The full name and village of residence of every  
17 individual arrested by the agency, the individual's physical  
18 description including date of birth, color of eyes and hair, sex,  
19 height and weight, the time and date of arrest, the time and date  
20 of booking, the location of the arrest, the factual circumstances  
21 surrounding the arrest, the amount of bail set, the time and  
22 manner of release or the location where the individual is currently  
23 being held, and all charges the individual is being held upon,  
24 including any outstanding warrants from other jurisdictions and  
25 parole or probation holds.



1           (2) The time, substance, and location of all complaints or  
2 requests for assistance received by the agency and the time and  
3 nature of the response thereto, including, to the extent the  
4 information regarding crimes alleged or committed or any other  
5 incident investigated is recorded, the time, date, and location of  
6 occurrence, the time and date of the report, the name and age of  
7 the victim, the factual circumstances surrounding the crime or  
8 incident, and a general description of any injuries, property, or  
9 weapons involved. The name of a victim of any crime may be  
10 withheld at the victim's request, or at the request of the victim's  
11 parent or guardian if the victim is a minor.

12           (c) Personnel, medical, or similar files, the disclosure of  
13 which would constitute an unwarranted invasion of personal  
14 privacy. All information regarding salary, and the name, age, and  
15 mailing address of each employee and public official shall be  
16 public record.

17           (d) Information required from any taxpayer in connection  
18 with the collection of taxes that is received in confidence and the  
19 disclosure of the information to other persons would result in  
20 unfair competitive disadvantage to the person supplying the  
21 information, *except* that total amounts of money owed to or owed  
22 by a person, and penalties levied against and owed by a person,  
23 shall be public information and *not* exempt from disclosure.

24           (e) Library circulation records kept for the purpose of  
25 identifying the borrower of items available in libraries, and library

1 and museum materials made or acquired and presented solely for  
2 reference or exhibition purposes. The exemption in this  
3 Subsection shall *not* apply to the records of fines imposed on the  
4 borrowers.

5 (f) Applications filed with any agency responsible for the  
6 regulation or supervision of the issuance of securities or of  
7 financial institutions, including, but not limited to, banks, savings  
8 and loan associations, credit unions and insurance companies.  
9 The exemption in this Subsection shall *not* apply to the records of  
10 loans or securities issued by an agency, the amount of money or  
11 credit issued to a person, information about the purpose and  
12 reasons for loans or securities issued by the agency, or identifying  
13 information about the person receiving the money or credit,  
14 including name, date of birth, occupation and place of residence.

15 (g) Test questions, scoring keys and other examination  
16 data used to administer a licensing examination, examination for  
17 employment, or academic examination. The exemption in this  
18 Subsection shall *not* apply to cumulative test scores on academic  
19 tests administered by the Department of Education, but shall  
20 apply to individual students' test scores.

21 (h) The home address and telephone number of any  
22 public official or government employee, *unless* the public official  
23 or employee gives expressed permission to disclose such  
24 information. The exemption in this Subsection shall *not* apply to

1 information provided by nominated board members, directors  
2 and other officials up for confirmation by *I Liheslaturan Guåhan*.

3 **Section 10109. Disclosure to Proper Officials.** The  
4 exemptions of records as prescribed in this Chapter shall *not* apply to  
5 public officials who prior to the adoption of this act had legal access to  
6 the records.

7 **Section 10110. Purpose of Request Irrelevant.** This Chapter  
8 does *not* allow limitations on access to a public record based upon the  
9 purpose for which the record is being requested, if the record is  
10 otherwise subject to disclosure.

11 **Section 10111. Court Proceedings.** (a) Any person making  
12 a request in any agency for public records pursuant to §10103  
13 shall be deemed to have exhausted his administrative remedies  
14 with respect to such request if the agency fails to comply with the  
15 applicable time limit provisions of that Section.

16 (b) Any person may institute proceedings for injunctive or  
17 declarative relief or writ of mandate in the Superior Court of  
18 Guam to enforce that person's right to inspect or to receive a copy  
19 of any public record or class of public records under this Chapter.  
20 The times for responsive pleadings and for hearings in these  
21 proceedings shall be set by the judge of the Court with the object  
22 of securing a decision as to these matters at the earliest possible  
23 time.

1           (c) Whenever it is made to appear by verified petition to  
2 the Superior Court of Guam that certain public records are being  
3 improperly withheld from a member of the public, the Court shall  
4 order the officer or person charged with withholding the records  
5 to promptly disclose the public record or show cause why the  
6 person should *not* do so. The Court shall decide the case after  
7 examining the record *in camera*, papers filed by the parties and any  
8 oral argument and additional evidence as the Court may allow.  
9 The burden is on the agency to sustain its action. All records shall  
10 be presumed public and the burden of establishing that a  
11 document or record is private shall be upon the agency or person  
12 claiming that the document on record should *not* be disclosed or  
13 inspected.

14           (d) *Except* as to cases the Court considers of greater  
15 importance, proceedings before the Superior Court, as authorized  
16 by this Section, and appeals therefrom, take precedence over all  
17 cases and shall be assigned for hearing and trial or for argument at  
18 the earliest practicable date and expedited in every way.

19           (e) If the Court finds that the public official's decision to  
20 refuse disclosure is *not* justified under this Chapter, the Court  
21 shall order the public official to make the record public. *If* the  
22 judge determines that the public official was justified in refusing  
23 to make the record public, the Court shall return the item to the

1 public official without disclosing its content with an order  
2 supporting the decision refusing disclosure.

3 **Section 10112. Penalties for Nondisclosure.** (a) If the  
4 Court finds that the public official's decision to refuse disclosure is  
5 *not* justified under this Chapter, the Court shall order the public  
6 official to pay a fine of One Thousand Dollars (\$1,000.00). The fine  
7 shall be a personal expense for the responsible official and in no  
8 way shall the fine be paid by the agency or the government of  
9 Guam.

10 (b) There is created the '*Government Ethics Fund*' to assist  
11 the Guam Ethics Commission in ensuring ethical conduct in the  
12 government of Guam. This fund shall *not* be commingled with the  
13 General fund and shall be kept in a separate bank account. Any  
14 fines collected under Subsection (a) of this Section shall be  
15 deposited in the Government Ethics Fund, are appropriated to the  
16 Guam Ethics Commission for ethical investigations, audits and  
17 analyses of financial disclosure forms. This appropriation is  
18 continuous, contingent on the annual submission of a detailed  
19 budget to *I Liheslaturan Guåhan*, not withstanding any other  
20 provision of law.

21 (c) Any officer or employee who acts arbitrarily or  
22 capriciously in withholding a public record from a requesting  
23 person shall be guilty of a misdemeanor.

1 (d) The Court shall award court costs and reasonable  
2 attorney fees to the plaintiff should the plaintiff prevail after initial  
3 filing of the complaint pursuant to this Section. The costs and fees  
4 shall be paid by the public agency of which the public official is a  
5 member or employee and shall *not* become a personal liability of  
6 the public official. If the Court finds that the plaintiff's case is  
7 clearly frivolous, it shall award court costs and reasonable  
8 attorney fees to the public agency.

9 **Section 10113. Judicial records.** The provisions of this Chapter  
10 shall *not* be deemed in any manner to affect the status of judicial records  
11 as it existed immediately prior to the effective date of this Section, nor to  
12 affect the rights of litigants, including parties to administrative  
13 proceedings, under the laws of discovery of Guam, nor to limit or  
14 impair any rights of discovery in a criminal case."

15 **Section 3. Effective Dates.** This Act shall be effective immediately  
16 upon its enactment. The existing lists of non-public writings shall remain  
17 non-public for one hundred fifty (150) days, or until a new list is promulgated  
18 pursuant to this Law, whichever is shorter.

19 **Section 4. Severability.** *If* any provision of this Law 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  
22 Law which can be given effect without the invalid provisions or application,  
23 and to this end the provisions of this Law are severable.

1 §10103. **Right of Inspection of Public Documents.**

2 §10104. **Electronic Communications.**

3 §10105. **Efficient Disclosure of Records.**

4 §10106. **Posting Guidelines.**

5 §10107. **Annual report.**

6 §10108. **Limitation on Right of Inspection.**

7 §10109. **Disclosure to Proper Officials.**

8 §10110. **Purpose of Request Irrelevant.**

9 §10111. **Court Proceedings.**

10 §10112. **Penalties for Nondisclosure.**

11 §10113. **Judicial Records.**

12  
13 §10101. **Short Title.** This Chapter shall be known and may be  
14 cited as the Sunshine Reform Act of 1999.

15 §10102. **Definitions.** As used in this Chapter:

16 (a) "Agency" means any authority of the government and includes a  
17 department, institution, board, bureau, commission, council, committee of  
18 territorial government, branch, autonomous instrumentality, public  
19 corporation funded by public taxes or funds, or other public entity of the  
20 government of Guam, whether or not it is within or subject to review by  
21 another agency.

22 (b) "Director" means the person directly responsible for overseeing  
23 the daily operations of an agency, or the person serving in an acting capacity  
24 as director at the time of any request for copies of public records.

1 (c) "Person" includes any natural person, corporation, partnership,  
2 limited liability company, firm, or association.

3 (d) "Public records" includes any writing containing information  
4 relating to the conduct of the public's business prepared, owned, used, or  
5 retained by any state or local agency in any format, including an electronic  
6 format.

7 **§10103. Right of Inspection of Public Documents.** (a) Every  
8 person has the right to inspect and take a copy of any public document on  
9 Guam, except as otherwise expressly prohibited in law, and except as  
10 provided in §10108 of this Chapter.

11 (b) Public records are open to inspection at all times during the office  
12 hours of the agency and every person has a right to inspect any public record,  
13 except as hereafter provided. Any segregable portion of a record shall be  
14 available for inspection by any person requesting the record after deletion of  
15 the portions that are exempted by law.

16 (c) Except with respect to public records exempt from disclosure by  
17 express provisions of the law, each agency, upon a request for a copy of  
18 records that reasonably describes an identifiable record or records, shall make  
19 the records promptly available to any person, upon payment of fees covering  
20 direct costs of duplication, or a statutory fee, if applicable. Upon request, an  
21 exact copy shall be provided unless impracticable to do so.

22 (d) Each agency, upon a request for a copy of public records shall,  
23 within 4 working days from receipt of the request, comply with the request if  
24 the records requested are disclosable public records in the possession of the



1 agency. If the records being requested partially contain information  
2 exempted from disclosure by this Chapter or by another law, the agency shall  
3 redact the exempt information only and release the non-exempt information  
4 in the records, citing the exemptions in law that require the information to be  
5 redacted. If the records in whole contain information not disclosable by this  
6 Chapter or another law, and contain no information that can be released, the  
7 agency shall notify the person requesting the records within 4 working days  
8 from receipt of the request, and cite the exemptions in law that prohibit  
9 disclosure of the records.

10 (e) In unusual circumstances, the time limit prescribed in this section  
11 may be extended up to 10 days, including Saturdays, Sunday, and legal  
12 holidays, by written notice by the director of the agency or the director's  
13 designee to the person making the request, setting forth the reasons for the  
14 extension and the date on which a determination is expected to be dispatched.  
15 As used in this section, "unusual circumstances" means:

16 (1) The need to search for and collect the requested records from  
17 field facilities or other establishments that are separate from the office  
18 processing the request.

19 (2) The need to search for, collect, and appropriately examine  
20 more than 10 separate and distinct records which are demanded in a  
21 single request, or records that in total are contained in 500 or more  
22 pages or contain about 250,000 words, whichever is more.

23 **§10104. Electronic communications.** (a) An agency shall treat an  
24 electronic mail request for public records the same as it treats paper and oral

1 requests for records. The same deadlines apply to electronic mail requests as  
2 other requests, and to ensure that electronic requests are complied with  
3 quickly, the agency shall check its electronic mail every work day.

4 (b) In making any record available to a person under this Chapter, an  
5 agency shall provide the record in any form or format requested by the  
6 person if the record is readily reproducible by the agency in that form or  
7 format. Each agency shall make reasonable efforts to maintain its records in  
8 forms or formats that are reproducible in electronic form, through electronic  
9 mail or on computer disk.

10 **§10105. Efficient Disclosure of Records.** (a) To ensure expedient  
11 disclosure of records by an agency, the Director of an agency shall require all  
12 personnel in charge of receiving any incoming mail, electronic mail, faxed  
13 documents or other communications to immediately notify the Director or his  
14 designee upon receipt of a request for records under this Chapter.

15 (b) Upon receipt of a request for records under this Chapter, the  
16 Director of an agency or his designee shall immediately assign the request to  
17 be fulfilled or responded to by an employee of the agency.

18 (c) Each agency shall organize paper and computer files so that  
19 documents can be retrieved and copied quickly for expedient disclosure of  
20 records under this Chapter.

21 **§10106. Posting Guidelines.** (a) Every agency shall establish  
22 written guidelines for accessibility of records and stating the procedures to be  
23 followed when making its records available in accordance with this Chapter.  
24 The guidelines shall include a mailing address, fax number, and electronic

1 mail address to which a person can send requests for copies of public records.  
2 The guidelines shall also include the records exempted from disclosure of  
3 which the agency is a custodian, as prescribed in subsection (b) of this section.  
4 A copy of these guidelines shall be posted in a conspicuous public place at the  
5 offices of each agency, and a copy of the guidelines shall be available upon  
6 request free of charge to any person requesting the agency's records. Each  
7 agency shall also make the guidelines and list of disclosable and non-  
8 disclosable documents available by computer telecommunications within one  
9 (1) year of the effective date of this Chapter.

10 (b) Every public officer in charge of an agency having custody of  
11 records shall, within sixty (60) days after the effective date of this act, compile  
12 a list containing categorized descriptions of all writing in the custody of the  
13 agency which said agency considers non-public and non-disclosable as  
14 prescribed in §10108 of this Chapter, and submit the list to the Speaker of *I*  
15 *Liheslaturan Guahan* for approval by *I Liheslatura*. The list for each agency  
16 shall be referred by the Rules Committee to the appropriate oversight  
17 committees, which shall hold a public hearing on each list before the Rules  
18 Committee puts each list on *I Liheslatura's* session agenda for approval. Such  
19 list shall be used as a guide for determination of non-disclosable records by  
20 agency employees. All documents not included on this list shall be  
21 considered public writings. If no such list is promulgated, all documents and  
22 records shall be public.

1           **§10107. Annual report.** (a) On or before February 1 of each year,  
2 each agency shall submit to the Attorney General of Guam a report which  
3 shall cover the preceding fiscal year and which shall include:

4           (1) the number of determinations made by the agency not to  
5 comply with requests for records made to such agency under §10108 of  
6 this Chapter and the reasons for each such determination;

7           (2) the number of requests for records pending before the agency  
8 as of September 30 of the preceding year, and the median number of  
9 days that such requests had been pending before the agency as of that  
10 date;

11           (3) the number of requests for records received by the agency  
12 and the number of requests which the agency processed;

13           (4) the median number of days taken by the agency to process  
14 different types of requests;

15           (5) the number of full-time staff of the agency devoted to  
16 processing requests for records under this section, and the total amount  
17 expended by the agency for processing such requests.

18           (b) Each agency shall make each such report available to the public  
19 including by computer telecommunications, or if computer  
20 telecommunications means have not been established by the agency, by other  
21 electronic means.

22           (c) The Attorney General of Guam shall make each report which has  
23 been made available by electronic means available at a single access point.  
24 The Attorney General of Guam shall notify the Secretary of *I Liheslaturan*

1 *Guåhan*, no later than April 1 of the year in which each such report is issued,  
2 that such reports are available by electronic means.

3 (d) The Attorney General of Guam shall develop reporting and  
4 performance guidelines in connection with reports required by this section by  
5 October 1, 1999, and may establish additional requirements for such reports  
6 as the Attorney General determines may be useful.

7 **§10108. Limitation on Right of Inspection.** Except as provided  
8 in §10109 of this Chapter, nothing in this Chapter shall be construed to  
9 require disclosure of records that are any of the following:

10 (a) Records pertaining to pending litigation to which the agency is a  
11 party, until the pending litigation has been finally adjudicated or otherwise  
12 settled.

13 (b) Records of complaints to, or investigations conducted by, or  
14 records of intelligence information or security procedures of, the office of the  
15 Attorney General or law enforcement agencies.

16 Other provisions of this subsection notwithstanding, law enforcement  
17 agencies shall make public the following information, except to the extent that  
18 disclosure of a particular item of information would endanger the safety of a  
19 person involved in an investigation or would endanger the successful  
20 completion of the investigation or related investigation:

21 (1) The full name and village of residence of every individual  
22 arrested by the agency, the individual's physical description including  
23 date of birth, color of eyes and hair, sex, height and weight, the time and  
24 date of arrest, the time and date of booking, the location of the arrest,

1 the factual circumstances surrounding the arrest, the amount of bail set,  
2 the time and manner of release or the location where the individual is  
3 currently being held, and all charges the individual is being held upon,  
4 including any outstanding warrants from other jurisdictions and parole  
5 or probation holds.

6 (2) The time, substance, and location of all complaints or requests  
7 for assistance received by the agency and the time and nature of the  
8 response thereto, including, to the extent the information regarding  
9 crimes alleged or committed or any other incident investigated is  
10 recorded, the time, date, and location of occurrence, the time and date of  
11 the report, the name and age of the victim, the factual circumstances  
12 surrounding the crime or incident, and a general description of any  
13 injuries, property, or weapons involved. The name of a victim of any  
14 crime may be withheld at the victim's request, or at the request of the  
15 victim's parent or guardian if the victim is a minor.

16 (c) Personnel, medical, or similar files, the disclosure of which would  
17 constitute and unwarranted invasion of personal privacy. All information  
18 regarding salary, and the name, age, and mailing address of each employee  
19 and public official shall be public record.

20 (d) Information required from any taxpayer in connection with the  
21 collection of taxes that is received in confidence and the disclosure of the  
22 information to other persons would result in unfair competitive disadvantage  
23 to the person supplying the information, except that total amounts of money

1 owed to or owed by a person, and penalties levied against and owed by a  
2 person, shall be public information and not exempt from disclosure.

3 (e) Library circulation records kept for the purpose of identifying the  
4 borrower of items available in libraries, and library and museum materials  
5 made or acquired and presented solely for reference or exhibition purposes.  
6 The exemption in this subsection shall not apply to the records of fines  
7 imposed on the borrowers.

8 (f) Applications filed with any agency responsible for the regulation or  
9 supervision of the issuance of securities or of financial institutions, including,  
10 but not limited to, banks, savings and loan associations, credit unions, and  
11 insurance companies. The exemption in this subsection shall not apply to the  
12 records of loans or securities issued by an agency, the amount of money or  
13 credit issued to a person, information about the purpose and reasons for loans  
14 or securities issued by the agency, or identifying information about the person  
15 receiving the money or credit, including name, date of birth, occupation and  
16 place of residence.

17 (g) Test questions, scoring keys, and other examination data used to  
18 administer a licensing examination, examination for employment, or  
19 academic examination. The exemption in this subsection shall not apply to  
20 cumulative test scores on academic tests administered by the Department of  
21 Education, but shall apply to individual students' test scores.

22 (h) The home address and telephone number of any public official or  
23 government employee, unless the public official or employee gives expressed  
24 permission to disclose such information. The exemption in this subsection

1 shall not apply to information provided by nominated board members,  
2 directors and other officials up for confirmation by *I Liheslaturan Guåhan*.

3       **§10109. Disclosure to Proper Officials.** The exemptions of  
4 records as prescribed in this Chapter shall not apply to public officials who  
5 prior to the adoption of this act had legal access to the records. An agency  
6 shall allow an inspection or copying of any public record or class of public  
7 records when requested by the Attorney General, an assistant Attorney  
8 General, or a U.S. attorney.

9       **§10110. Purpose of Request Irrelevant.** This Chapter does not  
10 allow limitations on access to a public record based upon the purpose for  
11 which the record is being requested, if the record is otherwise subject to  
12 disclosure.

13       **§10111. Court Proceedings.** (a) Any person making a request  
14 in any agency for public records pursuant to §10103 shall be deemed to have  
15 exhausted his administrative remedies with respect to such request if the  
16 agency fails to comply with the applicable time limit provisions of that  
17 Section.

18       (b) Any person may institute proceedings for injunctive or declarative  
19 relief or writ of mandate in the Superior Court of Guam to enforce his or her  
20 right to inspect or to receive a copy of any public record or class of public  
21 records under this Chapter. The times for responsive pleadings and for  
22 hearings in these proceedings shall be set by the judge of the court with the  
23 object of securing a decision as to these matters at the earliest possible time.



1 (c) Whenever it is made to appear by verified petition to the Superior  
2 Court of Guam that certain public records are being improperly withheld  
3 from a member of the public, the court shall order the officer or person  
4 charged with withholding the records to promptly disclose the public record  
5 or show cause why he or she should not do so. The court shall decide the case  
6 after examining the record in camera, papers filed by the parties and any oral  
7 argument and additional evidence as the court may allow. The burden is on  
8 the agency to sustain its action. All records shall be presumed public and the  
9 burden of establishing that a document or record is private shall be upon the  
10 agency or person claiming that the document on record should not be  
11 disclosed or inspected.

12 (d) Except as to cases the court considers of greater importance,  
13 proceedings before the Superior Court, as authorized by this section, and  
14 appeals therefrom, take precedence over all cases and shall be assigned for  
15 hearing and trial or for argument at the earliest practicable date and expedited  
16 in every way.

17 (e) If the court finds that the public official's decision to refuse  
18 disclosure is not justified under this Chapter, he or she shall order the public  
19 official to make the record public. If the judge determines that the public  
20 official was justified in refusing to make the record public, he or she shall  
21 return the item to the public official without disclosing its content with an  
22 order supporting the decision refusing disclosure.

23 **§10112. Penalties for Nondisclosure.** (a) If the court finds  
24 that the public official's decision to refuse disclosure is not justified under this

1 Chapter, the court shall order the public official to pay a fine \$1,000. The fine  
2 shall be a personal expense for the responsible official and in no way shall the  
3 fine be paid by the agency or the government of Guam.

4 (b) There is created the "Government Ethics Fund" to assist the Guam  
5 Ethics Commission in ensuring ethical conduct in the government of Guam.  
6 This fund shall not be commingled with the General fund and shall be kept in  
7 a separate bank account. Any fines collected under subsection (a) of this  
8 section shall be deposited in the Government Ethics Fund, are appropriated to  
9 the Guam Ethics Commission for ethical investigations, audits and analyses of  
10 financial disclosure forms. This appropriation is continuous, contingent on  
11 the annual submission of a detailed budget to *I Liheslaturan Guåhan*, not  
12 withstanding any other provision of law.

13 (c) Any officer or employee who acts arbitrarily or capriciously in  
14 withholding a public record from a requesting person shall be guilty of a  
15 misdemeanor.

16 (d) The court shall award court costs and reasonable attorney fees to  
17 the plaintiff should the plaintiff prevail in litigation filed pursuant to this  
18 section. The costs and fees shall be paid by the public agency of which the  
19 public official is a member or employee and shall not become a personal  
20 liability of the public official. If the court finds that the plaintiff's case is  
21 clearly frivolous, it shall award court costs and reasonable attorney fees to the  
22 public agency.

23 **§10113. Judicial records.** The provisions of this Chapter shall not be  
24 deemed in any manner to affect the status of judicial records as it existed

1 immediately prior to the effective date of this section, nor to affect the rights  
2 of litigants, including parties to administrative proceedings, under the laws of  
3 discovery of Guam, nor to limit or impair any rights of discovery in a criminal  
4 case.”

5       **Section 3. Effective dates.** This act shall be effective immediately  
6 upon its enactment.

7       **Section 4. Severability.** If any provision of this Law or its  
8 application to any person or circumstance is found to be invalid or contrary to  
9 law, such invalidity shall not affect other provisions or applications of this  
10 Law which can be given effect without the invalid provisions or application,  
11 and to this end the provisions of this Law are severable.

**Committee on Rules, Government Reform, Reorganization  
and Federal Affairs**

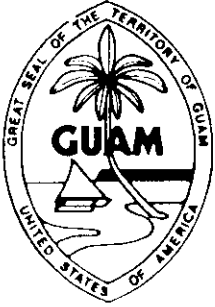
**Senator Mark Forbes, Chairman**

Public Hearing  
Wednesday, February 24, 1999  
10:00 a.m.

I Liheslaturan Guahan, Hagåtña

**·Bill No. 53 "An act to reform the Sunshine Act of Guam to expedite public information requests and allow electronic requests for information, to be known as "The Sunshine Reform Act of 1999."**

NAME (please print)	AGENCY/ ORGANIZATION	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR	CONTACT NUMBER
T. ANTON PEREZ	GEPA	✓	✓	✓		6874364
Nathan McGurk	Micronesian Chapter	✓		✓		477-9701
	Society of Professional					
	Journalists.					
Bernadette Sterne	MSPJ	✓		✓		4775700



# GUAM

## ECONOMIC DEVELOPMENT AUTHORITY

*An Autonomous Agency of the Government of Guam, USA*

February 24, 1999



**To:** Honorable Senator Mark Forbes  
**From:** Administrator  
**Subject:** Bill 53

Thank you for giving us the opportunity to submit comments on **Bill 53, AN ACT TO REFORM THE SUNSHINE ACT OF GUAM TO EXPEDITE PUBLIC INFORMATION REQUESTS AND ALLOW ELECTRONIC REQUESTS FOR INFORMATION, TO BE KNOWN AS "THE SUNSHINE REFORM ACT OF 1999."**

Upon the initial enactment of the "Sunshine Act", the Guam Economic Development Authority did not submit its list of public writings within the time frame allotted due to its lack of knowledge of such after the fact. However, over time the Authority has complied with requests for information. Bill 53 gives the Authority the opportunity to submit its list of public writings. As we speak the Authority has already submitted an updated listing currently being reviewed by Legal Counsel and the subsequent adoption by our Board of Directors. The following is a sectional analysis of the proposed bill.

**Section 10102. Definitions.** We suggest the following be added.

(e) "Reasonably Described" Records. "A request for information must reasonably describe the records requested". A description of a record is sufficient if it would enable a professional employee of the agency who is familiar with the subject area of the request to locate the record with a reasonable amount of effort. When a request is received which does not "reasonably describe" the records sought, the requestor should be notified of the defect and offered assistance in reformulating the request.

(f) "Confidential Commercial Information". "Records provided to the Agency by a submitter that arguably contain information exempt from release under the Freedom of Information Act because disclosure could reasonably be expected to cause substantial competitive harm."

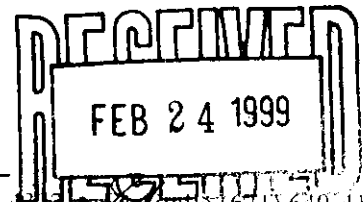
(g) "Submitter". "Any person or entity (i.e., limited to, corporations, state governments, and foreign governments) who provides confidential commercial information to the Agency."

**Section 10103. Right of Inspection of Public Documents.**

The intent of Bill 53 has its merits, however, we are concerned with the Bill's attempts to reduce the timeline to provide information. Such attempts will hamper our ability to coordinate and retrieve such information, particularly when we are dealing with voluminous files and records within four (4) days. The ten (10) day turn around time is consistent with federal standards and are not unreasonable.

**Section 10106. Posting Guidelines.** Sub-section (a) is fine, however Sub-section (b) we suggest that a minimum of 120 days be given to compile the list of public and non-public writings in conjunction with developing the procedures and guidelines as required by the Section. We are currently reviewing the U.S. Small Business Administration's standard operating procedures on "Disclosure of Information Procedures" and "Privacy Act Procedures". We intend to develop and model our procedures after the U.S. SBA since our organizations have similar programs.

*Destination Guam, USA  
Tropical Paradise & Island of Opportunities*



**Section 10108. Limitation on Right of Inspection.** sub-section (c) employees "salary" be stricken and instead use the employee's "grade and salary range".

**Section 10110. Purpose of Request Irrelevant.** particularly if the record is otherwise subject to disclosure, however, for requests other than public record should be established in writing as to the purpose.

We thank you for the opportunity to provide the Authority's comments and hope that you and your esteemed committee members consider the merits of our concerns. Si Yu'os Ma'ase.



ED UNTALAN

cc: Board of Directors  
Deputy Administrator  
All Division Managers & Supervisors



# GUAM

ECONOMIC DEVELOPMENT AUTHORITY

*An Autonomous Agency of the Government of Guam, USA*



March 10, 1999

Mr. Mark Forbes  
Senator, 25<sup>th</sup> Guam Legislature  
Chairman, Committee on Rules  
155 Hesler Street  
Hagatna, Guam 96910

Dear Senator Forbes:

I apologize for not being able to personally appear before your Committee to testify on Bill 53. The timing was unfortunate, as I had to be present for a Special Board Meeting scheduled for the same time.

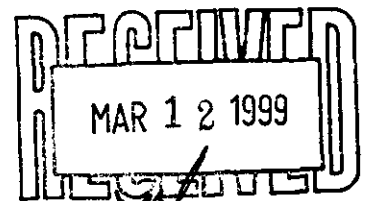
Be that as it may, I am writing to you to expand on the written testimony that was submitted by Mrs. T. Ann Perez. I have been informed that there may have been issues discussed that may not have been clearly presented to you and your colleagues. Particularly, I would like to address the issue on the disclosure of information.

As you may be aware of, the Authority recently opposed a media request for certain loan information. Especially as a former banker, I knew it would be detrimental to the clients we serve. The specific information requested dealt with delinquent customers. Please note that I did not object to disclosing our delinquency ratios and a listing of our loan recipients; however, I did oppose the release of specific information on account names, number of days past due and amounts past due.

With that, the following reasons have been the rationale for the media's release of confidential information:

1. Publicizing the information will force the borrowers to pay.
2. Since the loans are made from public funds, then the public has a right to know how the money is being used.
3. GEDA did it in the past.

*Destination Guam, USA  
Tropical Paradise & Island of Opportunities*



Below you will find my arguments against the release of confidential information:

1. These loans are already difficult loans. If these loans were bankable loans, lending institutions would have granted them the funds and not GEDA. Please keep in mind that the Agency is tasked with the development of small business. Therefore, we also must take into consideration the fact that if the company is having difficulty paying their loan(s), they are at least using their cash to keep their business alive and keeping people employed. Thus, we are more tolerant and work closely with the business in working through their situations. Because of these reasons, GEDA has often been referred to as the lender of last resort.
2. Publicizing the information will do more harm than good, and will definitely not force the borrowers to pay. If the borrowers had the resources, they would have been making payments. But, for reasons such as the economic climate, the competitive environment, low level of capital, etc., borrowers have to manage their cash flow accordingly. As we are here to stimulate small business growth, we recognize these facts and try to be as tolerant as possible, while at the same time protecting the interest of the funds. But, the release of this information would expose critical credit information that will embarrass the company, make them less competitive and ultimately affect their ability to repay the debt.

For example, if the information is released, the suppliers who provide these businesses with the cheapest source of financing, will terminate their lines of credit and demand payment of cash up front for services or products provided. These vendors/suppliers may even go as far as terminate their relationships. In addition, the individual/company that the business may have provided credit in the form of a receivable will probably delay payments in hopes of either avoiding payment completely or negotiate a discount. Lastly, their customers may seek the services/products from a competitor in fear of not being able to receive it from the company due to its financial situation. Its competitors, on the other hand, will probably go after the delinquent business's customers passing on the fears of the company's pending failure to provide services due to its financial situation.

Suffice it to say, our loan customer whose information is released will, without a doubt, be adversely affected thus raising the probability of failure.

3. Unfortunately, the past Administrator under the prior Administration released this sensitive information to the media for reasons unknown to me. However, as a former banker, I am aware of the danger of doing so. As I mentioned above, releasing this type of information will be more detrimental to a company than most people realize.



I would like to now address the concerns over how the revolving grant funds are used. In order for GEDA to secure any revolving loan funds, we have to develop policies and procedures and underwriting guidelines acceptable to the grantor. We also must demonstrate that we have the internal controls that are adequate and effective to ensure the funds will not be misappropriated. For your information, we have a credit review committee comprised of all the managers that review all loan applications thoroughly. We also have a compliance function that routinely audits the loans to insure that the policies and procedures are being adhered to. Finally, we have external audits performed annually by both the Public Auditor and an independent accounting firm. These audits include a compliance review of our loan portfolio. Any violations/weaknesses identified are noted and cited in our management letter. The final audit reports are submitted to the Governor, the Legislature, the Department of Interior, and any other grantor. To date, there have never been any concerns raised regarding the management of our loan portfolio.

Finally, there are two federal regulations that deal with the disclosure of information. They are the Freedom of Information Act and the Privacy Act. These laws recognize the need for the freedom of information (similar to the Sunshine Act), however they also recognize the importance of keeping certain information confidential. Information specifically cited are those that may cause harm or a competitive disadvantage .

As we have always been considered the local version of the Small Business Administration (SBA), we are working right now to revise our standard operating procedures (SOPs) to pattern it after theirs. This is appropriate as our missions from a lending standpoint are similar and especially since we initially patterned our lending program after theirs. I have attached a copy of SBA's SOPs and listed below are the sections relative to this issue.

**Chapter 1 Subsection 4.c**

**Chapter 1 Subsection 6.a paragraph 6**

**Chapter 1 Subsection 6.a paragraph 9.a**

**Chapter 2 Subsection 10 paragraph 11.D.1.b (iii)**

**Chapter 2 Subsection 10 paragraph 11.F.1.b**

With regard to the time to respond, please make a special note of section 40, no.3, subsection 6. As I mentioned in my previous testimony, I feel the 10 days are not an unreasonable time frame to respond to a request. It allows for an adequate cushion for any unexpected circumstances that may occur. It will also allow time for an adequate review of the information being submitted to ensure the agency has properly complied with the request. To limit the response time to four days will place an undue burden on the agency as all efforts to meet the timeline would have to be taken, including but not limited to the temporary suspension of on-going projects or services.

# GUAM

ECONOMIC DEVELOPMENT AUTHORITY

An Autonomous Agency of the Government of Guam, USA

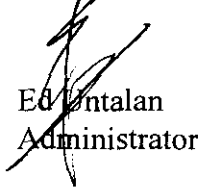
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We, at GEDA, assure you that we make every effort to respond to any and all requests as soon as possible. Suffice it to say, I feel a 10 day response time is not unreasonable and does not place an undue burden on the requestor.

I humbly request your favorable consideration on the issues I have presented. GEDA is an agency that deals with investor confidence. We handle a great deal of proprietary and confidential information that needs to be protected in order to maintain the confidence level. It is imperative that we create regulations both administrative and legislative to maintain this environment. As I mentioned earlier, we would like to pattern ourselves similar to the SBA.

In closing, I thank you for the opportunity to expand on this issues presented. Should you have any questions, please do not hesitate to contact me immediately.

Si Yr'os Maase,



Ed Mntalan  
Administrator

## Attachments

cc: The Honorable Carl T.C. Gutierrez, Governor of Guam  
Senator Alberto A.C. Lamorena III **w/attachments**  
GEDA Board of Directors



March 9th, 1999

The Honorable Senator Mark Forbes  
Minabente Singko Na Liheslaturan Guahan  
Chairman of the Committee on Rules, Government Reforms,  
Reorganization and Federal Affairs

Dear Mister Chairman,

As promised, here are some written remarks concerning the proposed legislation which you authored: Bill #53--The Sunshine Reform Act of 1999.

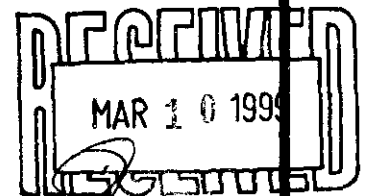
Hit Radio 100 and I are in favor of this legislation which seeks to include e-mails as legitimate and bona fide requests for information, and in this fast-paced electronic world, it is not unreasonable for the Government of Guam's response time to be shortened from ten days to four days.

We favor this bill because it expands the categories of public information accessible to the public as well, and also holds agencies accountable for not releasing information in a timely manner.

The public's right to know should always be the top priority, not a government agency's efforts to hide information. The more we allow governmental entities, (territorial, state, or Federal ), the power to decide what is 'safe' for us to know, the more we erode First Amendment Rights which are founded on the premise that the more you know about your world and what affects you, the freer you are to exercise and enjoy the freedoms guaranteed by the U.S. Constitution.

While national security, police 'sting' operations, and security sensitive matters should be eligible for protection, we would err greatly in letting Government entities decide what information should be accessible, and what information should not be accessible.

Mr. Chairman, as you know Guam Radio Services Inc., doing business as Hit Radio 100, successfully sued to obtain information on delinquent payments on GEDA loans. It took eight months from our request in June to get the information judges say we had a right to know.





The argument is occasionally advanced that information regarding GEDA loans might be embarrassing to people if revealed.

Mr. Chairman, while I doubt very much that is true, the idea that legitimate news of public importance should be held back for fear of embarrassing someone does not hold water.

I am sure that food companies may be embarrassed when we have to impart their recall information to the public.

However, imagine how embarrassed I would be if I, hypothetically, neglected to pass on information about bad baby food for fear of embarrassing the manufacturer to find later that a friend's baby became ill from the formula because I didn't report on the recall.

Should we let people die on the roads or have accidents, because we're afraid of embarrassing a car company with publishing or broadcasting its recall notice on models with bad brakes? Of course not.

Mr. Chairman, the reason why this case about GEDA not releasing names of delinquent loan payers is so important is because now, more than ever, the Government can not afford to withhold information about use of the public's money.

Every week, Mister Chairman, you and your colleagues have to hold budget hearings, and sometimes resort to subpoenas to get the information you need about money and decisions made about money by entities within the government of Guam.

If our lawmakers do not know of a monetary crisis before it happens, or of a possible funding source, it could result in the needless loss of time, services and people's jobs.

In these times of economic trouble, we, the people, need to know the whole story, and more importantly what the Government is doing so borrowers will make good on loans which are non-performing. It's taxpayer money. It's that simple.



On the suggestion of our legal counsel, attorney Phil Isaac of the Carlsmith Law Office, please consider the following changes.

Section 10111 makes provision for court proceedings in the event an agency fails to comply in a timely manner with a request for disclosure. That section contains no provision for attorneys' fees and costs to a prevailing plaintiff. Such a provision is included under following Section 10112 as Subsection (d).

But Section 10112 speaks of penalties for nondisclosure, it is not a procedural section under which one brings a court action.

Please remove Subsection (d) from Section 10112 and insert it more appropriately as Subsection (f) of Section 10111.

This would enable and encourage a member of the public to bring action in the event an agency refuses to disclose, or disclose in a timely manner, that which it ought to disclose.

With this change, if Gov Guam agencies erroneously withhold information and that action leads to court action, they should pay the bill, not the news media or private citizens.

Mr. Chairman, you might also consider that at confirmation hearings by the Legislature, nominees for directorships and trusteeships release all kinds of personal information including home telephone numbers, and home addresses, military records and other stats. This information is available to reporters and people who appear at the public confirmation hearings in written form. If you decide to exempt from disclosure personnel and medical files, home addresses and telephone numbers of government employees, consider that if and when these nominees ever become government employees, some of that information is already out in the public by virtue of the confirmation process.

Thank you for your consideration of this important matter.

Sincerely,

Gerard J. Lyons  
News Director  
Hit Radio 100

Bill No. 53(COR)  
 Amendatory Bill YES  NO   
 Department/Agency Affected: Various  
 Department/Agency Head: Various  
 Annual FY appropriation to Date: \$ Various sources

Date Received 2/22/98  
 Date Reviewed 3/03/98

Bill Title (Preamble): To reform the Sunshine Act of Guam to expedite public information requests and allow electronic requests for information, to be known as the "The Sunshine Reform Act of 1999".

Change in Law: Yes.

Bill's Impact on Present Program Funding:  
 Increase  Decrease  Reallocation  No Change  
 Bill is for:  Operations  Capital Improvement  Other

**FINANCIAL/PROGRAM IMPACT**

**ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)**

PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
Various	1/		

**ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)**

FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	1/					
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? YES/NO - IF NO, ADD'L AMT REQUIRED 1/  
 AGENCY/PERSON/DATE CONTACTED: / /

**ESTIMATED POTENTIAL MULTI-YEAR REVENUES**

FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND						
OTHER	1/					
TOTAL						

ANALYST Orilda J. Guerrero DATE 3/16/98 DIRECTOR Joseph E. Rivera, Acting DATE MAR 19 1998

FOOTNOTE(s):

1/ See attached comments on proposed legislation.

### Comments on Bill No. 53

Bill No. 53 is an act to reform the Sunshine Act of Guam to expedite and improve public access to information requests and agency records; shorten time limits for agency response to requests for public information; and allow electronic requests for information. This Act shall be known as The Sunshine Reform Act of 1999. The proposed legislation primarily seeks to repeal and reenact Article 1 of Chapter 10 of Title 5 of the Guam Code Annotated relative to the Sunshine Act of 1987. The proposed legislation states that the agencies shall have four (4) days to comply with a request for government information instead of the current ten (10) days (with certain exceptions); it includes access to electronic information and stipulates that an agency has to provide the requested information on computer disk or electronic mail; revises the exemptions from public disclosure; agencies have sixty (60) days after its enactment to submit a list of non-public and non-disclosable information, following the new guidelines; every agency shall establish written guidelines for accessibility of records and state the procedures to be followed when making its records available; each agency may submit a report to the Attorney General of Guam on or before February 1 of each year to cover the preceding fiscal year; any person may institute proceedings for injunctive or declarative relief in the Superior Court of Guam to enforce his or her right to receive a copy of any public record; and if the court finds that the public official's decision to refuse disclosure is not justified, the court shall order the public official to pay a fine (\$1,000) which shall be a personal expense for the responsible official and shall not be paid by the agency or the government of Guam and the fines shall be deposited in the Government Ethics Fund to be separate from the General Fund.

The intent of the proposed legislation will entail a fiscal impact. However, the impact cannot be quantified at this time due to unavailability of data as it would be necessary to acquire from all departments/agencies (whether it be Executive, Judicial or Legislative), autonomous and semi-autonomous agencies information as to the anticipated costs such as personnel overtime/holiday/night differential pay, supplies and materials (i.e. diskettes and computers) and other operational expenses which may have to be absorbed relevant to the search for and collection of the requested public records and establishment of written guidelines and procedures for accessibility of records. Additionally, there is a fine (\$1,000) assessed to the public official if the court finds that the public official's decision to refuse disclosure is not justified. This fine shall be deposited in the created Government Ethics Fund which is separate from the General Fund.

Moreover, Bill No. 78 also seeks to add §10102(d) and 10103.1; to repeal and reenact §10106, 10107, 10108(b) and 10110 of Article 1 of Chapter 10 of Title 5 of the Guam Code Annotated (known as the Sunshine Act of 1987) which, if enacted, would affect the Sections indicated in this Bill.

### MANUFACTURER'S SERVICE REPRESENTATIVE (SERVICE MANAGER)

Supervise and manage installation, service and repair of air-conditioning, ventilation, and building automation controls equipment and systems in residential and commercial projects utilizing knowledge of refrigeration, air conditioning, and micro-electronic controls following blueprints and engineering specifications. Supervise commissioning and start-up of commercial chillers and package units using appropriate tools and devices. Interface with architects, mechanical designers, plant engineers and building owners regarding HVAC equipment and systems using load calculation program and systems analyzer. Design and coordinate activities of service technician team. Interpret specifications, blueprints, and job orders to technicians and assign duties. Establish work procedures and estimate worker-hour requirements for timely completion of job assignments. Estimate, requisition, and inspect direct project materials and approve procurement of tools. Confer with company sales engineers to coordinate sales and service functions. Facilitate warranty claims. Develop technician training program. Prepare service department operating budget.

Bachelor's degree in mechanical or electrical engineering plus five years experience in installation, sales or service of HVAC systems and components. One year experience in supervisory position. Experience with alternative refrigerant systems. Ability to monitor and control remote HVAC installations. 30% travel within Micronesia area. References: \$36,576 per year. 40 hours per week. Apply immediately at Guam Employment Service with the One Stop Career Center, 125 Tun Jesus Crisostomo St. Suite 101 (Sunny Plaza) Tarruning, Guam 96911. REF: #980809.

BENEFITS: One Way Airfare from point of origin.

### FLETCHER PACIFIC Micronesia

#### SEMI-TRACTOR TRAILER OPERATOR

Fletcher Pacific Construction Co., Ltd. (Guam) is seeking a semi-tractor trailer operator for its Guam Equipment Center division located in Harmon, Guam. Prospective candidate must have a minimum of 5 years' experience in operating heavy vehicles, ability to troubleshoot mechanical problems, hold a valid Guam driver's license with A, B & C classification, and meet D.O.T. medical requirements.

Applicants must submit a resume demonstrating a successful work history. Salary commensurate with experience and benefits package. Successful candidate must submit to drug & alcohol testing. Please provide police clearance report when submitting resume or application.

An EEO/AA EMPLOYER

All resumes and applications will be treated in strictest confidence and should be directed to the Administration Manager

FLETCHER PACIFIC CONSTRUCTION CO., LTD. (GUAM)  
P.O. Box 23068-GMF  
Bangigada, Guam 96921  
FAX: 671-647-5600

## PROJECT ADMINISTRATOR

A-D Sanford & Co. is looking for a reliable individual who meets the following requirements:

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Fax: (671) 472-2841 • Tel: (671) 472-6155, 2894

The Department of Labor is currently seeking for individuals w/2 yrs exp. to fill the following positions:

#### 10-CARPENTERS .....\$11.25/Hr.

Constructs, erects, installs and repairs structures and fixtures of wood, Plywood and wall board. Studies blueprints, sketches or building plans for information pertaining to type of materials required. Selects specified number of other materials. Assembles, cuts and shapes materials. Erects scaffolds and frameworks. Uses carpenter's hand tools and power tools.

#### 5-CEMENT MASON .....\$10.83/Hr.

Lays concrete block, mixed cement using hand tools and power tools. Smooths and finishes surface to poured concrete floors, walls, sidewalks or curbs to specified textures using hand tools or power tools including floats, trowels and screeds; spreads concrete to specified depth and workable consistency using float to bring water to surface and produce soft topping levels, smooth and shapes surfaces of freshly poured concrete using straightedge, float or power screed; finishes concrete using power trowel or wets and rubs concrete with abrasive stone to impart finish, removes rough or defective spot and patches with fresh concrete, mixes cement.

#### 14-PLASTERERS .....\$9.57/Hr.

Applies coats of plaster to interior walls, ceilings and partitions of buildings, to produce finished surface according to blueprints, architect's drawings or oral instructions. Uses hand tools or portable power tools. Spreads plaster over lath or masonry base using trowel and smooth plaster with darby and float to obtain uniform thickness.

#### 18-REINFORCING METAL WORKER .....\$9.92/Hr.

Positions and secures steel bars in concrete form to reinforce concrete. Determines numbers, sizes, shapes and locations of reinforcing rods from blueprints, sketches or oral instructions. Select and places rods in forms, spacing and fastening them together.

Interested applicants, please apply at Guam Employment Service with the One Stop Career Center, 125 Tun Jesus Crisostomo St., Suite 101 Tarruning, Guam 96911 (Sunny Plaza) (Ref. No. 990114)

### TEMPORARY JOB OPENINGS w/ 2 YRS. EXPERIENCE

#### 3 PLASTERERS ..... \$9.57/hr

Duties: Apply coats of plaster to interior walls, ceilings, and building to produce finished surfaces according to blueprints, architect's drawing or oral instructions. Direct workers to mix plaster to desired consistency and to erect scaffolds. Spread plaster, over lath or masonry board, using trowel and smooths plaster with darby and float to attain uniform thickness.

#### 1 CEMENT MASON .....\$10.83/hr

Duties: Lays concrete blocks, mixes cement using shovel, hand tools and mixing machine. Smooths finished of poured concrete floors, sidewalks, or curbs to specified textures, using hand and power tools including floats, screeds to specified depth and workable consistency. Studies blueprints & plans pertaining to type of materials.

#### 1 CARPENTER .....\$11.25/hr

Duties: Construct, erect, install and repair structures and fixtures of wood, plywood and wallboard. Studies blueprints sketches or bid. plans for info. pertaining to type of materials req. Select specified lumber or other materials. Assembles, cuts, and shapes materials. Erect scaffolds and framework. Uses carpenters hand and power tools.

Interested applicants, please apply at Guam Employment Service at one Stop Career Center, 125 Tun Jesus Crisostomo Suite 101, (Sunny Plaza), Tarruning, Guam 96911. Ref. # 990214



## Notice of Public Hearing

Senator Mark Forbes, Chairman

Committee on Rules, Government Reform, Reorganization & Federal Affairs

Wednesday, February 24, 1999 at 10:00AM

### The Committee will be conducting a second Public Hearing on the following bills:

Bill No. 3 "An act to add a new §1510 to Article 5, Chapter 1, Division 1, Part 1 of Title 5 GCA, relative to requiring the Governor of Guam to receive bills from the Guam Legislature at all times."

Bill No. 32 "An act to repeal §20101 et seq., Chapter 20, Division 3, Title 17 GCA and Chapter 19, Title 1 GCA and add a new Chapter 12, Title 2 GCA relative to creating the "Independent Budget Review Office" and consolidating the Office of the Public Auditor into the IBRO within I Liheslaturan Guåhan."

Bill No. 33 "An act to amend Article 3, Chapter 1, Division 1 of 5 GCA to rename "Bureau of Budget & Management Research" to "Department of Program Budgeting, Financial Management and Research" and repeal Chapter 4, Division 1 of 11 GCA and Chapter 4, Division 1 of Title 5 GCA to transfer and consolidate the duties, responsibilities and authorities of the Guam Finance Commission and Program Budgeting and Financial Management and into the Department of Program Budgeting, Financial Management and Research by adding sub-article 3.1 and 3.2 to Article 3, Chapter 1, Division 1, 5 GCA."

Bill No. 38 "An act to repeal Chapter 85, Division 8, of Title 5 GCA; Chapter 76, Division 2 of Title 21 GCA; Chapter 83, Division 8 of Title 5 GCA; Chapter 80, Division 8 of Title 5 GCA; Chapter 77, Division 2 of Title 21 GCA; Chapter 9, Division 1 of Title 12 GCA and Article 4, Chapter 70, Division 7 of Title 5 GCA and reenact as Articles 2,3,4,5,6,7, and 8 of "new" Chapter 9, Division 1 of Title 12, GCA to transfer, consolidate and integrate the duties, responsibilities and authorities conferred by statutes on the Council on the Arts and Humanities, Historical Objects and Sites, Guam Museum, Guam Public Library, Department of Parks and Recreation, Guam Visitors Bureau, and the Public Market into and create a new autonomous entity to be called "Guam Heritage and Tourism Authority" a public corporation by adding a "new" chapter 9 to Division 1 of Title 12 GCA."

Bill No. 44 "An act to amend §2104 of Title 2 GCA, relative to imposing greater accountability in legislative appropriations and government spending."

Bill No. 48 "An act to add a new §420 to Chapter 4, Title 1 GCA, designating "Guam, U.S.A., Where America's New Millennium Begins" as the new slogan for Guam for the next five years until December 31, 2003."

Bill No. 52 "An act to repeal PL No. 42-288, temporarily establish the Office of the Public Prosecutor and permanently establish the Office of the Elected Attorney General."

Bill No. 56 "An act to create the "Dipâtmenton I Chamorro" or "Chamorro Heritage Institute."

Bill No. 67 "An act to repeal and reenact §2103 of Chapter 2 of Title 2 GCA, relative to clarifying the language making public hearings mandatory."

Bill No. 68 "An act to repeal and reenact Chapter 9 of Title 2 GCA relative to prohibiting "phantom" unfunded government appropriations."

Bill No. 69 "An act to add §822 to Article 1 of Title 1 GCA relative to renaming the Retirement Fund Building as the "Senator Jesus R. Quinsac Retirement Fund Building."

Bill No. 73 "An act to rename a section of University Drive to J.U. Torres Drive in honor of Jesus U. Torres' contribution to the University of Guam as a fifteen term chairman of the Board of Regents and his numerous contributions to the community as a legislator, judge, and civic leader."

Bill No. 78 "An act to add §§10102(d) and 10103.1; and to repeal and reenact §§10103, 10104, 10105, 10106, 10107, 10108(b) and 10110 of Article 1, Chapter 8 of Title 5GCA, relative to providing greater disclosure and accountability within the government of Guam."

Bill No. 88 "An act to add a new §2108 to Title 2 GCA, relative to expanding the scope of information provided to the public by publishing a list of all bills introduced by members of I Liheslaturan Guåhan."

### The Committee will also be conducting a first Public Hearing on the following bills:

Bill No. 53 "An act to reform the Sunshine Act of Guam to expedite public information requests and allow electronic requests for information, to be known as "The Sunshine Reform Act of 1999."

Bill No. 91 "An act to amend Public Law 24-327."

Bill No. 93 "An act to amend Public Law 24-219."

Hearing will take place in the Conference Room

Office of Senator Mark Forbes, I Liheslaturan Guåhan, Hagåtña, Guam

The Public is Invited to Participate

Individuals requiring special accommodations, auxiliary aids or services are asked to contact the Office of Sen. Forbes at 472-312.



**GOVERNMENT MEETINGS**

**DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES' WIC PROGRAM:** Meeting on island nutritionists' sponsor legislation noon-1 p.m., Feb. 23, WIC conference room, Building 15-6100 Mariner Drive, Tiyon. Interested nutritionists welcome. For more information call Charles Morris, 4785-0290.

**MASS TRANSIT AUTHORITY BOARD OF DIRECTORS:** 6 p.m., Feb. 23, center's conference room, Hagåtña. Those with disabilities who need special accommodations, etc., should call Perez at 475-4682 or TDD 475-4601.

**CIVIL SERVICE COMMISSION BOARD:** 5:30 p.m., Feb. 23, CSC conference room, 490 Chalan Palasyo, Agaña Heights. Grievance appeal of Bruce C. Garrido vs. DepCor; general business; executive session. For more information call 475-1300/01.

**COMMISSION ON DECOLONIZATION'S INDEPENDENCE TASK FORCE:** 6:30 p.m., Feb. 23, 623 E. Sunset Blvd., Tiyon. For more information call 475-9222.

**SOUTHERN GUAM SOIL & WATER CONSERVATION DISTRICT:** Regular monthly meeting 6:30 p.m., Feb. 23, Southern Comfort Ranch, Merizo. All interested people welcome.

**BOARD OF REGISTRATION FOR**

**PROFESSIONAL ENGINEERS, ARCHITECTS & LAND SURVEYORS:** Special meeting 8:30 a.m., Feb. 23, board office. All members asked to attend. For more information call 646-3115.

**COMMITTEE ON NATURAL RESOURCES:** Oversight hearings 9:45 a.m., Feb. 23, 1 Liheslaturan Guahan public hearing room, Hagåtña. 9 a.m., Division of Aquatic and Wildlife, Department of Agriculture. 9:45 a.m., GEPA. For more information call the office of Sen. Joanne Brown, 472-3450/1.

**CHAMORRO REGISTRY ADVISORY BOARD:** Feb. 24 meeting postponed until further notice. For more information call Teresa Taitano, 475-4259.

**ALCOHOLIC BEVERAGE CONTROL BOARD:** 5 p.m., Feb. 24, Department of Revenue & Taxation director's conference room, 2nd floor, 13-1 Mariner Ave., Tiyon. Those with disabilities who need special accommodations, etc., should call 475-1790.

**BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS, ARCHITECTS & LAND SURVEYORS:** Special meeting 8:30 a.m., Feb. 24, board office. All members asked to attend. For more information call 646-

3115.  
**HOUSING CORPORATION AND RENTAL CORPORATION BOARD OF DIRECTORS:** 5 p.m., Feb. 24, Building 6-5000 E. Sunset Blvd., Tiyon. Agenda copies available upon request. For more information call 475-4927.

**PLANNING COUNCIL:** 2 p.m., Feb. 24, Governor's Cabinet conference room, RUB complex, Adelup. Those with disabilities who need special accommodations, etc., should call 472-9770/1 or fax 472-9772.

**GMHA BOARD OF TRUSTEES:** 5 p.m., Feb. 24, GMHA board room, 1st floor, Tamuning. Financial matters and committee reports. Executive session to follow. Those with disabilities who need special accommodations, etc., should call Toni Villavicencio, 647-2218.

**GHURA BOARD OF COMMISSIONERS:** 5 p.m., Feb. 24, GHURA conference room. Those with disabilities who need special accommodations, etc., should call Michael Duenos, 477-9851/4 or TTY/TDD 472-3701.

**CIVIL SERVICE COMMISSION BOARD:** 5:30 p.m., Feb. 24, CSC conference room, 490 Chalan Palasyo, Agaña Heights. Continuation of grievance appeal of Bruce C. Garrido vs. DepCor; new business;

general business; executive session. For more information call 475-1300/01.

**COMMITTEE ON RULES, GOVERNMENT REFORM, REORGANIZATION AND FEDERAL AFFAIRS:** Second public hearing 10 a.m., Feb. 24, Sen. Mark Forbes' conference room, 155 Hesler St., Hagåtña. Bills 3, 32, 33, 38, 44, 48, 52, 56, 67, 68, 69, 73, 78, 80. Also first public hearing on Bills 53, 92, 93.

**'99 SOUTH PACIFIC GAMES COMMISSION:** Special meeting 9 a.m., Feb. 24, 109 A St., Tiyon. Agenda copies available at commissioner's office.

**COMMISSION ON LICENSURE:** Noon, Feb. 24, Health Professional Licensing office, 1302 E. Sunset Blvd., Tiyon. Those with disabilities who need special accommodations, etc., should call 475-0251/2.

**COMMITTEE ON HOUSING, GOVERNMENT SERVICES AND FOREIGN AFFAIRS:** Public hearing 9 a.m., Feb. 24, 1 Liheslaturan Guahan public hearing room, Hagåtña. Bills 4(LS) and 8(LS), 36 (LS), 82 (cor). For more information call office of Sen. Maylan, 472-3342/3.

**COMMITTEE ON NATURAL RESOURCES:** Public meeting 7 p.m., Feb. 24, 1 Liheslaturan Guahan public hearing room, Hagåtña. For more

information call the office of Sen. Joanne Brown, 472-3450/1.

**GMHA BOARD OF DIRECTORS:** 5 p.m., Feb. 24, GMHA board room, first floor, Tamuning. Financial matters and committee reports. Executive session to follow. Those with disabilities who need special accommodations, etc., should call Toni Villavicencio, 647-2218.

**GEDA BOARD OF DIRECTORS:** Special meeting 10 a.m., Feb. 24, Suite 511, 5th floor, ITC Building, Tamuning. Those with disabilities who need special accommodations, etc., should call Bernard Purzellan, 647-4332.

**GTA BOARD OF DIRECTORS:** 6 p.m., Feb. 25, GTA conference room, administration building, Tamon. For accommodations call 479-8607.

**CIVIL SERVICE COMMISSION BOARD:** 5:30 p.m., Feb. 25, CSC conference room, 490 Chalan Palasyo, Agaña Heights. Continuation of grievance appeal of Bruce C. Garrido vs. DepCor; request for approval of DOE personnel rules and regulations; pay policy for physicians and dentists, pursuant to 4 GCA, Section 6209; general business; executive session. For more information call 475-1300/01.

**POLICE BLOTTER**

**Arrests: Monday**

▲ Pete Raymond Guzman, 42, of Maino was arrested on a warrant of arrest. He was booked and confined.

▲ Philip Mejia Pamintuan, 32, of Yigo was arrested on a warrant of arrest. He was booked and confined.

▲ Douglas Pak, 27, of Yigo was arrested on charges of family violence, unauthorized use of a motor vehicle and a warrant of arrest. He was booked and confined.

▲ Michael James Richardson, 21, of Yigo was arrested on a charge of family violence. He was booked and confined.

▲ Lawrence Albert Richardson, 24, of Yigo was arrested on a charge of family violence. He was booked and confined.

**Sunday**

▲ Aries Angeles Manzano, 19, of Dededo was arrested on charges of reckless endangerment, disorderly conduct, obstruction of a public road-

way, illegal parking, criminal facilitation and drag racing without a permit. He was booked and released.

▲ Norma Jean Santos Hooag, 29, of Dededo was arrested on a charge of possession of a controlled substance. She was booked and released.

▲ Clarence Lawrence Quintanilla, 30, of Agat was arrested on charges of violation of probation and public intoxication. He was booked and confined.

▲ Linda Lov Hunt, 44, of Tamuning was arrested on charges of assault and disorderly conduct. She was booked and released.

▲ Sutenai Ichin, 22, of Agaña Heights was arrested on a charge of criminal mischief. He was booked and released.

*Names as spelled in the blotter are provided by the Tactical Operations Command of the Guam Police Department.*

**GOVERNMENT MEETINGS**

Pacific Daily News, Wednesday, February 24, 1999

**PRO REGISTRY ADVISORY BOARD:** Feb. 24 meeting postponed until further notice. For more information call Teresa Taitano, 475-4259.

**ALCOHOLIC BEVERAGE CONTROL BOARD:** 5 p.m., Feb. 24, Department of Revenue & Taxation director's conference room, 2nd floor, 13-1 Mariner Ave., Tiyon. Those with disabilities who need special accommodations, etc., should call 475-1790.

**BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS, ARCHITECTS & LAND SURVEYORS:** Special meeting 8:30 a.m., Feb. 24, board office. All members asked to attend. For more information call 646-3115.

**HOUSING CORPORATION AND RENTAL CORPORATION BOARD OF DIRECTORS:** 5 p.m., Feb. 24, Building 6-5000 E. Sunset Blvd., Tiyon. Agenda copies available upon request. For more information call 475-4927.

**PLANNING COUNCIL:** 2 p.m., Feb. 24, Governor's Cabinet conference room, RJB complex, Adelup. PL 24-171: assess risks/costs, develop incentives for nonconforming structures, reclassify lots to IDs 3 and 8; other matters. Those with disabilities who need special accommodations, etc., should call 472-9770/1 or fax 472-9772.

**GMHA BOARD OF TRUSTEES:** 5 p.m., Feb. 24, GMHA board room, 1st floor, Tamuning. Financial matters and committee reports. Executive session to follow. Those with disabilities who need special accommodations, etc., should call Toni Villavicencio, 647-2218.

**GHURA BOARD OF COMMISSIONERS:** 5 p.m., Feb. 24, GHURA conference room. Those with disabilities who need special accommodations, etc., should call Michael Duenas, 477-9851/4 or TTY/TDD 472-3701.

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**COMMITTEE ON RULES, GOVERNMENT REFORM, REORGANIZATION AND FEDERAL AFFAIRS:** Second public hearing 10 a.m., Feb. 24, Sen. Mark Forbes' conference room, 155 Hesler St., Hagåtña. Bills 3, 32, 33, 38, 44, 48, 52, 56, 67, 68, 69, 73, 78, 80. Also first public hearing on Bills 53, 92, 93.

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**COMMITTEE ON HOUSING, GOVERNMENT SERVICES AND FOREIGN AFFAIRS:** Public hearing Feb. 24 postponed. For more information call office of Sen. Moylan, 472-3342/3.

**COMMITTEE ON NATURAL RESOURCES:** Public meeting 7 p.m., Feb. 24, Iliheslaturan Guahan public hearing room, Hagåtña. For more information call the office of Sen. Joanne Brown, 472-3450/1.

**GMHA BOARD OF DIRECTORS:** 5 p.m., Feb. 24, GMHA board room, first floor, Tamuning. Financial matters and committee reports. Executive session to follow. Those with disabilities who need special accommodations, etc., should call Toni Villavicencio, 647-2218.

**GEDA BOARD OF DIRECTORS:** Special meeting 10 a.m., Feb. 24, Suite 511, 5th floor, ITC Building, Tamuning. Those with disabilities who need special accommodations, etc., should call Bernard Punzalan, 647-

4332.

**GTA BOARD OF DIRECTORS:** 6 p.m., Feb. 25, GTA conference room, administration building, Tumon. For accommodations call 479-8607.

**CIVIL SERVICE COMMISSION BOARD:** 5:30 p.m., Feb. 25, CSC conference room, 490 Chalan Palasyo, Agaña Heights. Continuation of grievance appeal of Bruce C. Garrido vs. DepCor; request for approval of DOE personnel rules and regulations; pay policy for physicians

and dentists, pursuant to 4 GCA, Section 6209; general business; executive session. For more information call 475-1300/01.

**GVB BOARD OF DIRECTORS:** 4 p.m., Feb. 25, GVB main conference room, Tumon. Those with disabilities who need special accommodations, etc., should call 646-5278/9.

**COMMISSION ON DECOLONIZATION'S FREE ASSOCIATION TASK FORCE:** 6:30 p.m., Feb. 25, 623 E. Sunset Blvd., Tiyon. For more information call 475-9222.

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**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat

*Senadot Mark Forbes, Gehilu  
Kabisiyon Mayuråt*

**APR 21 1999**

Speaker Antonio R. Unpingco  
I Mina' Bente Singko Na Liheslaturan Guåhan  
155 Hesler Street  
Hagåtña, Guam 96910

Dear Mr. Speaker:

The Committee on Rules, Government Reform, Reorganization and Federal Affairs, to which Bill No. 53 was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 53, as substituted**, "An act to reform the Sunshine Act of Guam to expedite public information requests and allow electronic requests for information, to be known as 'The Sunshine Reform Act of 1999.' "

The voting record is as follows:

TO PASS

13

NOT TO PASS

0

ABSTAIN

0

TO PLACE IN INACTIVE FILE

0

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' BENTE SINGKO NA LIHESLATURAN GUAHAN**  
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat

*Senadot Mark Forbes, Gehilu  
Kabisiyon Mayurât*

**MEMORANDUM**

**TO:** Committee Members

**FR:** Chairman

**SUBJECT:** Committee Report- Bill No. 53, as substituted, "An act to reform the Sunshine Act of Guam to expedite public information requests and allow electronic requests for information, to be known as 'The Sunshine Reform Act of 1999.' "

Transmitted herewith for your information and action is the report on Bill No. 53, as substituted, from the Committee on Rules, Government Reform, Reorganization and Federal Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 53, as substituted
4. Public Hearing Sign-in Sheet
5. Fiscal Note/Fiscal Note Waiver
6. Notice of Public Hearing

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

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

Thank you and si Yu'os ma'ase.

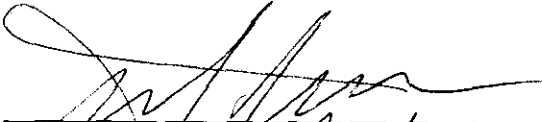
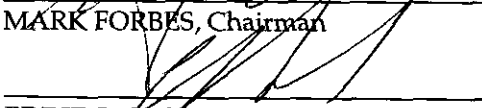

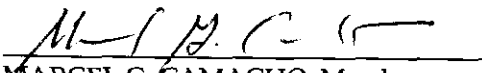
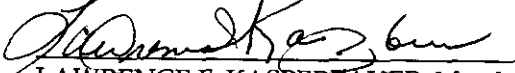
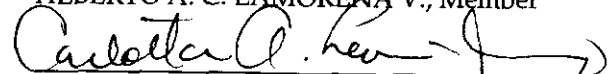


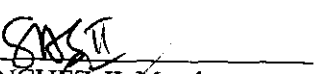


  
**MARK FORBES**

Attachments

**Committee on Rules, Government Reform, Reorganization and Federal Affairs**  
**I Mina' Bente Singko Na Liheslaturan Guåhan**

**Voting Record**

Bill No. 53, as substituted, "An act to reform the Sunshine Act of Guam to expedite public information requests and allow electronic requests for information, to be known as 'The Sunshine Reform Act of 1999.' "

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK FORBES, Chairman	✓			
 EDDIE B. CALVO, Vice-Chairman	✓			
ANTHONY C. BLAZ, Member				
 JOANNE M. S. BROWN, Member	✓			
 MARCEL G. CAMACHO, Member	✓			
 LAWRENCE F. KASPERBAUER, Member	✗			
ALBERTO A. C. LAMORENA V., Member				
 CARLOTTA A. LEON GUERRERO, Member	✓			
 KALEO S. MOYLAN, Member	✓			
 JOHN C. SALAS, Member	✓			
 SIMON A. SANCHEZ, II Member	✓			
ANTONIO B. UNPINGCO, Member				
 FRANK B. AGUON, JR., Member	✓			
ELOY G. BERMUDEZ, Member				
 VICENTE C. PANGELINAN, Member	✓			

②  
**I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN**

1999 (FIRST) Regular Session

Date: 4/28/99

**VOTING SHEET**

5 Bill No. 53 (COR)

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT ROLL CALL
AGUON, Frank B., Jr.	✓				
BLAZ, Anthony C.	✓				
BERMUDES, Eulogio C.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Marcel G.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V	✓				
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	✓				
PANGELINAN, Vicente C.	✓				
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.					EA

TOTAL

14      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_      1

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence



**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**TWENTY-FIFTH GUAM LEGISLATURE**  
155 Hesler Street, Hagåtña, Guam 96910

**FILE**

April 26, 1999

(DATE)

**COPY**

Memorandum

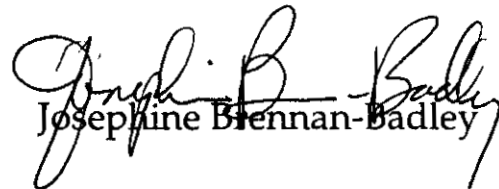
To: Senator MARK FORBES

From: Clerk of the Legislature

Subject: Report on Bill No. 53 (COR)

Pursuant to §7.04 of Rule VII of the 25<sup>th</sup> Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 53 (COR) for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.

  
Josephine Brennan-Badley

Attachment

ACKNOWLEDGEMENT RECEIPT

Received By: James

Time: 11:05 am

Date: 4/26/99

**I Mina' Bente Singko Na Liheslaturan Guåhan**

**Committee On Rules,  
Government Reform, Reorganization & Federal Affairs  
Senator Mark Forbes, Chairman**

**Committee Report**

**on**

**Bill No. 53, as substituted**

**"An act to reform the Sunshine Act of Guam to expedite public information requests and allow electronic requests for information, to be known as 'The Sunshine Reform Act of 1999.'"**



## I. OVERVIEW

The Committee on Rules, Government Reform, Reorganization and Federal Affairs held a public hearing on Wednesday, February 24, 1999 at 10:00 a.m. at I Liheslaturan Guahan. Public notice of the hearing was announced in the February 22<sup>nd</sup>, 23<sup>rd</sup>, and 24<sup>th</sup>, 1998 issues of the Pacific Daily News.

Senators present were:

Senator Mark Forbes, Chairman  
Senator Vicente Pangelinan, Member  
Senator Frank Aguon, Jr., Member  
Senator Eloy Bermudes, Member  
Senator Kaleo Moylan, Member  
Senator Simon Sanchez, Member  
Senator Eddie Calvo, Member

Appearing before the Committee were:

Ms. Bernadette Sterne, President, Micronesia chapter, Society of Professional Journalists  
Mr. Nate McGurk, Board Member, Micronesia chapter, Society of Professional Journalists  
Mrs. Jayne Flores, Board Member, Micronesia chapter, Society of Professional Journalists  
Mr. Jojo Santo Tomas, Reporter, Marianas Variety  
Mr. Gerry Lyons, News Director, Hit Radio 100  
Ms. T. Ann Perez, Deputy Administrator, Guam Economic Development Authority

Providing written testimony:

Mr. Ed Untalan, Administrator, Guam Economic Development Authority (attached)  
Mr. Gerry Lyons, News Director, Hit Radio 100 (attached)

## II. SUMMARY OF TESTIMONY

Ms. Bernadette Sterne, President of the Micronesia chapter, Society of Professional Journalists, testified before the Committee **in favor** of Bill No. 53. She said she supports the bill because journalists are often stifled in trying to provide the public with accurate, comprehensive, timely information by the non-compliance of government agencies. Ms. Sterne said the Act would help journalists accomplish their mission. She said computer information should be available to journalists and citizens alike, and said MSPJ supports the idea of forcing agencies to disclose information quickly. MSPJ has made this Act its top priority and will be watching the actions of senators on this Act.

Mr. Nate McGurk, Board Member of the Micronesia chapter, Society of Professional Journalists, testified before the Committee **in favor** of Bill No. 53. He said he seconds the testimony of Ms. Sterne.

Mrs. Jayne Flores, Board Member of the Micronesia chapter, Society of Professional Journalists, testified before the Committee **in favor** of Bill No. 53. She said she supports the bill because in the past, government agencies with information on computer printed out voluminous amounts of documents as a stalling tactic, forcing reporters to wade through the documents instead of searching through them on disk. With this new Act, agencies would be required to supply the documents in electronic form if so requested.

Mr. Gerry Lyons, News Director for Hit Radio 100, testified before the Committee **in favor** of Bill No. 53. He said Hit Radio 100 had to sue the Guam Economic Development Authority for loan

information that should be in the public domain. He also said loan applications to government agencies should not be exempted from the public domain.

Mr. Jojo Santo Tomas, Reporter for the Marianas Variety, testified before the Committee **in favor** of Bill No. 53. He suggested setting a lower document copying fee than is already in statute, adding that 50 cents per page is ridiculous.

Ms. T. Ann Perez, Deputy Administrator for the Guam Economic Development Authority, testified before the Committee **in favor** of Bill No. 53, with amendments. She suggested changing the four-day requirement of agencies to provide information to 10 days, adding that the Authority often deals with documents that take more than four days to sort through and copy.

Mr. Ed Untalan, Administrator for the Guam Economic Development Authority, submitted written testimony to the Committee **in favor** of Bill No. 53, with amendments. He said he supports the bill because it gives GEDA the opportunity to submit its list of public writings, which it didn't do upon the initial enactment of the Sunshine Act. However, Mr. Untalan suggested several changes to the bill, including changing the four-day requirement of agencies to provide information to 10 days, because the agency deals with voluminous files.

### **III. FINDINGS AND RECOMMENDATION**

The Committee on Rules, Government Reform, Reorganization and Federal Affairs finds that Bill No. 53, as substituted, makes a strong move toward increasing government accountability, opening the government's doors to the public, making government more responsive to the people, and moving government information into the electronic age.

The Committee further finds that Bill No. 53, as substituted, would require government agencies to provide public documents in four working days, instead of 10, which makes more sense in this age of instant communications. There are very few documents maintained by the government that take more than four working days to locate and copy, and this Act would allow for a 10-day extension for those few exceptions. The Act would also allow for electronic communications, allowing members of the public to request documents via electronic mail, requiring agencies to provide documents in electronic form if it is so requested and available in that form, and requiring agencies to publish reports on their responsiveness to requests under this Act on the Internet. Annual reports required of agencies by this Act will hold government accountable for its actions and responsiveness to the public.

Accordingly, the Committee on Rules, Government Reform, Reorganization and Federal Affairs, to which Bill No. 53 was referred does hereby submit its findings and recommendations to I Mina' Bente Singko Na Liheslaturan Guahan **TO DO PASS BILL NO. 53, as substituted**, "An act to reform the Sunshine Act of Guam to expedite public information requests and allow electronic requests for information, to be known as 'The Sunshine Reform Act of 1999.' "



**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat**  
**Senator Mark Forbes, Chairman**

**FEB 18 1999**

**MEMORANDUM**

**TO:** Chairman  
Committee on Rules, Government Reform, Reorganization  
and Federal Affairs

**FROM:** Chairman  
Committee on Rules, Government Reform, Reorganization  
and Federal Affairs

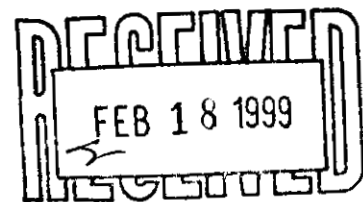
**SUBJECT:** Principal Referral – Bill No. 53

The above bill is referred to your Committee as the Principal Committee. In accordance with Section 6.04.05. of the Standing Rules, your Committee "shall be the Committee to perform the public hearing and have the authority to amend or substitute the bill, as well as report the bill out to the Body." It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

**MARK FORBES**

Attachment



**MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
1999 (FIRST) Regular Session**

**Bill No. 53 (COR)**

As substituted by the Committee.

Introduced by:

Mark Forbes

*F. B. Aguda, Jr.*



**AN ACT TO REFORM THE SUNSHINE ACT OF  
GUAM TO EXPEDITE PUBLIC INFORMATION  
REQUESTS AND ALLOW ELECTRONIC REQUESTS  
FOR INFORMATION, TO BE KNOWN AS "THE  
SUNSHINE REFORM ACT OF 1999."**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that:

4           (1) Public access to information is a fundamental right of citizens and a  
5 necessity for an informed electorate, and the denial of that information to  
6 citizens and the media is therefore not acceptable in the government of Guam;

7           (2) The Sunshine Act of Guam and the federal Freedom of  
8 Information Act have been valuable means through which any citizen can  
9 learn how the government operates;

10          (3) Those same acts have led to the disclosure of waste, fraud, abuse,  
11 and wrongdoing in the government, locally and nationally;

1 (4) While few requests for public information are filed in government  
2 of Guam agencies by the public and the media, those requests are not fulfilled  
3 as quickly or as often as possible;

4 (5) Government agencies increasingly use computers to conduct  
5 agency business and to store publicly valuable agency records and  
6 information; and

7 (6) Government agencies should use new technology to enhance  
8 public access to agency records and information.

9 *I Liheslaturan Guåhan* therefore intends to:

10 (1) Foster democracy by ensuring public access to agency records and  
11 information;

12 (2) Improve and expedite public access to agency records and  
13 information;

14 (3) Shorten statutory time limits for agency response to requests for  
15 public information and ensure compliance with those statutory time limits;  
16 and

17 (4) Maximize the usefulness of agency records and information by  
18 taking advantage of computer technology.

19 **Section 2. Repeal and Re-enact Sunshine Act.** Article 1 of Chapter  
20 10, Title 5, Guam Code Annotated, known as the Sunshine Act of 1987, is  
21 hereby repealed and re-enacted as follows:

22 **“Article 1**

23 **Sunshine Law**

24 **§10101. Short Title.**

25 **§10102. Definitions.**