April 19, 2011

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina’trentai Unu Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Madame Speaker:

Transmitted herewith is Substitute Bill No. 35-31 (COR) “AN ACT TO AMEND §12000 OF CHAPTER 12 OF TITLE 12, GUAM CODE ANNOTATED; TO AMEND §1921 OF CHAPTER 19 OF TITLE 1, GUAM CODE ANNOTATED; AND TO REPEAL §§51103(b) AND 51118 OF CHAPTER 51, AND TO REPEAL ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10, GCA, AND REENACT THEM UNDER A NEW CHAPTER 51A, TITLE 10, GCA, RELATIVE TO ESTABLISHING THE GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS PUBLIC CORPORATION”, which I signed into law on April 18, 2011 as Public Law 31-20.

Senseramente,

EDDIE BAZA CALVO

Attachment: copy of Bill
This is to certify that Substitute Bill No. 35-31 (COR), “AN ACT TO AMEND §12000 OF CHAPTER 12 OF TITLE 12, GUAM CODE ANNOTATED; TO AMEND §1921 OF CHAPTER 19 OF TITLE 1, GUAM CODE ANNOTATED; AND TO REPEAL §§51103(b) AND 51118 OF CHAPTER 51, AND TO REPEAL ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10, GCA, AND REENACT THEM UNDER A NEW CHAPTER 51A, TITLE 10, GCA, RELATIVE TO ESTABLISHING THE GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION”, was on the 4th day of April, 2011, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by I Maga’lahen Guåhan this 7th day of April, 2011, at 04:50 o’clock A.M.

Assistant Staff Officer
Maga’lahi’s Office

APPROVED:

EDWARD J.B. CALVO
I Maga’lahen Guåhan

Date: APR 18 2011

Public Law No. 31-20
IMINA'TRENTAI UNU NA LIHESLATURAN GUÁHAN
2011 (FIRST) Regular Session

Bill No. 35-31 (COR)
As substituted by the Committee on Youth, Cultural Affairs,
Procurement, General Government Operations
and Public Broadcasting, and amended on the Floor.

Introduced by:

T. C. Ada
R. J. Respicio
B. J. F. Cruz
V. Anthony Ada
F. F. Blas, Jr.
Chris M. Duenas
Sam Mabini, Ph.D.
Judith P. Guthertz, DPA
T. R. Muña Barnes
Adolfo B. Palacios, Sr.
v. c. pangelinan
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO AMEND §12000 OF CHAPTER 12 OF TITLE 12, GUAM CODE ANNOTATED; TO AMEND §1921 OF CHAPTER 19 OF TITLE 1, GUAM CODE ANNOTATED;
AND TO REPEAL §§51103(b) AND 51118 OF CHAPTER 51, AND TO REPEAL ARTICLE 3, ARTICLE 4,
ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9
OF CHAPTER 51 OF TITLE 10, GCA, AND REENACT
THEM UNDER A NEW CHAPTER 51A, TITLE 10, GCA,
RELATIVE TO ESTABLISHING THE GUAM SOLID
WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC
CORPORATION.
BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. I Liheslaturan Guåhan finds that the history of the government of Guam’s (GovGuam) violation of the Clean Water Act dates back to 1986, when the United States Environmental Protection Agency issued an administrative order directing the island’s Department of Public Works to cease the discharge of leachate from the Ordot Dump. Twenty-four (24) years later, the Ordot Dump, the island’s only municipal site for solid waste disposal, continues to leach contaminants, posing an environmental and health hazard. A Consent Decree was approved by the U.S. District Court of Guam in February 2004, yet compliance with its mandates has been minimal. GovGuam’s commitment to comply with the Consent Decree was not enough to rectify the island’s solid waste crisis. Consequently, on March 17, 2008, Gershman, Brickner & Bratton, Inc. (GBB), solid waste management consultants, was appointed as Receiver by the District Court of Guam to achieve the government’s compliance with the Clean Water Act as set forth in the Consent Decree. GBB has full power and authority to enforce the terms of the Consent Decree to include assumption of the functions, powers and authority of the Solid Waste Management Division of the Department of Public Works insofar as they affect GovGuam’s compliance with the Consent Decree.

I Liheslaturan Guåhan intends to prepare GovGuam for the eventual resumption of all functions, responsibilities and authority for solid waste management and operations, subsequent to the U.S. District Court determination that the Consent Decree has been satisfied, and that GovGuam would have the capability to manage, operate and sustain a compliant solid waste service and landfill. I Liheslaturan Guåhan intends to establish the Guam Solid Waste Authority (GSWA), an autonomous public corporation, as successor to the Solid Waste Management Division, a sub-entity of the Department of Public Works.
I Liheslaturan Guåhan intends to place the GSWA under the governance of a Board of Directors appointed by I Maga’lahi (the Governor) and subject to the advice and consent of I Liheslatura (the Legislature).

Section 2. Transition Liaison. Upon the enactment of this Act, I Maga’lahi (the Governor) shall initiate procedures for the appointment of members to the GSWA Board of Directors, and shall submit said nominations to I Liheslatura (the Legislature) within ninety (90) days. Within thirty (30) days of empanelment, the Board shall establish a liaison with the Receiver, Gershman, Brickner & Bratton, Inc., and begin discussions preliminary to achieving the objective of GovGuam’s eventual resumption of all functions, responsibilities and authority for solid waste management and operations, and the governance thereof.

Section 3. A new Chapter 51A is hereby added to Title 10, Guam Code Annotated, to read:

“CHAPTER 51A
GUAM SOLID WASTE AUTHORITY


Article 2. Guam Solid Waste Authority Revenue Bonds

Article 3. Solid Waste Operations Fund

Article 4. Annual Contract for Scrap Removal

Article 5. Contract for Collection of Recyclable Paper

Article 6. Municipal Recycling Program

Article 7. Recycling Enterprise Zone

Article 1

General Provisions

§51A101. Short Title.

§51A102. Definitions.

§51A103. Continuation of Existence.
§51A101. Short Title.

This Chapter may be cited as the Guam Solid Waste Authority Act.

§51A102. Definitions. As used in this Chapter, unless otherwise indicated:

(a) Authority means the Guam Solid Waste Authority (GSWA).

(b) General Manager (GM) means the General Manager of GSWA.

(c) Best public interest means any activity which: lessens the demand for landfill sites, conserves land resources and serves to
insure proper, cost effective, and environmentally sound disposal of solid waste; and, does not pose health risks to human life or endanger plant and animal life.

(d) *Board* means the Board of Directors of the Guam Solid Waste Authority (GSWA).

(e) *Business* means and includes any activity or conduct, whether proprietary, partnerships, corporate or whatever form, engaged in, or caused to be engaged in, with the object of gain or economic benefit, either direct or indirect, but shall not include casual sales, personal service contracts, fundraising activities by political candidates, or the activities of non-profit associations.

(f) *Collection* or *Collect* means the removal of solid waste from a generator.

(g) *Collector* means any individual, governmental organization or business, which has received a permit to collect and transport waste in accordance with applicable laws and regulations.

(h) *Combustion* means to thermally break down certain types of solid waste in an enclosed device using controlled temperatures.

(i) *Composting* means the controlled degradation of organic solid waste.

(j) *Disposal* means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water.
(k) **Dump** means a land site where solid waste is disposed without a valid permit, or a landfill that has historically been in regulatory noncompliance.

(l) **Duplex** means a residential building containing two (2) separate dwelling units either side by side or one above the other.

(m) **Dwelling** means a building or portion thereof designed exclusively for residential occupancy by one (1) family for living and sleeping purposes, and *not* to exceed two (2) dwelling units.

(n) **Dwelling unit** means one (1) or more rooms and a single kitchen in a dwelling, designed as a unit for occupancy by one (1) family for living and sleeping purposes.

(o) **Financial assurance** means a financial guarantee assuring that funds are available to pay for the design, construction, operation and closure of a solid waste landfill facility, for rendering post-closure at a solid waste landfill facility, for corrective action and to compensate third parties for bodily injury and property damage caused by sudden and non-sudden accidents related to the operation of a solid waste landfill facility.

(p) **Generator** means any person that generates or produces solid waste.

(q) **Government** means the government of Guam, all of its agencies, whether line or autonomous, and all public corporations.

(r) **Hardfill** means a method of compaction and earth cover of solid wastes other than those containing garbage or other putrescible (putrescent) waste, including, but *not* limited to, demolition material, and like materials not constituting a health or
nuisance hazard, where cover need *not* be applied on a per day used basis. *No* combustible materials *shall* be deposited in a hardfill.

(s) **Combustible Materials** means any solid or liquid that may be ignited.

(t) **Combustible Solids** is defined in Title 49 of the Code of Federal Regulations, Chapter 1, Subtitle B, Part 173.124, and are those solids capable of igniting and burning.

(u) **Combustible Liquids** is defined in Title 29 of the Code of Federal Regulations, Chapter 17, Subtitle B, Part 1910.106, and shall mean any materials having a flash point at or above 100 degrees Fahrenheit (37.8 degrees Celsius), but below 200 degrees Fahrenheit (93.3 degrees Celsius), *except* any mixture having components with flashpoints of 200 degrees Fahrenheit (93.3 degrees Celsius), or higher, the total volume of which make up ninety-nine percent (99%) or more of the total volume of the mixture.

(v) **Hazardous Waste** means any material or substance which, by reason of its composition or characteristics:

(1) hazardous waste is defined in the Solid Waste Disposal Act, 42 USC '6901, et seq., as amended, replaced or superseded and the regulations implementing same;

(2) a hazardous substance is defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC § 9601, et seq.;

(3) hazardous material, the disposal of which is regulated by the Toxic Substances Control Act, 15 USC ' 2601, et seq., as amended, replaced or superseded, and the regulations implementing same;
(4) special nuclear or by-products material within the meaning of the Atomic Energy Act of 1954;
(5) pathological, infectious or biological waste;
(6) treated as hazardous waste or as a hazardous substance under applicable law;
(7) requires a hazardous waste or similar permit for its storage, treatment, incineration of disposal;
(8) may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or
(9) may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise damaged.

(w) **Highway** means the entire width between the boundary lines of every right-of-way or publicly maintained travel ways when any part thereof is open to the use of the public for purposes of vehicular travel.

(x) **Incinerator** means an enclosed device using controlled flame combustion, the primary purpose of which is to thermally break down solid waste.

(y) **Multi-family dwelling** means a building containing three (3) or more dwellings.

(z) **Operator** means any person who accepts solid waste from a collector for transfer, storage, recycling, combustion, processing or disposal.
(aa) *Performance bond* means a security for financial loss caused by the act or default performance of a person or by uncontrollable conditions.

(bb) *Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, or any agency, department, or instrumentality of the Federal or local government, or any other legal representatives, agents or assigns.

(cc) *Plan* means the interim or final Solid Waste Management Plan (SWMP) prepared and adopted by the GEPA in accordance with the Administrative Adjudication Law.

(dd) *Plasma torch heating technology* means converting electrical energy into heat energy producing clean fuel gas and recyclable slag.

(ee) *Plasma Remediation In-Situ Materials (PRISM)* means a plasma torch technology process that melts down and converts landfill material into slag and fuel gas.

(ff) *Pollution* means the condition caused by the presence in the environment of substances of such character and in such quantities that the quality of the environment is impaired or rendered offensive to life.

(gg) *Processing* means any method, system or other treatment designed to change the physical, chemical or biological character or composition of any solid waste. This includes the neutralization of any hazardous waste; the rendering of any hazardous waste non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume; or any other activity or processing
designed to change the physical form or chemical composition of
hazardous waste so as to render it non-hazardous.

(hh) Recyclable materials includes the following materials
discarded from households, businesses, commercial and industrial
establishments, hotels, and government, agricultural, landscaping,
yard maintenance and military operations which may be reused, or for
which a market exists:

(1) aluminum means any product manufactured of
aluminum or aluminum alloy;

(2) battery means any lead acid battery or dry cell
battery discarded on Guam, independent of intended use;

(3) biomass means any large biomass source, such as
trees, wood, grass, hedge cuttings, jungle growth, yard waste
and sewage sludge;

(4) construction debris means the materials from
building construction;

(5) corrugated cardboard means kraft, jute or test
liner pulp which is made by combining two (2) or more webs of
paper and formed or shaped into wrinkles or folds or into
alternate ridges and grooves;

(6) demolition waste means the materials obtained
from the demolishment or razing of buildings;

(7) glass means any product manufactured from a
mixture of silicates, borates or phosphates;

(8) metal scrap means any metal, in whole or in parts,
from buildings, equipment, machinery or vehicles;
(9) newspaper means a publication which is distributed and contains news articles, opinions, features, and advertising and is printed on impermanent wood pulp materials;

(10) office paper means computer paper and white and colored ledger paper;

(11) used oil means any petroleum-based, mineral, or synthetic oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties; and

(12) such other materials which the Authority determines, from time to time, may be recycled.

(ii) Recycle or Recycling means the method by which recovered resources are converted for use as raw material or feedstock to make new products.

(jj) Resource recovery means the process of recovering recyclable materials or the recovery of energy from solid waste.

(kk) Resource Recovery Facility (RRF) is a facility that recovers for sale or reuse of recyclable materials.

(ll) Reusing means the reintroduction of a commodity in the economic stream without any changes.

(mm) Sanitary landfill means an approved site where solid waste and ash are disposed using modern sanitary landfilling techniques in accordance with Federal and local regulations.

(nn) Sanitary landfilling means an engineered method of disposing of solid waste on land in accordance with Federal and local laws and regulations in a manner that protects the environment by spreading the waste in thin layers, compacting it to the smallest
practical volume, and covering it with approved material at the end of each working day.

(oo) *Separation* means the systematic division of solid waste into designated components.

(pp) *Single Family Residence* means a detached building designed for and/or occupied exclusively by one (1) family, or one (1) of two (2) dwelling units on a duplex.

(qq) *Solid waste* means any garbage, refuse or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded and/or spilled materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, mining, commercial, and agriculture operations, and from community activities, but does **not** include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under 402 of the Federal Water Pollution Control Act, as amended (68 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(rr) *Solid waste management* means the purposeful, systematic control of the generation, storage, collection, transportation, separation, processing and disposal of solid waste.

(ss) *Solid waste management facilities* means any facility, or any machinery, equipment, vehicles, structures or any part of accessories thereof installed or acquired for the primary purpose of collection, transportation, storage, recycling, processing or disposal of
solid waste, and shall include sanitary landfills, resource recovery facilities, or plasma torch.

(tt) **Solid Waste Management Plan** means a comprehensive plan and all amendments and revisions thereto for provisions of solid waste management throughout Guam.

(uu) **Solid waste management practices** means the actions to effectuate the generation, storage, collection, transportation, processing, recycling, plasma torch or resource recovery or disposal of solid waste.

(vv) **Solid Waste Management System (SWMS)** means the entire system covered in the SWMP and designated by the Director for the storage, collection, generation, transportation, processing, recycling, plasma torch and disposal of solid waste within Guam.

(ww) **Source separated waste** means recyclable materials that are set aside by the generator for segregated collection and transport to solid waste management facilities.

(xx) **Storage** means the interim containment of solid waste in accordance with Federal and local regulations.

(yy) **Transfer station** means any intermediate waste facility in which solid waste collected from any source is temporarily deposited and stored while awaiting transportation to another solid waste management facility.

§51A103. **Continuation of Existence.** The Solid Waste Management Division, a sub-entity of the Department of Public Works shall continue in existence as an autonomous, public corporation now referred to as the Guam Solid Waste Authority (GSWA).

§51A104. **Powers and Duties of the Authority.** The Authority
shall have and exercise each and all of the following powers:

(a) administer those powers listed under this Chapter 51A, Title 10 of the Guam Code Annotated;

(b) acquire by grant, purchase, gift, devise or lease, or by the exercise of the right of eminent domain in accordance with the provisions and subject to limitations of Title 21 GCA Chapter 15, and hold and use any real or personal property necessary or convenient or useful for the carrying on of any of the powers pursuant to the provisions of this Chapter;

(c) establish its internal organization and management, and adopt regulations for the administration of its operations;

(d) establish and modify from time to time, with approval of the Public Utility Commission (PUC), reasonable rates and charges for the collection, transportation, disposal, storage, recycling and processing of solid waste to recover the full cost of providing solid waste management services, and collect money from customers using such services. Similarly, the Authority shall establish and modify from time to time, with the approval of the Public Utilities Commission, reasonable rate and charges for servicing of debt obtained to undertake capital improvements to solid waste management;

(e) enter into contracts and execute all instruments necessary or convenient in the exercise of its powers, adopt a seal, and sue or be sued in its own corporate name;

(f) at any time or from time to time, incur indebtedness pursuant to Article 2 of this Chapter;

(g) enter into contracts with the government of Guam or with the United States for loans or grants;

(h) employ, retain or contract for the services of qualified solid
waste management specialists or experts, as individuals or as organizations, to provide technical advice and assistance;

(i) adopt such rules and regulations as may be necessary for the exercise of the powers and performance of the duties conferred or imposed upon the Authority or the Board by this Act;

(j) control, operate, improve, equip, maintain, repair, renew, replace, reconstruct, alter and insure that the solid waste management system is compliant with any applicable zoning, building, environmental and health regulations of Guam; and

(k) do any and all other things necessary to the full and convenient exercise of the above powers;

(l) enter into public-private partnerships for solid waste management facilities and operations, the closure and beneficial use of the Ordot Landfill site, source reduction, recycling, composting, resource recovery, waste reduction and transfer stations. This duty shall also address construction debris or demolition waste, metallic debris, white goods, tires and green waste and hazardous waste contracts;

(m) organize, plan for, secure and manage resources and promote the implementation of the Solid Waste Management Plan;

(n) evaluate and promote capital improvements and maintenance programs to the solid waste management system;

(o) address the necessity for a facility for the shredding of tires for recycling or for use as rubberized asphalt;

(p) address the necessity for a facility for the recycling of glass, including its use as glassphalt;

(q) address the necessity for a facility for the recycling of scrap metals, including discarded vehicles, appliances and equipment, e-waste
such as T.V monitors, computers, and televisions, including shredding for containerization or other shipment;

(r) require the preparation of any necessary environmental impact assessments or environmental impact reports, and plans for any mitigation measures;

(s) mandate the inspection and monitoring of all solid waste management facilities to ensure compliance with this Act, the Plan, other law, rules and regulations applicable to Guam;

(t) apply for all grants-in-aid requests and administer any such programs or funds, except those established for recycling.

(u) adopt rules and regulations governing selection, compensation, promotion, performance evaluation, disciplinary action and other terms and conditions of employment affecting certified technical and professional personnel, subject to the provisions of the Administrative Adjudication Act. Such rules and regulations shall provide for the employment and retention of persons on the basis of merit, and shall include an orderly and systematic method of recruitment and the establishment of a list of qualified applicants. Certified Technical and Professional personnel are defined as personnel employed by the Guam Solid Waste Authority who are professional engineers, attorneys, and other licensed professionals. Compensation for all other personnel shall remain consistent with compensation plans and pay scales as determined by law.

Nothing contained in this Section or elsewhere in this Article shall be construed directly or by implication to be in any way in derogation or limitation of powers conferred upon or existing in the Authority or the Board by virtue of any provisions of the Organic Act of Guam or Statutes of the Territory or any other provision of this Code.
§51A105. Governance of Authority. All powers vested in the Authority, except as provided herein, shall be exercised by a GWSA Board of Directors comprised of five (5) members appointed by I Maga’lahi (the Governor) with the advice and consent of I Liheslatura (the Legislature). A majority of the members shall constitute a quorum. The official vote of the majority of members shall be required for a decision of the Board. The Board may adopt Rules and Regulations pursuant to AAL governing the conduct of its affairs.

§51A106. General Manager (GM).

(a) The Board shall appoint a General Manager, who shall be its chief executive officer and shall serve at its pleasure. The General Manager shall, at a minimum, possess the following qualifications:

(1) a combined minimum of six (6) years of documented experience successfully managing a solid waste management system of similar size as the GSWA system, and

(2) graduation from an accredited institution of higher education with a Bachelors degree in Business Management, Engineering Management, Engineering Technology or Civil Engineering.

(b) The Board shall fix the General Manager’s compensation, notwithstanding any other provision of law. The General Manager shall manage the construction, maintenance, operation and administration of business affairs of the Authority.

(c) The Board may contract with a business entity to perform any or all of the duties, and to exercise any or all of the powers of the General Manager as provided in this Section, and the General Manager, subject to the approval of the Board, may contract with a business entity to perform
some of the duties or to render expert and technical assistance in the
operation of the Authority. The initial term of such a management contract
shall be for a period of up to three (3) years. The Authority shall also have
the option for two (2) renewal terms of five (5) years each. The contracted
business entity pursuant to this Section must have a minimum of ten (10)
years experience in the management and operation of a solid waste system
of similar or greater scope than the Authority.

(d) The powers and responsibilities of the General Manager shall
include the following:

(1) to enforce all rules and regulation of the Authority;
(2) to attend all meetings of the Authority and submit a
general report of the affairs of the Authority;
(3) to keep the Board advised as to the needs of the
Authority, to approve demands for the payment of obligations of the
Authority, and to approve expenditures and collection of revenue
within the purposes and amounts authorized by the annual budget;
(4) to prepare, or cause to be prepared, all plans and
specifications for the constructions of work by the Authority in
accordance with the annual budget;
(5) to select and appoint the employees of the Authority,
except as otherwise provided by this Chapter, and to plan, organize,
coordinate and control the services of such employees in the exercise
of the powers of the Authority under the general direction of the
Board;
(6) to cause to be published within one hundred twenty (120)
days from the end of each fiscal year a financial report, which shall
include an annual financial audit pursuant to §1908 and §1909 of
Chapter 19, Title 1 Guam Code Annotated. This report should present the result of operations for the preceding fiscal year and the financial status of the Authority on the last day thereof. The publication shall be made in the manner provided by the Board; and

(7) to perform such other and additional duties as the Board may require.


The General Manager, with the consent of the Board, may appoint an Assistant General Manager for Operations and Technical Support, who shall serve at the pleasure of the General Manager.

(a) The Assistant General Manager for Operations and Technical Support shall be entitled to receive compensation as recommended by the General Manager, and approved by the Board.

(b) Such Assistant General Manager shall devote his entire time to the business of the Authority and shall have full charge and control, subject to the direction of the General Manager, of all operations, engineering and technical services pertaining to the generation, storage, collection, transportation, processing, recycling, resource recovery or disposal of solid waste.

(c) Such Assistant General Manager shall have such other duties as may be designated by the General Manager.

§51A108. Assistant General Manager: Administration.

The General Manager, with the consent of the Board, may appoint an Assistant General Manager for Administration, who shall serve at the pleasure of the General Manager.

(a) The Assistant General Manager for Administration shall be
entitled to receive compensation as recommended by the General Manager, and approved by the Board.

(b) Such Assistant General Manager shall devote his/her entire time to the business of the Authority and shall have full charge and control, subject to the direction of the General Manager, of all administration of the Authority.

(c) Such Assistant General Manager shall have such other duties as may be designated by the General Manager.

§51A109. Chief Financial Officer. The Board may appoint a Chief Financial Officer, who shall be a Certified Public Accountant. The Board shall fix the Chief Financial Officer’s compensation. The Chief Financial Officer shall have full charge and control of the fiscal, business and accounting operations of the Authority, subject to the supervision of the Board.

§51A110. Other Officers.

(a) The Board may also appoint a Secretary and an Attorney, who shall serve at the pleasure of the Board, and whose duties and compensation shall be fixed by the Board. The Board may appoint one (1) or more assistants to any such office. Any of such offices may be consolidated in one (1) person.

(b) The Secretary shall have charge of all records and minutes of the Commission.

(c) The Attorney, who must have been admitted to practice in Guam, shall advise the Board and the General Manager on all legal matters to which the Authority is a party or in which the Authority is legally interested and may represent the Authority in connection with legal matters before I Liheslatura (the Legislature), boards and other agencies of the
government of Guam. The Attorney General shall represent the Authority in litigation concerning the affairs of the Authority provided that he may delegate this duty to the Attorney of the Authority, with respect to any such litigation.

§51A111. Employees. All employees of the Authority shall be eligible for all insurance, retirement, worker's compensation and other benefits as extended to employees of the government of Guam, and shall be employees of the government of Guam for the purposes of the application of all civil service laws and personnel rules and regulations that apply to government of Guam employees, inclusive of all scales, tables and schedules for compensation. With respect to compensation, this Section shall not apply to the compensation of the General Manager, Assistant General Manager: Administration, Assistant General Manager: Operations and Technical Support, Secretary, Attorney or the Chief Financial Officer.

§51A112. Acquisition of Existing Systems, Employees and Debt. Ninety (90) days after the effective date of this Act the Authority shall assume in writing from the Department of Public Works, Solid Waste Management Division:

(a) all real property under the DPW Solid Waste Management Division (SWMD) administration and items of property, materials and supplies which the SWMD owns or controls, including construction work in progress; and

(b) all working capital, cash, accounts payable and receivable, deposits, advances payable and receivable, all books, records and maps and all other rights, obligations, assets, liabilities, agreements and privileges of the Authority or attributable to the Authority.

(c) Each government of Guam employee assigned to the
Department of Public Works, Solid Waste Management Division at the date of the transfer pursuant to statute shall be transferred to the Authority. All classified and unclassified employees occupying solid waste technicians positions shall be classified.

§51A113. Exemption from Taxation, and In Lieu Payments. As an instrumentality of the government of Guam, the Authority and all property acquired by or for the Authority and all revenues and income therefrom are exempt from taxation by the government of Guam, or by any political subdivision or public corporation thereof and from all taxes imposed under the authority of I Liheslaturan Guåhan (the Guam Legislature), or with respect to which I Liheslatura (the Legislature) is authorized to grant exemption.

§51A114. General Operations. Rates for Services. The Authority shall apply to the Public Utilities Commission (PUC) for establishment of its rates for its services including, but not limited to:

(a) Operating Costs:
   (1) Layon Landfill
   (2) Commercial Transfer Stations
   (3) Retail Transfer Stations
   (4) Residential Trash Collection
   (5) Bulky and Metallic Waste collection
   (6) Recycling
   (7) Customer Service and Education
   (8) Equipment Maintenance
   (9) Household Hazardous Waste
   (10) Administration

(b) Reserve Fund Costs:
§51A115. Accounting and Expenditures.

(a) The Board shall adopt and maintain a system of accounting.

(b) The Board shall authorize, by means of the annual budget, payment of demands against the Authority resulting from the exercise of its powers under this Act if:

1. the purposes and amounts of such demands are projected in the budget, expressed in terms of major account groups of the Uniform System of Accounts, which has been adopted by the Board after receiving recommendations from the General Manager; and
2. the specific demands which are made are approved by the Board before payment.

(c) The Board shall employ, in accordance with the appropriate procurement laws and the annual budget, a firm of locally licensed, independent Certified Public Accountants who shall annually examine the financial status and workings of the Authority for the previous fiscal year. Said firm shall submit no later than February 1st of each year, a written report on the financial status and workings of the Authority during the previous fiscal year to I Maga’lahen Guåhan [Governor], the General Manager, and I Liheslaturan Guåhan. I Maga’lahen Guåhan and I Liheslaturan Guåhan may request special reports within thirty (30) days after the end of each fiscal quarter. The financial information presented in the reports required by this Section shall be in accordance with the Uniform
System of Accounts adopted by the Board. Claims against the Guam Solid Waste Authority shall be submitted to the Attorney General of Guam in accordance with the Government Claims Act.

§51A116. Annual Budget. For the purposes of Chapter 51A of Title 10 of the Guam Code Annotated, the term **annual budget** means a balanced budget for expenditures of the Guam Solid Waste Authority for a fiscal year to be funded by the anticipated revenues and other funds to be received and expended for the same fiscal year, submitted by the Authority to **I Liheslaturan Guåhan** (the Guam Legislature) and approved by Law for the next fiscal year.

§51A117. Employment.

(a) Pursuant to the provisions of Title 4 GCA §§4105 and 4106, the Board shall establish rules and regulations regarding selection, promotion, performance evaluation, demotion, suspension and other disciplinary action for the employees of the Authority which shall be transmitted to **I Liheslaturan Guåhan** [Legislature] to be ratified. All contracts for the hiring of off island employees shall conform to the provisions of Title 4 GCA §§6501 and 6501.1.

(b) Classified employees of the Authority shall be members of the Government of Guam Retirement Fund. The Authority shall contribute to the Government of Guam Retirement Fund on the basis of annual billings as determined by the Board of Trustees of the Government of Guam Retirement Fund, for the government share of the cost of the retirement benefits applicable to the Authority’s employees and their beneficiaries. The Authority shall also contribute to the Worker’s Compensation Fund, on the basis of annual billings as determined by the Worker’s Compensation Commissioner, for the benefit payments made from such Fund on account of
the Authority’s employees.

(c) Notwithstanding any other provisions of law, neither the General
Manager, Assistant General Managers, Secretary nor Chief Financial
Officer, of the Authority shall be within the classified service of the
government of Guam but shall be hired, compensated and employed under
the terms and conditions fixed by, and at the pleasure of the Board.

Article 2

Guam Solid Waste Authority Revenue Bonds

§51A201. Authorization of Indebtedness Through GEDA.

§51A202. Guam Economic Development Authority as Central
Financial Manager.

§51A203. Evidence of Transfers Filed at the Department of
Land Management.

§51A204. Statutory Approval Required for Sale.

§51A205. Acceptance of Payments, Installation Applications
and Service/Repair Requests via the Internet.

§51A201. Authorization of Indebtedness through GEDA. The
Guam Economic Development Authority (GEDA) may obtain funds through
the issuance of bonds or other obligations on behalf of the Authority.

(a) Bonds or Notes. Accordingly, the Authority, through
GEDA, with the approval of I Maga’lahen Guåhan and I Liheslaturan
Guåhan is authorized to incur indebtedness, and to issue bonds or
notes therefor, secured by a pledge of all or any portion of the
revenues of the Authority, to establish and facilitate the Solid Waste
Management Plan, and collection, transportation, storage, recycling,
processing or disposal of solid waste, which shall include sanitary
landfills and resource recover facilities.

(b) Subordinated Indebtedness. In addition, the Authority, acting through GEDA, may incur indebtedness for any other lawful purpose of the Authority, provided that such indebtedness shall have a term not exceeding fifty (50) years and shall be subordinate to any contractual obligation of the Authority to the holders of any indebtedness issued pursuant to Subsection (a) of this Section.

(c) Short Term Borrowing. Pursuant to GEDA, the Authority may incur indebtedness with the approval of I Maga’lahi (the Governor) for any lawful purpose for a term not exceeding five (5) years; provided, that such indebtedness shall be subject and subordinate to any contractual obligation of the Authority to the holders of any bonds issued pursuant to Subsections (a) or (b) of this Section. The principal of and interest of any such short term borrowing may be repaid from revenues, or if incurred for a purpose for which bonds may be issued, from revenues or from the proceeds of sale of bonds.

(d) Character of Indebtedness. All indebtedness incurred by the Authority pursuant to this Article shall be repayable solely from monies of the Authority available therefor, including revenues, and shall not be deemed to be public indebtedness of the Territory as that term is used in Section 11 of the Organic Act.

(e) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6, Title 5, Guam Code Annotated, the Authority shall not be entitled to immunity from any suit or action in contract on the indebtedness authorized by this Article.

§51A202. Guam Economic Development Authority as Central
Financial Manager. Notwithstanding any other provisions of this Article, the Guam Economic Development Authority shall act as the Central Financial Manager and Consultant to the Authority and shall provide technical assistance in obtaining funds through the issuance of bonds or other obligations. The Authority must comply with all provisions under this Section relative to the financial requirements and needs as directed by GEDA.

§51A203. Evidence of Transfers Filed at the Department of Land Management. Transfer of real property interests pursuant to this Act, including, but not limited to, fee estates, easements and land use rights evidenced by easements, leases and licenses, shall be filed in the form of deeds or assignments signed by I Maga’lahen Guåhan in good form containing specific property descriptions, lot numbers and map numbers, at the Department of Land Management within three hundred sixty (360) days of the effective date of this Act. Any transfer not filed within such time frame shall lapse and be of no further force and effect unless re-initiated or authorized by separate statutory legislation authority. Any subsequent easements or transfers of property from the government of Guam, including the Chamorro Land Trust Commission, shall be in the form of deeds or assignments in good form containing specific property descriptions, lot numbers and map numbers, recorded at the Department of Land Management.

§51A204. Statutory Approval Required for Sale. Notwithstanding any of the provisions of this Act, specific legislative statutory approval shall be required prior to sale, transfer or lease of any real property assets or lands of the Guam Solid Waste Authority. Nothing herein shall be construed as such approval. In addition, notwithstanding any other
provision contained herein, the provisions of Title 1 GCA § 1800 shall be applicable to the Guam Solid Waste Authority.

§51A205. Acceptance of Payments, Installation Applications and Service/Repair Requests via the Internet.

(a) Notwithstanding any other provision of law, the Guam Solid Waste Authority shall provide that the following services be made available via the internet:

(1) acceptance of online payments;
(2) application for installation of new and additional services, and
(3) requests for service and repair.

(b) The Guam Solid Waste Authority shall provide an email address(es) for inquiries regarding Subsection (a) (1), (2) and (3).

(c) Nothing herein shall be construed as limiting the Authority’s ability to receive payments through online payment and/or banking services.

(d) The Guam Solid Waste Authority shall set, by Administrative Rule, the timeframes to which email inquiries must be addressed and dispensed with.

(e) The Guam Solid Waste Authority shall adopt appropriate security measures necessary to protect its customers from fraud and identity theft.”

Section 4. §51118 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted under Article 3, Chapter 51A, Title 10 Guam Code Annotated, and shall read:

“ARTICLE 3

SOLID WASTE OPERATIONS FUND

§51A301. Solid Waste Operations Fund.
(a) **Commercial Haulers.** For commercial, including multi-family dwellings and government agencies, the charge is a disposal tipping fee and does not include collection fees independently charged by commercial waste haulers.

(b) **Commercial and Residential Tipping Fees.** All commercial and residential tipping fees charged by the Authority shall be subject to the review and approval of the Public Utilities Commission.

(c) **Business and Governmental Tipping Fees.** A tipping fee per cubic yard, uncompacted, shall be established for business and government generators, subject to approval by the Public Utilities Commission (PUC), and shall be published in a rate order developed by the PUC.

(d) **Residential Tipping Fees.** A residential tipping fee, which may include collection charges and a Self-Drop Fee, may be established subject to the approval of the PUC.

(e) **PUC Rate-making.** The Public Utilities Commission of Guam [PUC] is hereby authorized to establish, amend and approve, in accordance with Chapter 12 of Title 12, Guam Code Annotated, all commercial, government and residential tipping and user fees [including without limitation a self-drop fee, a variable residential tipping fee and, collectively referred to as ‘tipping fees’], which when established shall replace those previously created by law. Tipping fees authorized and established by PUC shall be based on volume and on an analysis of operations costs, including those cost components specifically listed under Title 10 GCA §51114A. PUC is empowered to undertake a focused management audit of the existing operations of the Guam Solid Waste Authority. In performing its duties under this Section, PUC shall have the full authority and powers conferred
upon it by its enabling legislation, Title 12 GCA 12000 et. sec., including the audit power conferred upon it by Public Laws 25-05:12 and 26-78:2.

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

Section 5. Article 3 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed* and *reenacted* under Article 4, Chapter 51A, Title 10 Guam Code Annotated, and shall read:

“**ARTICLE 4**

**ANNUAL CONTRACT FOR SCRAP REMOVAL**

§51A401. **Contract to Remove Scrap.**

§51A402. **Biennial Contract.**

§51A403. **Environmental Impact Study.**

§51A404. **Conformity to Waste Removal Regulations.**

§51A405. **Reports.**

§51A401. **Contract to Remove Scrap.**

The General Manager, after duly advertising for a request for proposals for the removal of scrap metal, *shall* enter into a contract with any interested business organization, either local or off-island, to collect and remove from Guam scrap metal. The successful offeror may *not* be charged for the scrap metal but *shall* post a performance bond equal to seventy percent (70%) of contract value to assure contract completion of the removal
project within twenty-four (24) months from receiving from the General
Manager a Notice to Proceed. A “Scrap Metal” for the purpose of this
Article means abandoned vehicles and other abandoned metal implements of
which the Authority has jurisdiction and the right to dispose. In so disposing
of such scrap metal, the General Manager shall not charge any fees to the
owner of the same.


The General Manager shall advertise for and execute such a contract
every two (2) years with any qualified party on the same terms as are set out
in §51401A of this Article.


The Guam Solid Waste Authority shall cause an environmental
impact study to be undertaken by the successful offeror prior to the issuance
of a permit and the Notice to Proceed to ensure that scrap removal project
will not have potential adverse ecological damage to aquifers or the
environment at the temporary consolidation site and source location.


The successful offeror shall perform all work under this Article in
compliance with applicable rules and regulations of GEPA on the removal of
scrap metal and hazardous waste. As a minimum, the Authority shall ensure
that all successful offerors include as part of their processing, an intake
system to screen and remove batteries and other potentially hazardous
residual material including, engine oil, hydraulic fluids and coolant and
freon from air conditioning units.

§51A405. Reports.
Each successful bidder shall file a report on a quarterly basis with I Maga’lahen Guåhan [the Governor], I Liheslaturan Guåhan [the Legislature] and the Guam Solid Waste Authority outlining the following:

(a) total type and amount of scrap metals, batteries and other potentially hazardous residual material referenced in §51404A;

(b) cost comparison of the cost of the scrap metal program versus landfill disposal of scrap metals, or any less-than-conventional methods of scrap metal waste reduction; and

(c) recommendations for permanent implementation and improvements to the recycling program.”

Section 6. Article 4 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted under Article 5, Chapter 51A, Title 10 Guam Code Annotated, and shall read:

“ARTICLE 5

CONTRACT FOR COLLECTION OF RECYCLABLE PAPER


§51A503. Conformity to All Laws and Rules and Regulations.

§51A504. Reports.


The Authority, in accordance with the applicable procurement laws, and after advertising for a request for proposals (RFP) for the collection of recyclable paper, shall enter into a two (2) - year contract with any qualified local interested business or nonprofit organization, to accept and collect recyclable paper to include newsprint, office paper and magazines from the public, and to implement a plan to prevent them from entering Guam’s waste stream. The qualified local business or nonprofit organization shall have
active recycling experience and knowledge in Guam. The RFP shall include
the requirement that the prospective contractor accepts and pays for all
recyclable paper, to include newsprint, office paper and magazines offered
by the public. The successful offeror shall be one who bids the highest
amount per pound to be paid to the public for the recyclable paper for the
duration of the contract term. The successful offeror may not be charged for
the recyclable paper but shall post a performance bond equal to seventy
percent (70%) of contract value to assure contract completion of the
recyclable paper collection project within twenty-four (24) months from
receiving from the General Manager a Notice to Proceed.


The Authority shall advertise for and execute such a contract every
two (2) years with any qualified party on the same terms as are set out in
§15501 of this Article.

§51A503. Conformity to All Laws and Rules and Regulations.

The successful offeror shall perform all work under this Article
in compliance with all applicable laws, including those of this Chapter, and
rules and regulations of GEPA as may be established. As a minimum, the
Authority shall ensure that all offerors include as part of their processing, a
plan to remove the collected paper from Guam’s waste stream.

§51A504. Reports.

Each successful bidder shall file a report on a quarterly basis with I
Maga’lahen Guåhan [the Governor], I Liheslaturan Guåhan [the
Legislature] and the Guam Solid Waste Authority outlining the following:

(a) total type and amount of paper recycled;
(b) cost comparison of the cost of the paper-recycling program versus landfill disposal of paper, or any less-than-conventional methods of paper waste reduction; and

c) recommendations for permanent implementation and improvements to the recycling program.”

Section 7. Article 6 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted under Article 6, Chapter 51A, Title 10 Guam Code Annotated, and shall read:

“ARTICLE 6

MUNICIPAL RECYCLING PROGRAM

§51A601. Definitions.


§51A603. Creation of the Municipal Recycling Program.


§51A601. Definitions.

For purposes of this Article, except as otherwise provided, the following words and phrases, together with all of the common derivatives thereof, shall have the meaning ascribed to them as follows:

(a) GEPA means the Guam Environmental Protection Agency.

(b) Recycling means the process by which recovered resources are transformed into new products in such a manner that products lose their initial identity, as defined in § 51102 (18) of Chapter 51 of Title 10 of the Guam Code Annotated.
Recyclable materials means materials which still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:

1. batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);
2. automobiles, buses, and trucks or any form of motorized vehicle;
3. tires (passenger/commercial);
4. enameled white goods;
5. home appliances (other small appliances that are not considered enameled white goods);
6. glass and plastic bottles;
7. foam padding;
8. lead;
9. metals (ferrous/non-ferrous);
10. organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);
11. paper products;
12. wood pallets and scrap wood;
13. construction and demolition debris ('C&D');
14. x-ray film;
15. automobile oil and fluids;
16. Freon and other refrigerant gases;
17. electronic waste (i.e., computers, circuit boards, televisions, and portable phones);
18. heavy equipment; and
(19) other recyclable materials deemed recyclable by GEPA pursuant to the Rules and Regulations.

(d) Recycling Company means any business licensed by the Department of Revenue and Taxation, and issued a permit, as required in §51104 of Chapter 51 of Title 10 of the Guam Code Annotated, from the Guam Environmental Protection Agency to conduct business on Guam.


There is hereby established a Municipal Recycling Proceeds Fund for each municipality which shall be maintained separate and apart from any other funds, including the General Fund of the government of Guam, and independent records and accounts shall be maintained in connection therewith. The proceeds from the sale of recyclable materials collected, in accordance with the Municipal Recycling Program, from each village shall be deposited in the respective Municipal Recycling Proceeds Fund. All revenue deposited in each Municipal Recycling Proceeds Fund shall not be commingled with General Fund monies and shall be kept in a separate bank account. All proceeds from fees collected in accordance with §51703A of this Chapter shall be deposited in the Municipal Recycling Proceeds Fund for the respective village and used exclusively for the purposes authorized in §51704 of this Chapter. The Municipal Planning Council of each municipality shall administer the Municipal Recycling Proceeds Fund for its municipality which shall be subject to audits by the Public Auditor.

§51A603. Creation of the Municipal Recycling Program.

There is hereby created a Municipal Recycling Program within the Guam Solid Waste Authority to promote recycling on the municipal level in
partnership with the village mayors. The program shall incorporate the following components:

(a) Recycling Drop-Off Bins. GSWA shall solicit drop-off bins from recycling companies that would be made available to each mayor participating in the Municipal Recycling Program. The recycling drop-off bins shall be rust-proof, and located at a suitable site within the respective villages so that the residents will have a repository to which they can bring recyclable materials in accordance with guidelines established by the Guam Solid Waste Authority. The mayors of each village participating in the program will be responsible for the security and cleaning of the bins, and the supervision of their use for recycling purposes.

(b) Village Education Program. In coordination with the village mayors, GEPA and GSWA shall create educational programs to promote recycling and the use of the recycling drop-off bins within each village.

(c) Sale of Recyclable Materials. In partnership with the village mayors, GSWA shall arrange for the sale of recyclable materials, collected at the Recycling Drop-off Bins in each village, to recycling companies. The proceeds from the sale of recyclable materials shall be deposited into the respective Municipal Recycling Proceeds Fund of the village from which the recyclable materials were collected.

(d) The Program shall first begin with pilot programs at three (3) villages; one (1) each from northern, central, and southern Guam. The selection of the three (3) villages shall be made by GSWA in concert with the village mayors.

The proceeds from the sale of recyclable materials from a village site shall be retained for use by the municipal government of that village in its Municipal Recycling Proceeds Fund. Expenditures from a village’s Municipal Recycling Proceeds Fund shall be exclusively for the needs of that village as determined by the respective Municipal Planning Council through adoption of a resolution.”

Section 8. Article 7, of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted under a new Article 7, Chapter 51A, Title 10 Guam Code Annotated, and shall read:

“ARTICLE 7
RECYCLING ENTERPRISE ZONE

§51A701. Definitions.

§51A702. Establishment of Recycling Enterprise Zone.

§51A703. Eligibility of Recycling Companies for use of the Recycling Enterprise Zone.

§51A701. Definitions.

For purposes of this Act, and except as otherwise provided, the following words and phrases, together with all of the common derivatives thereof, shall have the meaning ascribed to them as follows:

(a) JLGCP shall mean the Jose D. Leon Guerrero Commercial Port.

(b) Recycle or Recycling means the method by which recovered resources are converted for use as raw material or feedstock to make new products, as defined in §51102 (35) of Chapter 51, Title 10 of the Guam Code Annotated.
(c) *Recycling company* means any business licensed by the Department of Revenue and Taxation, and has been issued a permit as required in § 51104 of Chapter 51, Title 10 of the Guam Code Annotated by the Guam Environmental Protection Agency (GEPA) to conduct business on Guam and that specifically commits eighty percent (80%) of its operations to recycling.

(d) *Transshipment shall* mean to transfer for further transportation from one (1) ship or conveyance to another.

(e) *Recyclable materials* means materials that still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:

1. batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);
2. automobiles, buses, and trucks or any form of motorized vehicle;
3. tires (passenger/commercial);
4. enameled white goods;
5. home appliances (other small appliances that are not considered enameled white goods);
6. glass and plastic bottles;
7. foam padding;
8. lead;
9. metals (ferrous/non-ferrous);
10. organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);
11. paper products;
12. wood pallets and scrap wood;
(13) construction and demolition debris (‘C&D’);
(14) x-ray film;
(15) automobile oil and fluids;
(16) freon and other refrigerant gases;
(17) electronic waste (i.e., computers, circuit boards, televisions, and portable phones);
(18) heavy equipment; and
(19) other recyclable materials deemed recyclable by GEPA pursuant to the Rules and Regulations.

§51A702. Establishment of Recycling Enterprise Zone.

There is established a “Recycling Enterprise Zone” at the Jose D. Leon Guerrero Commercial Port for use by recycling companies for the processing of automobiles, trucks and tires for recycling purposes, and the transshipment of recyclable materials. The size of the zone and its site on the JLGCP property shall be designated by the Board of Directors of the Port Authority of Guam and guided by the provisions of Section 7.1.4 of the Integrated Solid Waste Management Plan. Such designation shall be made within sixty (60) days of the enactment hereof and the site shall be made available for lease to eligible recycling companies. The Board of Directors of the Port Authority of Guam shall determine and charge a reasonable rate for the lease of said property.

§51A703. Eligibility of Recycling Companies for use of the Recycling Enterprise Zone.

Lease space in the Recycling Enterprise Zone shall only be available to companies that qualify for Qualifying Certificates as recycling companies under guidelines established by the Guam Economic Development Authority.”
Section 9. Article 8 and Article 9, of Chapter 51, Title 10 Guam Code Annotated are hereby repealed and reenacted without change under a new Article 8 and Article 9, Chapter 51A, Title 10 Guam Code Annotated.

Section 10. §1921 of Title 1, Chapter 19 Guam Code Annotated is hereby amended to read as follows:

"§1921. Supervision of Audits in Autonomous Agencies and Grantees, Manpower Audits.

The Public Auditor is specifically authorized to supervise audits, or at the Public Auditor’s discretion, perform audits, of autonomous agencies and instrumentalities of the government of Guam, inclusive of, but not limited to, the Guam Visitors Bureau (GVB), the Guam Economic Development Authority (GEDA), the Port Authority of Guam (PAG), the A.B. Won Pat International Airport Authority, Guam (WPIAA), the University of Guam (UOG), the Guam Community College (GCC), the Guam Memorial Hospital (GMHA), the Guam Housing Corporation (GHC), the Guam Housing and Urban Renewal Authority (GHURA), the Guam Power Authority (GPA), the Guam Waterworks Authority (GWA), the Guam Telephone Authority (GTA), the Government of Guam Retirement Fund GGRF, and the Guam Solid Waste Authority (GSWA).

The Public Auditor is authorized to supervise audits of all funds in excess of Three Hundred Thousand Dollars ($300,000.00) for a single fiscal year from the government of Guam that are given in grant or subsidy to non-profit or profit-making groups, inclusive of GVB. The Public Auditor is authorized to audit the hiring practices, manpower levels and staffing patterns of all departments, agencies and bureaus of the Executive Branch of the government of Guam, and to determine and report to I Maga’lahen Guåhan [Governor], I Lihesluran Guåhan [Legislature] and the Public
Utilities Commission (PUC), as appropriate, on the necessity and applicability of employment levels and categories to the department or agency’s purpose and function, as well as draw comparisons with similar entities located elsewhere.”

Section 11. §12000 of Chapter 12, Title 12 Guam Code Annotated is hereby amended to read:

“§12000. Definitions.

As used in this Chapter:

(a) Public Utility means the Guam Power Authority, the Jose D. Leon Guerrero Commercial Port, the Guam Waterworks Authority, the Guam Solid Waste Authority or any duly licensed private contractors operating:

(1) a facility or subsystem of the community-wide water production and distribution system, or

(2) a facility or subsystem of the community-wide waste water disposal system, or both, or any private golf course management corporation leasing public property providing preferential golf rates and reservations to Guam residents, or

(3) a marine terminal with facilities for loading and unloading commercial cargo or passengers onto and from ocean common carriers.

(b) Commission means the Public Utilities Commission.

(c) General lifeline rate means a lower than average cost per unit charge for a level of utility service necessary to fulfill the essential needs of all residential customers.”

Section 12. Subsection (b) of §51103 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed.
Section 13. Transition to the Guam Solid Waste Authority; Effective Date. The provisions of this Act shall take effect upon ninety (90) days after the date of enactment.

Section 14. Severability. If any provision of this law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this law which can be given effect without the invalid provisions or application, and to this end the provisions of this law are severable.
**IMINA’ TRENTAI UNU NA LIHESLATURAN GUÅHAN**  
2011 (FIRST) Regular Session  

**VOTING SHEET**

Date: **4/4/11**

**SBill No.** 35-31(COR)  
**Resolution No.** ______  
**Question:** ____________________________________________

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**CERTIFIED TRUE AND CORRECT:**  

[Signature]  

Clerk of the Legislature

* 3 Passes = No vote  
EA = Excused Absence
March 14, 2011

The Honorable Judith T. Won Pat  
Speaker  
I'Mina' Trentai Unu Na Liherlatuaran Guahan  
31st Guam Legislature  
155 Hesler Place  
Hagatna, Guam 96910  

VIA: The Honorable Rory J Respicio  
Chairperson, Committee on Rules  

RE: Committee Report on Bill No. 35-31 As Substituted  

Dear Speaker Won Pat:

Transmitted herewith is the Report of Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting the on Bill No. 35-31 As Substituted AN ACT TO AMEND §12000 OF CHAPTER 12 OF TITLE 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND §1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA), AND TO REPEAL (b)§51103, §51118, ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10 GCA AND REENACT THEM UNDER A NEW CHAPTER 15, TITLE 12 GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

Committee votes are as follows:

5  TO DO PASS  
0  TO NOT PASS  
1  TO REPORT OUT ONLY  
0  TO ABSTAIN  
0  TO PLACE IN INACTIVE FILE

Sincerely,

BENJAMIN J.F. CRUZ  
Chairperson
Supplement to the Committee Report
On Substitute Bill No. 35-31 (COR)

"An act to amend §12000 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to repeal §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and reenact them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation."

*NOTE: The original Committee Report on Substitute Bill No. 35-31(COR) was filed on March 17, 2011.
COMMITTEE REPORT

ON

SUBSTITUTE BILL NO. 35-31 (COR)

"An act to amend §1200 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 if Chapter 19 of Title 1 Guam Code Annotated (GCA), and to repeal (b)§51103, §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and reenact them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation"
March 14, 2011

MEMORANDUM

TO: All Members
Committee on Youth, Cultural Affairs, Procurement, General
Government Operations and Public Broadcasting

FROM: Vice Speaker Benjamin J.F. Cruz, Chairperson

SUBJECT: Committee Report on Bill No. 35-31 (COR) As Substituted

Transmitted herewith for your consideration is the Committee Report on Substitute Bill No. 35-31 (COR)- “An act to amend §1200 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to repeal (b)§51103, §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and reenact them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation”.

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Substitute Bill No. 35-31 (COR)
- Copy of Bill No. 35-31 (COR)
- Public Hearing Sign-in Sheet
- COR Referral of Bill No. 35-31
- Notices of Public Hearing
- Public Hearing Agenda

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

BENJAMIN J.F. CRUZ
Chairperson
### COMMITTEE VOTING SHEET

Substitute Bill No. 35-31 (COR) “An act to amend §1200 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to repeal (b)§51103, §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and reenact them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation”.

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Committee Report Digest

I. OVERVIEW

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting convened a public hearing on Thursday March 10, 2011 at 2:30 p.m. in the Public Hearing Room of I Liheslatura. Among the items on the agenda was the consideration of Bill No. 35-31 (COR) - “An act to amend §1200 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to repeal §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and reenact them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation”.

Public Notice Requirements

All legal requirements for public notices were met, with requests for publication sent to all senators and all media on March 3 and March 8 via email. Copies of the hearing notices are appended to the report.

Senators Present

Senator Benjamin J. F. Cruz, Chairman
Senator Rory Respicio, Committee Member
Senator Thomas C. Ada, Committee Member
Senator V. Anthony Ada, Committee Member
Senator Christopher M. Duenas, Committee Member
Senator Sam Mabini, Ph.D., Committee Member
Senator Aline A. Yamashita, Ph.D., Committee Member
Senator Vincente Pangelinan

The public hearing was called to order at 2:40 p.m.

II. SUMMARY OF TESTIMONY AND DISCUSSION

Joseph Duenas
Provided oral testimony on behalf of the Consolidated Commission on Utilities

Mr. Duenas states the creation of the autonomous agency as envision by Bill No. 35-31 is an effective way to provide utility service similar to electric, water and wastewater services provided by the Guam Power Authority and Guam Waterworks Authority. A utility is an entity that provides a basic public service subject to government regulations and paid for by customers
who utilize the service. He further states that the past 8 years have proven the value and effectiveness of the current model of establishing a utility as a public corporation focused on providing the needed service and governed by an elected commission who answers to the public ratepayers. Lastly, Mr. Duenas states changes should be made to §15004 and §15005 to include language regarding the governance of the Consolidated Commission on Utilities, and Certified Technical Professions (CTP).

III. FINDINGS AND RECOMMENDATIONS

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting finds that the collection, transportation, separation, processing, reduction and disposal of solid waste requires an organization with specialized expertise that is focused to operate and maintain an efficient, environmentally acceptable and sustainable solid waste management system.

The Committee finds that the United States of America, on behalf of the United States Environmental Protection Agency filed a civil lawsuit against the Government of Guam for continued violation of the Clean Water Act. Despite an administrative order issued on July 24, 1990 to the Government of Guam Department of Public Works, continued violation of the Clean Water Act resulted in a Consent Decree between the United States and the Government of Guam. Currently, the administration of the solid waste services is performed by a Receiver, Gershman, Brickner, & Bratton, Inc. (GBB) who has been designated by the U.S. Federal District Court. As specified in the Court Order, GBB has full power and authority to enforce the terms of a Consent Decree, and assume all of the responsibilities, functions, duties, powers and authority of the Solid Waste Management Division of the Department of Public Works and any and all departments or other divisions of the Department of Public Works insofar as they affect the Government of Guam’s compliance with the Consent Decree.

The Committee finds that the operation of the Solid Waste Management Division of DPW requires the establishment of a specialized organization, such as the Guam Solid Waste Authority (GSWA) as outlined in this Act, under the governance of the Consolidated Commission on Utilities, to implement the Guam Solid Waste Management Plan.

It is the intent of I Liheslaturan Guåhan to establish the Guam Solid Waste Authority (GSWA) to prepare for and ensure a successful transition that will occur upon satisfaction of the consent decree, and the return of solid waste management and operations to the Government of Guam.

Following the public hearing and review of the testimony provided, the Committee solicited and accepted amendments to Bill 35-31(COR) from its primary sponsor, Senator Tom Ada, Chairman of the Legislative Utilities Oversight Committee.
Following the public hearing and review of the testimony provided, the Committee solicited and accepted amendments to Bill 35-31(COR) from its primary sponsor, Senator Tom Ada, Chairman of the Legislative Utilities Oversight Committee.

The Bill was amended as follows:

- Clarify references to Board and Commission
- Repeal (b)§51103, Chapter 51, Title 10 GCA
- Add (u)§15504 to Bill 35-31 (COR)
- Amend §15005 to Bill 35-31 (COR)
- Amend Title to reflect changes

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting to which was referred Bill No. 35-31 (COR), hereby submits these findings to I Mina' Trentai Unu Na Liheslaturan Guåhan and reports out Substitute Bill No. 35-31(COR) with a recommendation TO REPORT OUT ONLY.
AN ACT TO AMEND §12000 OF CHAPTER 12 OF TITLE 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND §1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA), AND TO REPEAL (b)§51103, §51118, ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10 GCA AND REENACT THEM UNDER A NEW CHAPTER 15, TITLE 12 GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. I Liheslaturan Guåhan finds that the history of the Government of Guam’s (GovGuam) violation of the Clean Water Act goes back to 1986, when the United States Environmental Protection Agency issued an administrative order directing the island’s Department of Public Works to cease the discharge of leachate from the Ordot Dump. Twenty-four (24) years later, the Ordot Dump, the island’s only municipal site for solid waste disposal, continues to leach contaminants, posing an environmental and health hazard. A Consent Decree was approved by the U.S. District Court of Guam in February 2004, yet compliance with its mandates has been minimal. GovGuam’s commitment to comply with the Consent Decree was not enough to rectify
the island’s solid waste crisis. Consequently, on March 17, 2008, Gershman, Brickner & Bratton, Inc. (GBB), solid waste management consultants, was appointed as Receiver by the District Court of Guam to achieve the government’s compliance with the Clean Water Act as set forth in the Consent Decree. GBB has full power and authority to enforce the terms of the Consent Decree to include assumption of the functions, powers and authority of the Solid Waste Management Division of the Department of Public Works insofar as they affect GovGuam’s compliance with the Consent Decree.

_I Liheslaturan Guåhan_ intends to prepare GovGuam for the eventual resumption of all functions, responsibilities and authority for solid waste management and operations, subsequent to the U.S. District Court determination that the Consent Decree has been satisfied and that GovGuam would have the capability to manage, operate and sustain a compliant solid waste service and landfill. _I Liheslaturan Guåhan intends_ to establish the Guam Solid Waste Authority (GSWA), an autonomous public corporation, as successor to the Solid Waste Management Division, a sub-entity of the Department of Public Works.

_I Liheslaturan Guåhan_ intends to place the GSWA under the governance of the CCU. _I Liheslaturan Guåhan_ finds that the Consolidated Commission on Utilities (CCU), a governing body created by P.L. 26-76 in March 2002, has successfully provided effective governance to the Guam Power Authority (GPA) and the Guam Waterworks Authority (GWA) using best management and business practices and that the CCU has the governing experience and capacity to similarly manage the GSWA. Placing the GSWA under the governance of the CCU from the outset, will better assure a successful and stabilized transition.
Section 2. §79100 of Chapter 79 of Title 12 of the Guam Code Annotated is hereby amended to read as follows:

“§79100. Creation of Commission. There is established an elected Consolidated Commission on Utilities whose purpose is to exercise powers vested in them by the laws establishing the Guam Power Authority (‘GPA’), the Guam Solid Waste Authority (‘GSWA’) and the Guam Waterworks Authority (‘GWA’). The Consolidated Commission on Utilities, hereinafter referred to as “Commission” shall be elected by registered voters of Guam.”

Section 3. §79101 of Chapter 79 of Title 12 of the Guam Code Annotated is hereby amended to read as follows:

“§79101. Commissioners. The Commission shall be comprised of five (5) Commissioners elected at-large by the voters of Guam in a General Election. To be eligible to be a Commissioner, a person must be a registered voter of Guam and a minimum of twenty-five (25) years of age, and shall have been a resident of Guam for at least five (5) years immediately prior to the date of the Commissioner’s election.

A person may not simultaneously serve as a Commissioner and an employee of the Guam Waterworks Authority, the Guam Power Authority, the Guam Solid Waste Authority, or the Public Utilities Commission, or simultaneously serve as a Commissioner and an unclassified or contracted employee of the government of Guam. An adjunct instructor, adjunct teacher, or adjunct professor employed by the University of Guam or the Guam Community College may serve as a Commissioner.

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

Section 4. Transition Liaison. Upon enactment of this Act the
Commission shall establish a liaison with the Receiver, Gershman, Brickner
& Bratton, Inc. and begin discussions preliminary to achieving the objective
of GovGuam’s eventual resumption of all functions, responsibilities and
authority for solid waste management and operations and the governance
thereof.

Section 5. Effective Date of Governance of the Authority.
Governance of the Guam Solid Waste Authority by the Commission shall
take effect upon determination by the United States District Court that the
requirements of Section XIV of the Consent Decree (Civil Case No. 02-
00022, United States of America, Plaintiff, v. Government of Guam,
Defendant) have been fulfilled, and governance of the Municipal Solid
Waste Management is returned to the Government of Guam.

Section 6. A new Chapter 15 is hereby added to Title 12 the Guam
Code Annotated, and shall read:

“CHAPTER 15

GUAM SOLID WASTE AUTHORITY

Article 2. Guam Solid Waste Authority Revenue Bonds
Article 3. Transition to a Guam Solid Waste Authority
Article 4. Annual Contract for Scrap Removal
Article 5. Contract for Collection of Recyclable Paper
Article 6. Municipal Recycling Program
Article 7. Recycling Enterprise Zone

ARTICLE 1.
General Provisions.

§15001. Short Title.

§15002. Definitions.

§15003. Continuation of Existence.

§15004. Powers and Duties of the Authority

§15005. Governance of the Authority.

§15006. General Manager (GM).


§15008. Assistant GM: Administration

§15009. Chief Financial Officer.

§15010. Other Officers.

§15011. Employees.

§15012. Acquisition of Existing Systems, Employees and Debt.

§15013. Exemption from Taxation and In Lieu Payments.

§15014. General Operations.

§15015. Accounting and Expenditures.

§15016. Annual Budget.

§15017. Employment.

§15018. Solid Waste Operation Fund

§15001. Short Title. This Chapter may be cited as the Guam Solid Waste Authority Act.

§15002. Definitions. As used in this Chapter, unless otherwise indicated:

(1) Authority means the Guam Solid Waste Authority (GSWA).
(2) General Manager (GM) means the General Manager of GSWA.

(3) Best public interest means any activity which: lessens the demand for landfill sites, conserves land resources and serves to insure proper, cost effective, and environmentally sound disposal of solid waste; and, does not pose health risks to human life or endanger plant and animal life.

(4) Commission means the Consolidated Commission on Utilities.

(5) Business means and includes any activity or conduct, whether proprietary, partnerships, corporate or whatever form, engaged in, or caused to be engaged in, with the object of gain or economic benefit, either direct or indirect, but shall not include casual sales, personal service contracts, fundraising activities by political candidates or the activities of non-profit associations.

(6) Collection or Collect means the removal of solid waste from a generator.

(7) Collector means any individual, governmental organization or business, which has received a permit to collect and transport waste in accordance with applicable laws and regulations.

(8) Combustion means to thermally break down certain types of solid waste in an enclosed device using controlled temperatures.

(9) Composting means the controlled degradation of organic solid waste.

(10) Disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water.
(11) **Dump** means a land site where solid waste is disposed without a valid permit, or a landfill that has historically been in regulatory noncompliance.

(12) **Duplex** means a residential building containing two (2) separate dwelling units either side by side or one above the other.

(13) **Dwelling** means a building or portion thereof designed exclusively for residential occupancy by one (1) family for living and sleeping purposes and not to exceed two (2) dwelling units.

(14) **Dwelling unit** means one (1) or more rooms and a single kitchen in a dwelling, designed as a unit for occupancy by one (1) family for living and sleeping purposes.

(15) **Financial assurance** means a financial guarantee assuring that funds are available to pay for the design, construction, operation and closure of a solid waste landfill facility, for rendering post-closure at a solid waste landfill facility, for corrective action and to compensate third parties for bodily injury and property damage caused by sudden and non-sudden accidents related to the operation of a solid waste landfill facility.

(16) **Generator** means any person that generates or produces solid waste.

(17) **Government** means the government of Guam, all of its agencies, whether line or autonomous, and all public corporations.

(18) **Hardfill** shall mean a method of compaction and earth cover of solid wastes other than those containing garbage or other putrescible (putrescent) waste, including, but not limited to, demolition material, and like materials not constituting a health or nuisance hazard, where cover need not be applied on a per day used basis. No combustible materials shall be deposited in a hardfill.
(a) **Combustible Materials** shall mean any solid or liquid that may be ignited.

(i) **Combustible Solids**, as defined in Title 49 of the Code of Federal Regulations, Chapter 1, Subtitle B, Part 173.124, are those capable of igniting and burning.

(ii) **Combustible Liquids**, as defined in Title 29 of the Code of Federal Regulations, Chapter 17, Subtitle B, Part 1910.106, shall mean any materials having a flash point at or above 100 degrees Fahrenheit (37.8 degrees Celsius), but below 200 degrees Fahrenheit (93.3 degrees Celsius), except any mixture having components with flashpoints of 200 degrees Fahrenheit (93.3 degrees Celsius), or higher, the total volume of which make up ninety-nine percent (99%) or more of the total volume of the mixture.

(19) **Hazardous Waste** means any material or substance which, by reason of its composition or characteristics:

(a) hazardous waste as defined in the Solid Waste Disposal Act, 42 USC '6901, et seq., as amended, replaced or superseded and the regulations implementing same,

(b) a hazardous substance as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC § 9601, et seq.,

(c) material the disposal of which is regulated by the Toxic Substances Control Act, 15 USC '2601, et seq., as amended, replaced or superseded, and the regulations implementing same,

(d) special nuclear or by-products material within the meaning of the Atomic Energy Act of 1954,

(e) pathological, infectious or biological waste,
(f) treated as hazardous waste or as a hazardous substance under applicable law,
(g) requires a hazardous waste or similar permit for its storage, treatment, incineration of disposal,
(h) may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness, or
(j) may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise damaged.
(20) Highway means the entire width between the boundary lines of every right-of-way or publicly maintained travel ways when any part thereof is open to the use of the public for purposes of vehicular travel.
(21) Incinerator means an enclosed device using controlled flame combustion, the primary purpose of which is to thermally break down solid waste.
(22) Multi-family dwelling means a building containing three (3) or more dwellings.
(23) Operator means any person who accepts solid waste from a collector for transfer, storage, recycling, combustion, processing or disposal.
(24) Performance bond means a security for financial loss caused by the act or default performance of a person or by uncontrollable conditions.
(25) Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, or any agency, department, or instrumentality of the Federal or local government, or any other legal representatives, agents or assigns.
(26) *Plan* means the interim or final Solid Waste Management Plan (‘SWMP’) prepared and adopted by the GEPA in accordance with the Administrative Adjudication Law.

(27) *Plasma torch heating technology* means converting electrical energy into heat energy producing clean fuel gas and recyclable slag.

(28) *Plasma Remediation In-Situ Materials* ('PRISM') means a plasma torch technology process that melts down and converts landfill material into slag and fuel gas.

(29) *Pollution* means the condition caused by the presence in the environment of substances of such character and in such quantities that the quality of the environment is impaired or rendered offensive to life.

(30) *Processing* means any method, system or other treatment designed to change the physical, chemical or biological character or composition of any solid waste. This includes the neutralization of any hazardous waste; the rendering of any hazardous waste non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume; or any other activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous.

(31) *Recyclable materials* includes the following materials discarded from households, businesses, commercial and industrial establishments, hotels, government, agricultural, landscaping, yard maintenance and military operations which may be reused or for which a market exists:

(a) *aluminum* means any product manufactured of aluminum or aluminum alloy;

(b) *battery* means any lead acid battery or dry cell battery discarded on Guam, independent of intended use;
(c) **biomass** means any large biomass source, such as trees, wood, grass, hedge cuttings, jungle growth, yard waste and sewage sludge;

(d) **construction debris** means the materials from building construction;

(e) **corrugated cardboard** means kraft, jute or test liner pulp which is made by combining two (2) or more webs of paper and formed or shaped into wrinkles or folds or into alternate ridges and grooves;

(f) **demolition waste** means the materials obtained from the demolition or razing of buildings;

(g) **glass** means any product manufactured from a mixture of silicates, borates or phosphates;

(h) **metal scrap** means any metal, in whole or in parts, from buildings, equipment, machinery or vehicles;

(i) **newspaper** means a publication which is distributed and contains news articles, opinions, features, and advertising and is printed on impermanent wood pulp materials;

(j) **office paper** means computer paper and white and colored ledger paper;

(k) **used oil** means any petroleum-based, mineral, or synthetic oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties; and

(l) such other materials which the Authority determines, from time to time, may be recycled.

(32) **Recycle** or **Recycling** means the method by which recovered resources are converted for use as raw material or feedstock to make new products.
(33) **Resource recovery** means the process of recovering recyclable materials or the recovery of energy from solid waste.

(34) **Resource Recovery Facility** (‘RRF’) is a facility that recovers for sale or reuse of recyclable materials.

(35) **Reusing** means the reintroduction of a commodity in the economic stream without any changes.

(36) **Sanitary landfill** means an approved site where solid waste and ash are disposed using modern sanitary landfilling techniques in accordance with Federal and local regulations.

(37) **Sanitary landfilling** means an engineered method of disposing of solid waste on land in accordance with Federal and local regulations in a manner that protects the environment by spreading the waste in thin layers, compacting it to the smallest practical volume, and covering it with approved material at the end of each working day.

(38) **Separation** means the systematic division of solid waste into designated components.

(39) **Single Family Residence** means a detached building designed for and/or occupied exclusively by one (1) family, or one (1) of two (2) dwelling units on a duplex.

(40) **Solid waste** means any garbage, refuse or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded and/or spilled materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, mining, commercial, and agriculture operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under '402 of the Federal Water
Pollution Control Act, as amended (68 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(41) **Solid waste management** means the purposeful, systematic control of the generation, storage, collection, transportation, separation, processing and disposal of solid waste.

(42) **Solid waste management facilities** means any facility, or any machinery, equipment, vehicles, structures or any part of accessories thereof installed or acquired for the primary purpose of: collection, transportation, storage, recycling, processing or disposal of solid waste, and shall include sanitary landfills, resource recovery facilities, or plasma torch.

(43) **Solid Waste Management Plan** means a comprehensive plan and all amendments and revisions thereto for provisions of solid waste management throughout Guam.

(44) **Solid waste management practices** means the actions to effectuate the generation, storage, collection, transportation, processing, recycling, incineration, plasma torch or resource recovery or disposal of solid waste.

(45) **Solid Waste Management System** (‘SWMS’) means the entire system covered in the SWMP and designated by the Director for the storage, collection, generation, transportation, processing, recycling, incineration, plasma torch and disposal of solid waste within Guam.

(46) **Source separated waste** means recyclable materials that are set aside by the generator for segregated collection and transport to solid waste management facilities.

(47) **Storage** means the interim containment of solid waste in accordance with Federal and local regulations.
Transfer station shall mean any intermediate waste facility in which solid waste collected from any source is temporarily deposited and stored while awaiting transportation to another solid waste management facility.

§ 15003. Continuation of Existence. The Solid Waste Management Division, a sub-entity of the Department of Public Works shall continue in existence as an autonomous, public corporation now referred to as the Guam Solid Waste Authority (GSWA).

§ 15004. Powers and Duties of the Authority. The Authority shall have and exercise each and all of the following powers:

(a) Administer those powers listed under this Chapter 15, Title 12 of the Guam Code Annotated.

(b) Acquire by grant, purchase, gift, devise or lease, or by the exercise of the right of eminent domain in accordance with the provisions and subject to limitations of 21 GCA Chapter 15, and hold and use any real or personal property necessary or convenient or useful for the carrying on of any of the powers pursuant to the provisions of this Chapter;

(c) Establish its internal organization and management, and adopt regulations for the administration of its operations;

(d) Establish and modify from time to time, with approval of the Public Utility Commission (PUC), reasonable rates and charges for the collection, transportation, disposal, storage, recycling and processing of solid waste to recover the full cost of providing such services, and collect money from customers using such services. Similarly, the Authority shall establish and modify from time to time, with the approval of the Public Utilities Commission, reasonable rate and charges for servicing of debt obtained to undertake capital improvements to solid waste management;
(e) Enter into contracts and execute all instruments necessary or convenient in the exercise of its powers, adopt a seal and sue or be sued in its own corporate name;

(f) At any time or from time to time, incur indebtedness pursuant to Article 2 of this Chapter;

(g) Enter into contracts with the Government of Guam or with the United States for loans or grants;

(h) Employ, retain or contract for the services of qualified solid waste management specialists or experts, as individuals or as organizations, to provide technical advice and assistance;

(i) Adopt such rules and regulations as may be necessary for the exercise of the powers and performance of the duties conferred or imposed upon the Authority or the Commission by this Act;

(j) Control, operate, improve, equip, maintain, repair, renew, replace, reconstruct, alter and insure that the solid waste management system is compliant with any applicable zoning, building, environmental and health regulations of the territory of Guam; and

(k) Do any and all other things necessary to the full and convenient exercise of the above powers;

(l) enter into public-private partnerships for solid waste management facilities and operations, the closure and beneficial use of the Ordot Landfill site, source reduction, recycling, composting, resource recovery, waste reduction and transfer stations. This duty shall also address construction debris or demolition waste, metallic debris, white goods, tires and green waste contracts;

(m) organize, plan for, secure and manage resources and promote the implementation of the Solid Waste Management Plan;
(n) evaluate and promote capital improvements and maintenance programs to the solid waste management system;

(o) address the necessity for a facility for the shredding of tires for recycling or for use as rubberized asphalt;

(p) address the necessity for a facility for the recycling of glass, including its use as glassphalt;

(q) address the necessity for a facility for the recycling of scrap metals, including discarded vehicles, appliances and equipment, including shredding for containerization or other shipment;

(r) require the preparation of any necessary environmental impact assessments or environmental impact reports;

(s) mandate the inspection and monitoring of all solid waste management facilities to assure compliance with this Act, the Plan, other law, rules and regulations applicable to Guam; and

(t) apply for all grants-in-aid requests and administer any such programs or funds, except those established for recycling.

(u) adopt rules and regulations governing selection, compensation, promotion, performance evaluation, disciplinary action and other terms and conditions of employment affecting certified technical and professional personnel, subject to the provisions of the Administrative Adjudication Act. Such rules and regulations shall provide for the employment and retention of persons on the basis of merit, and shall include an orderly and systematic method of recruitment and the establishment of a list of qualified applicants. Certified Technical and Professional personnel are defined as personnel employed by the Guam Solid Waste Authority who are professional engineers, attorneys, and other licensed professionals. Compensation for all other personnel shall remain consistent with compensation plans and pay
scales as determined by law.

Nothing contained in this Section or elsewhere in this Article shall be construed directly or by implication to be in any way in derogation or limitation of powers conferred upon or existing in the Authority or the Commission by virtue of any provisions of the Organic Act of Guam or Statutes of the Territory or any other provision of this Code.

§ 15005. Governance of Authority. All powers vested in the Authority, except as provided herein, shall be exercised by the Consolidated Commission on Utilities, as established in Chapter 79 of Title 12 of the Guam Code Annotated upon relief of the Receiver by the U.S. District Court.

§ 15006. General Manager.

(a) The Commission shall appoint a general manager who shall be its chief executive officer and shall serve at its pleasure. The general manager shall, at a minimum, possess the following qualifications:

i). A combined minimum of six (6) years of documented experience successfully managing a Solid Waste Management System of similar size as the GSWA system, and

ii). Graduation from an accredited institution of higher education with a Bachelors degree in Business Management, Engineering Management, Engineering Technology or Civil Engineering, or

(b) The Commission shall fix the general manager’s compensation, notwithstanding any other provision of law. The general manager shall manage the construction, maintenance, operation and administration of business affairs of the Authority.

(c) The Commission may contract with a business entity to perform any or all of the duties, and to exercise any or all of the powers of the general
manager as provided in this Section, and the general manager, subject to the approval of the Commission, may contract with a business entity to perform some of the duties or to render expert and technical assistance in the operation of the Authority. The Initial Term of such a management contract shall be for a period of up to three (3) years. The Authority shall also have the option for two (2) Renewal Terms of five (5) years each. The contracted business entity pursuant to this Section must have a minimum of ten (10) years experience in management and operation of a solid waste system of similar or greater scope than the Authority.

(d) The powers and responsibilities of the General Manager shall include the following:

(i) To enforce all rules and regulation of the Authority;

(ii) To attend all meetings of the Commission and submit a general report of the affairs of the Authority;

(iii) To keep the Commission advised as to the needs of the Authority, to approve demands for the payment of obligations of the Authority, and to approve expenditures and collection of revenue within the purposes and amounts authorized by the annual budget;

(iv) To prepare, or cause to be prepared, all plans and specifications for the constructions of work by the Authority in accordance with the annual budget;

(v) To select and appoint the employees of the Authority, except as otherwise provided by this Chapter, and to plan, organize, coordinate and control the services of such employees in the exercise of the powers of the Authority under the general direction of the Commission;
(vi) To cause to be published within one hundred twenty (120) days from the end of each fiscal year a financial report, which shall include an annual financial audit pursuant to §1908 and §1909 of Chapter 19, Title 1 Guam Code Annotated. This report should present the result of operations for the preceding fiscal year and the financial status of the Authority on the last day thereof. The publication shall be made in the manner provided by the Commission; and

(vii) To perform such other and additional duties as the Commission may require.

§15007. Assistant General Manager: Operations and Technical Support. The General Manager, with the consent of the Commission, may appoint an Assistant General Manager for Operations and Technical Support, who shall serve at the pleasure of the General Manager.

(a) The Assistant General Manager of Operations and Technical Support shall be entitled to receive compensation as recommended by the General Manager and approved by the Commission.

(b) Such Assistant General Manager shall devote his entire time to the business of the Authority and shall have full charge and control, subject to the direction of the General Manager, of all operations, engineering and technical services pertaining to the generation, storage, collection, transportation, processing, recycling, resource recovery or disposal of solid waste.

(c) Such Assistant General Manager shall have such other duties as may be designated by the General Manager.

§15008. Assistant General Manager: Administration. The General
Manager, with the consent of the Commission, may appoint an Assistant General Manager for Administration, who shall serve at the pleasure of the General Manager.

(a) The Assistant General Manager of Administration shall be entitled to receive compensation as recommended by the General Manager and approved by the Commission.

(b) Such Assistant General Manager shall devote his/her entire time to the business of the Authority and shall have full charge and control, subject to the direction of the General Manager, of all administration of the Authority.

(c) Such Assistant General Manager shall have such other duties as may be designated by the General Manager.

§ 15009. Chief Financial Officer. The Commission may appoint a chief financial officer who shall be a Certified Public Accountant. The Commission shall fix the chief financial officer’s compensation. The chief financial officer shall have full charge and control of the fiscal, business and accounting operations of the Authority, subject to the supervision of the Commission.

§ 15010. Other Officers.

(a) The Commission may also appoint a Secretary and an Attorney, who all shall serve at the pleasure of the Commission and whose duties and compensation shall be fixed by the Commission. The Commission may appoint one or more assistants to any such office. Any of such offices may be consolidated in one person.

(b) The Secretary shall have charge of all records and minutes of the Commission.

(c) The Attorney, who must have been admitted to practice in Guam,
shall advise the Commission and the General Manager on all legal matters to which the Authority is a party or in which the Authority is legally interested and may represent the Authority in connection with legal matters before the Legislature, boards and other agencies of the Territory. The Attorney General shall represent the Authority in litigation concerning the affairs of the Authority provided that he may delegate this duty to the Attorney of the Authority, with respect to any such litigation.

§ 15011. Employees. All employees of the Authority shall be eligible for all insurance, retirement, worker’s compensation and other benefits as extended to employees of the government of Guam, and shall be employees of the government of Guam for the purposes of the application of all civil service laws and personnel rules and regulations that apply to government of Guam employees, inclusive of all scales, tables and schedules for compensation. With respect to compensation, this Section shall not apply to the compensation of the General Manager, Assistant General Manager: Administration, Assistant General Manager: Operations and Technical Support, Secretary, Attorney or the Chief Financial Officer.

§ 15012. Acquisition of Existing Systems, Employees, and Debt. Ninety (90) days after the effective date of this Act the Authority shall assume in writing from the Department of Public Works, Solid Waste Management Division:

(a) all real property under the DPW Solid Waste Management Division (SWMD) administration and items of property, materials and supplies which the SWMD owns or controls, including construction work in progress.

(b) all working capital, cash, accounts payable and receivable, deposits, advances payable and receivable, all books, records and maps and all other rights, obligations, assets, liabilities, agreements and privileges of the
Authority or attributable to the Authority.

(c) Each Government of Guam employee assigned to the Department of Public Works, Solid Waste Management Division at the date of the transfer pursuant to statute shall be transferred to the Authority. All classified employees shall remain classified.

§ 15013. Exemption from Taxation, and In Lieu Payments. As an instrumentality of the Territory, the Authority and all property acquired by or for the Commission and all revenues and income from taxation by the Territory or by any political subdivision or public corporation thereof and from all taxes imposed under the authority of the Legislature of the Territory, or with respect to which the Legislature is authorized to grant exemption.

§15014. General Operations. Rates for Services. The Authority shall apply to the Public Utilities Commission (PUC) for establishment of its rates for its services including, but not limited to:

(a) Operating Costs:

   i. Layon Landfill
   ii. Commercial Transfer Stations
   iii. Retail Transfer Stations
   iv. Residential Trash Collection
   v. Bulky and Metallic Waste collection
   vi. Recycling
   vii. Customer Service and Education
   viii. Equipment Maintenance
   ix. Household Hazardous Waste
   x. Administration

(b) Reserve Fund Costs.
§ 15015. Accounting and Expenditures.

(a) The Commission shall adopt and maintain a system of accounting.

(b) The Commission shall authorize, by means of the annual budget, payment of demands against the Authority resulting from the exercise of its powers under this Act if:

i. the purposes and amounts of such demands are projected in the budget, expressed in terms of major account groups of the Uniform System of Accounts, which has been adopted by the Commission after receiving recommendations from the General Manager; and

ii. the specific demands which are made are approved by the Commission before payment.

(c) The Commission shall employ, in accordance with the appropriate procurement laws and the annual budget, a firm of locally licensed, independent Certified Public Accountants who shall annually examine the financial status and workings of the Authority for the previous fiscal year. Said firm shall submit no later than February 1st of each year, a written report on the financial status and workings of the Authority during the previous fiscal year to I Magalahan Guåhan [Governor], the General Manager and I Liheslaturan Guåhan. I Magalahan Guåhan and I Liheslaturan Guåhan may request special reports within thirty (30) days after the end of each fiscal quarter. The financial information presented in the reports required by this Section shall be in accordance with the Uniform
System of Accounts adopted by the Commission. Claims against the Guam Solid Waste Authority shall be submitted to the Attorney General of Guam in accordance with the Government Claims Act.

§ 15016. Annual Budget. For the purposes of Chapter 15 of Title 12 of the Guam Code Annotated, the term annual budget means a balanced budget for expenditures of the Guam Solid Waste Authority for a fiscal year to be funded by the anticipated revenues and other funds to be received and expended for the same fiscal year, submitted to the Commission and approved by resolution, with amendment and modification as may be desired by the Commission.

(a) If the Authority fails to submit a budget for the next fiscal year, the current fiscal year’s budget shall be deemed approved for the next fiscal year, subject to Commission modification.

§ 15017. Employment.

(a) Pursuant to the provisions of 4 GCA §§4105 and 4106, the Commission shall establish rules and regulations regarding selection, promotion, performance evaluation, demotion, suspension and other disciplinary action for the employees of the Authority which shall be transmitted to I Liheľatura Guahan [Legislature] to be ratified, which thereafter shall supersede the provisions in §15110 of this Chapter. All contracts for the hiring of off island employees shall conform to the provisions of 4 GCA §§6501 and 6501.1.

(b) Classified employees of the Authority shall be members of the government of Guam Retirement Fund. The Authority shall contribute to the government of Guam Retirement Fund on the basis of annual billings as determined by the Board of Trustees of the government of Guam Retirement Fund, for the government share of the cost of the retirement benefits
applicable to the Authority’s employees and their beneficiaries. The Authority shall also contribute to the Worker’s Compensation Fund, on the basis of annual billings as determined by the Worker’s Compensation Commissioner, for the benefit payments made from such Fund on account of the Authority’s employees.

(c) Notwithstanding any other provisions of law, neither the General Manager, Assistant General Managers, Secretary, Chief Financial Officer, nor Attorney of the Authority shall be within the classified service of the government of Guam but shall be hired, compensated and employed under the terms and conditions fixed by, and at the pleasure of the Commission.

ARTICLE 2.

Guam Solid Waste Authority Revenue Bonds.

§15200. Authorization of Indebtedness Through GEDA.

§15201. Guam Economic Development Authority as Central Financial Manager.

§15202. Evidence of Transfers Filed at the Department of Land Management.

§15203. Statutory Approval Required for Sale.

§15204. Acceptance of Payments, Installation Applications and Service/Repair Requests via the Internet.

§15200. Authorization of indebtedness through GEDA. The Guam Economic Development Authority (‘GEDA’) may obtain funds through the issuance of bonds or other obligations on behalf of the Authority.

(a) Bonds or Notes. Accordingly, the Authority, through GEDA, with the approval of I Magalahan Guåhan and I Liheslaturan Guåhan is authorized to incur indebtedness, and to issue bonds or notes therefor, secured by a pledge of all or any portion of the revenues of the Authority, to
establish and facilitate the Solid Waste Management Plan, and collection, transportation, storage, recycling, processing or disposal of solid waste, which shall include sanitary landfills and resource recover facilities.

(b) Subordinated Indebtedness. In addition, the Authority, acting through GEDA, may incur indebtedness for any other lawful purpose of the Authority, provided that such indebtedness shall have a term not exceeding fifty (50) years and shall be subordinate to any contractual obligation of the Authority to the holders of any indebtedness issued pursuant to subsection (a) of this section.

(c) Short Term Borrowing. Pursuant to GEDA, the Authority may incur indebtedness with the approval of the Governor for any lawful purpose for a term not exceeding five (5) years; provided, that such indebtedness shall be subject and subordinate to any contractual obligation of the Authority to the holders of any bonds issued pursuant to paragraphs (a) or (b) of this section. The principal of and interest of any such short term borrowing may be repaid from revenues, or if incurred for a purpose for which bonds may be issued, from revenues or from the proceeds of sale of bonds.

(d) Character of Indebtedness. All indebtedness incurred by the Authority pursuant to this Article shall be repayable solely from monies of the Authority available therefor, including revenues, and shall not be deemed to be public indebtedness of the Territory as that term is used in Section 11 of the Organic Act.

(e) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6, Title 5, Guam Code Annotated, the Authority shall not be entitled to immunity from any suit or action in contract on the indebtedness authorized by this Article.
§15201. Guam Economic Development Authority as Central Financial Manager. Notwithstanding any other provisions of this Article, the Guam Economic Development Authority shall act as the Central Financial Manager and Consultant to the Authority and shall provide technical assistance in obtaining funds through the issuance of bonds or other obligations. The Authority must comply with all provisions under this section relative to the financial requirements and needs as directed by GEDA.

§ 15202. Evidence of Transfers Filed at the Department of Land Management. Transfer of real property interests pursuant to this Act, including but not limited to fee estates, easements and land use rights evidenced by easements, leases and licenses, shall be filed in the form of deeds or assignments signed by I Magalahan Guåhan in good form containing specific property descriptions, lot numbers and map numbers, at the Department of Land Management within 360 days of the effective date of this Act. Any transfer not filed within such time frame shall lapse and be of no further force and effect unless re-initiated or authorized by separate statutory legislation authority. Any subsequent easements or transfers of property from the Government of Guam, including the Chamorro Land Trust Commission, shall be in the form of deeds or assignments in good form containing specific property descriptions, lot numbers and map numbers, recorded at the Department of Land Management.

§ 15203. Statutory Approval Required for Sale. Notwithstanding any of the provisions of this Act, specific legislative statutory approval shall be required prior to sale, transfer or lease of any real property assets or lands of the Guam Solid Waste Authority. Nothing herein shall be construed as such approval. In addition, notwithstanding any other provision contained
herein, the provisions of 1 GCA § 1800 shall be applicable to the Guam Solid Waste Authority.

§ 15204. Acceptance of Payments, Installation Applications and Service/Repair Requests via the Internet.

(a) Notwithstanding any other provision of law, the Guam Solid Waste Authority shall provide that the following services be made available via the internet:

(i) Acceptance of online payments;
(ii) Application for installation of new and additional services, and
(iii) Requests for service and repair.

(b) The Guam Solid Waste Authority shall provide an email address(es) for inquiries regarding subsection (a) (1), (2) and (3).

(c) Nothing herein shall be construed as limiting the Authority’s ability to receive payments through online payment and/or banking services.

(d) The Guam Solid Waste Authority shall set, by Administrative Rule, the timeframes to which email inquiries must be addressed and dispensed with.

(e) The Guam Solid Waste Authority shall adopt appropriate security measures necessary to protect its customers from fraud and identity theft.

ARTICLE 3.

Transition to the Guam Solid Waste Authority

§15301. Effective Date. The provisions of this Act shall take effect upon ninety (90) days of enactment of this Act except as specified in Section 5 of this Act.”

Section 7. §51118 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted as §15018, Chapter 15, Title 12 Guam Code Annotated, and shall read:
§15018. Solid Waste Operations Fund.

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

(b) Commercial and Residential Tipping Fees. All commercial and residential tipping fees charged by the Authority shall be subject to the review and approval of the Public Utilities Commission.

(c) Business and Governmental Tipping Fees. A tipping fee per cubic yard, uncompacted, shall be established for business and government generators, subject to approval by the Public Utilities Commission (PUC), and shall be published in a rate order developed by the PUC.

(d) Residential Tipping Fees. A residential tipping fee, which may include collection charges and a Self-Drop Fee, may be established subject to the approval of the PUC.

(e) PUC Rate-making. The Public Utilities Commission of Guam ['PUC'] is hereby authorized to establish, amend and approve, in accordance with Chapter 12 of Title 12, Guam Code Annotated, all commercial, government and residential tipping and user fees [including without limitation a self-drop fee, a variable residential tipping fee and, collectively referred to as ‘tipping fees’], which when established shall replace those previously created by law. Tipping fees authorized and established by PUC shall be based on volume and on an analysis of operations costs, including those cost components specifically listed under §15014 of this Act. PUC is empowered to undertake a focused management audit of the existing operations of the Guam Solid Waste Authority. In performing its duties under this Section, PUC shall have the full authority and powers conferred
upon it by its enabling legislation, 12 GCA 12000 et. sec., including the audit power conferred upon it by Public Laws 25-05:12 and 26-78:2.

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

**Section 8.** Article 3 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed* and *reenacted* under Article 4, Chapter 15, Title 12 Guam Code Annotated, and shall read:

"**ARTICLE 4**

**ANNUAL CONTRACT FOR SCRAP REMOVAL**

§15401. Contract to Remove Scrap

§15402. Biennial Contract.

§15403. Environmental Impact Study

§15404. Conformity to Waste Removal Regulations

§15405. Reports

§15401. **Contract to Remove Scrap.** The General Manager, after duly advertising for a request for proposals for the removal of scrap metal, shall enter into a contract with any interested business organization, either local or off-island, to collect and remove from Guam scrap metal. The successful offeror may not be charged for the scrap metal but shall post a performance bond equal to 70% of contract value to assure contract completion of the removal project within twenty-four (24) months from
receiving from the General Manager a Notice to Proceed. A “Scrap Metal” for the purpose of this Article means abandoned vehicles and other abandoned metal implements of which the Authority has jurisdiction and the right to dispose. In so disposing of such scrap metal, the General Manager shall not charge any fees to the owner of the same.

§ 15402. Biennial Contract. The General Manager shall advertise for and execute such a contract every two (2) years with any qualified party on the same terms as are set out in §15401 of this Article.

§ 15403. Environmental Impact Study. The Guam Solid Waste Authority shall cause an environmental impact study to be undertaken by the successful offeror prior to the issuance of a permit and the Notice to Proceed to ensure that scrap removal project will not have potential adverse ecological damage to aquifers or the environment at the temporary consolidation site and source location.

§ 15404. Conformity to Waste Removal Regulations. The successful offeror shall perform all work under this Article in compliance with applicable rules and regulations of GEPA on the removal of scrap metal and hazardous waste. As a minimum, the Authority shall ensure that all successful offerors include as part of their processing, an intake system to screen and remove batteries and other potentially hazardous residual material including, engine oil, hydraulic fluids and coolant and freon from air conditioning units.

§ 15405. Reports. Each successful bidder shall file a report on a quarterly basis with I Maga’lahen Guåhan [the Governor], I Liheslaturan Guåhan [the Legislature] and the Guam Solid Waste Authority outlining the following:
(a) total type and amount of scrap metals, batteries and other potentially hazardous residual material referenced in §15404;
(b) cost comparison of the cost of the scrap metal program versus landfill disposal of scrap metals, or any less-than-conventional methods of scrap metal waste reduction; and
(c) recommendations for permanent implementation and improvements to the recycling program.”

Section 9. Article 4 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted under Article 5, Chapter 15, Title 12 Guam Code Annotated, and shall read:

“ARTICLE 5

CONTRACT FOR COLLECTION OF RECYCLABLE PAPER.


§15502. Biennial Contract.

§15503. Conformity to All Laws and Rules and Regulations.

§15504. Reports.

§15501. Contract to Accept and Collect Recyclable Paper. The Authority, in accordance with the applicable procurement laws, and after advertising for a request for proposals (‘RFP’) for the collection of recyclable paper, shall enter into a two (2) - year contract with any qualified local interested business or nonprofit organization, to accept and collect recyclable paper to include newsprint, office paper and magazines from the public, and to implement a plan to prevent them from entering Guam’s waste stream. The qualified local business or nonprofit organization shall have active recycling experience and knowledge in Guam. The RFP shall include the requirement that the prospective contractor accepts and pays for all recyclable paper, to include newsprint, office paper and magazines offered
by the public. The successful offeror shall be one who bids the highest
amount per pound to be paid to the public for the recyclable paper for the
duration of the contract term. The successful offeror may not be charged for
the recyclable paper but shall post a performance bond equal to 70% of
contract value to assure contract completion of the recyclable paper
collection project within twenty-four (24) months from receiving from the
General Manager a Notice to Proceed.

§ 15502. Biennial Contract. The Authority shall advertise for and
execute such a contract every two (2) years with any qualified party on the
same terms as are set out in §15501 of this Article.

§ 15503. Conformity to All Laws and Rules and Regulations. The
successful offeror shall perform all work under this Article in compliance
with all applicable laws, including those of this Chapter, and rules and
regulations of GEPA as may be established. As a minimum, the Authority
shall ensure that all offerors include as part of their processing, a plan to
remove the collected paper from Guam’s waste stream.

§ 15504. Reports. Each successful bidder shall file a report on a
quarterly basis with I Magå‘elahen Guåhan [the Governor], I Liheslaturan
Guåhan [the Legislature] and the Guam Solid Waste Authority outlining the
following:

(a) total type and amount of paper recycled;
(b) cost comparison of the cost of the paper-recycling program
    versus landfill disposal of paper, or any less-than-conventional methods of
    paper waste reduction; and
(c) recommendations for permanent implementation and
    improvements to the recycling program.
Section 10. Article 6 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted under Article 6, Chapter 15, Title 12 Guam Code Annotated, and shall read:

“ARTICLE 6
MUNICIPAL RECYCLING PROGRAM

§15601. Definitions.

§15602. Creation of Municipal Recycling Proceeds Fund for each village.

§15603. Creation of the Municipal Recycling Program.


§ 15601. Definitions. For purposes of this Article, except as otherwise provided, the following words and phrases, together with all of the common derivatives thereof, shall have the meaning ascribed to them as follows:

(1) ‘GEPA’ shall mean the Guam Environmental Protection Agency.

(2) ‘Recycling’ means the process by which recovered resources are transformed into new products in such a manner that products lose their initial identity, as defined in § 51102 (18) of Chapter 51 of Title 10 of the Guam Code Annotated.

(3) ‘Recyclable materials’ means materials which still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:

(a) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);
(b) automobiles, buses, and trucks or any form of motorized vehicle;
(c) tires (passenger/commercial);
(d) enameled white goods;
(e) home appliances (other small appliances that are not considered enameled white goods);
(f) glass and plastic bottles;
(g) foam padding;
(h) lead;
(i) metals (ferrous/non-ferrous);
(j) organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);
(k) paper products;
(l) wood pallets and scrap wood;
(m) construction and demolition debris (‘C&D’);
(n) x-ray film;
(o) automobile oil and fluids;
(p) Freon and other refrigerant gases;
(q) electronic waste (i.e., computers, circuit boards, televisions, and portable phones);
(r) heavy equipment; and
(s) other recyclable materials deemed recyclable by GEPA pursuant to the Rules and Regulations.

(4) ‘Recycling Company’ means any business licensed by the Department of Revenue and Taxation, and issued a permit, as required in § 51104 of Chapter 51 of Title 10 of the Guam Code Annotated, from the Guam Environmental Protection Agency to conduct business on Guam.
§ 15602. Creation of Municipal Recycling Proceeds Fund for Each Village. There is hereby established a Municipal Recycling Proceeds Fund for each municipality which shall be maintained separate and apart from any other funds, including the General Fund of the government of Guam, and independent records and accounts shall be maintained in connection therewith. The proceeds from the sale of recyclable materials collected, in accordance with the Municipal Recycling Program, from each village shall be deposited in the respective Municipal Recycling Proceeds Fund. All revenue deposited in each Municipal Recycling Proceeds Fund shall not be commingled with General Fund monies and shall be kept in a separate bank account. All proceeds from fees collected in accordance with §15703 of this Article shall be deposited in the Municipal Recycling Proceeds Fund for the respective village and used exclusively for the purposes authorized in §15704 of this Article. The Municipal Planning Council of each municipality shall administer the Municipal Recycling Proceeds Fund for its municipality which shall be subject to audits by the Public Auditor.

§ 15603. Creation of the Municipal Recycling Program. There is hereby created a Municipal Recycling Program within the Guam Solid Waste Authority to promote recycling on the municipal level in partnership with the village mayors. The program shall incorporate the following components:

(a) Recycling Drop-Off Bins. GSWA shall solicit drop-off bins from recycling companies that would be made available to each mayor participating in the Municipal Recycling Program. The recycling drop-off bins shall be rust-proof, and located at a suitable site within the respective villages so that the residents will have a repository to which they can bring recyclable materials in accordance with guidelines established by the Guam
Solid Waste Authority. The mayors of each village participating in the program will be responsible for the security and cleaning of the bins, and the supervision of their use for recycling purposes.

(b) Village Education Program. In coordination with the village mayors, GEPA and GSWA shall create educational programs to promote recycling and the use of the recycling drop-off bins within each village.

(c) Sale of Recyclable Materials. In partnership with the village mayors, GSWA shall arrange for the sale of recyclable materials, collected at the Recycling Drop-off Bins in each village, to recycling companies. The proceeds from the sale of recyclable materials shall be deposited into the respective Municipal Recycling Proceeds Fund of the village from which the recyclable materials were collected.

(d) The Program shall first begin with pilot programs at three (3) villages; one (1) each from northern, central, and southern Guam. The selection of the three (3) villages shall be made by GSWA in concert with the village mayors.

The proceeds from the sale of recyclable materials from a village site shall be retained for use by the municipal government of that village in its Municipal Recycling Proceeds Fund. Expenditures from a village’s Municipal Recycling Proceeds Fund shall be exclusively for the needs of that village as determined by the respective Municipal Planning Council through adoption of a resolution.

Section 11. Subsection (b) of §51103, Article 7, Article 8 and Article 9 of Chapter 51, Title 10 Guam Code Annotated are hereby repealed and
reenacted under Article 7, Chapter 15, Title 12 Guam Code Annotated, and shall read:

“ARTICLE 7
RECYCLING ENTERPRISE ZONE

§ 15701. Definitions.
§ 15702. Establishment of Recycling Enterprise Zone.
§ 15703. Eligibility of Recycling Companies for use of the Recycling Enterprise Zone.

§ 15701. Definitions. For purposes of this Act, and except as otherwise provided, the following words and phrases, together with all of the common derivatives thereof, shall have the meaning ascribed to them as follows:

(1) JLGCP shall mean the Jose D. Leon Guerrero Commercial Port.

(2) Recycle or ‘Recycling’ means the method by which recovered resources are converted for use as raw material or feedstock to make new products, as defined in § 51102 (35) of Chapter 51, Title 10 of the Guam Code Annotated.

(3) Recycling company means any business licensed by the Department of Revenue and Taxation, and has been issued a permit as required in § 51104 of Chapter 51, Title 10 of the Guam Code Annotated by the Guam Environmental Protection Agency (‘GEPA’) to conduct business on Guam and that specifically commits eighty percent (80%) of its operations to recycling.

(4) Transshipment shall mean to transfer for further transportation from one (1) ship or conveyance to another.
(5) Recyclable materials means materials that still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:

(a) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);
(b) automobiles, buses, and trucks or any form of motorized vehicle;
(c) tires (passenger/commercial);
(d) enameled white goods;
(e) home appliances (other small appliances that are not considered enameled white goods);
(f) glass and plastic bottles;
(g) foam padding;
(h) lead;
(i) metals (ferrous/non-ferrous);
(j) organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);
(k) paper products;
(l) wood pallets and scrap wood;
(m) construction and demolition debris (‘C&D’);
(n) x-ray film;
(o) automobile oil and fluids;
(p) freon and other refrigerant gases;
(q) electronic waste (i.e., computers, circuit boards, televisions, and portable phones);
(r) heavy equipment; and
§ 15702. Establishment of Recycling Enterprise Zone. There is established a “Recycling Enterprise Zone” at the Jose D. Leon Guerrero Commercial Port for use by recycling companies for the processing of automobiles, trucks and tires for recycling purposes, and the transshipment of recyclable materials. The size of the zone and its site on the JLGCP property shall be designated by the Board of Directors of the Port Authority of Guam and guided by the provisions of Section 7.1.4 of the Integrated Solid Waste Management Plan. Such designation shall be made within sixty (60) days of the enactment hereof and the site shall be made available for lease to recycling companies. The Board of Directors of the Port Authority of Guam shall determine and charge a reasonable rate for the lease of said property.

§ 15703. Eligibility of Recycling Companies for use of the Recycling Enterprise Zone. Lease space in the Recycling Enterprise Zone shall only be available to companies that qualify for Qualifying Certificates as recycling companies under guidelines established by the Guam Economic Development Authority.

Section 12. §1921 of Title 1, Chapter 19 Guam Code Annotated is hereby amended to read as follows:

“§1921. Supervision of Audits in Autonomous Agencies and Grantees, Manpower Audits. The Public Auditor is specifically authorized to supervise audits, or at the Public Auditor’s discretion, perform audits, of autonomous agencies and instrumentalities of the government of Guam, inclusive of, but not limited to, the Guam Visitors Bureau (‘GVB’), the Guam Economic Development &
Commerce Authority ('GEDCA'), the Port Authority of Guam ('PAG'), the A.B. Won Pat Guam International Airport Authority ('GIAA'), the University of Guam ('UOG'), the Guam Community College ('GCC'), the Guam Memorial Hospital ('GMHA'), the Guam Housing Corporation ('GHC'), the Guam Housing and Urban Renewal Authority ('GHURA'), the Guam Power Authority ('GPA'), the Guam Waterworks Authority ('GWA'), the Guam Telephone Authority ('GTA'), the Government of Guam Retirement Fund ('GGRF'), and the Guam Solid Waste Authority ('GSWA').

The Public Auditor is authorized to supervise audits of all funds in excess of Three Hundred Thousand Dollars ($300,000.00) for a single fiscal year from the government of Guam that are given in grant or subsidy to non-profit or profit-making groups, inclusive of GVB. The Public Auditor is authorized to audit the hiring practices, manpower levels and staffing patterns of all departments, agencies and bureaus of the Executive Branch of the government of Guam, and to determine and report to I Maga’lahen Guåhan [Governor], I Liheslaturan Guåhan [Legislature] and the Public Utilities Commission ('PUC'), as appropriate, on the necessity and applicability of employment levels and categories to the department or agency's purpose and function, as well as draw comparisons with similar entities located elsewhere.”

**Section 13.** §12000 of Chapter 12, Title 12 Guam Code Annotated is hereby amended to read:

“§ 12000. Definitions. As used in this Chapter:

(a) **Public Utility** means the Guam Power Authority, the Jose D. Leon Guerrero Commercial Port, the Guam Waterworks Authority, the Guam
Solid Waste Authority or any duly licensed private contractors operating:

(i) a facility or subsystem of the community-wide water production and distribution system, or

(ii) a facility or subsystem of the community-wide waste water disposal system, or both, or any private golf course management corporation leasing public property providing preferential golf rates and reservations to Guam residents, or

(iii) a marine terminal with facilities for loading and unloading commercial cargo or passengers onto and from ocean common carriers.

(b) Commission means the Public Utilities Commission.

(c) General lifeline rate means a lower than average cost per unit charge for a level of utility service necessary to fulfill the essential needs of all residential customers.”

Section 14. Severability. If any provision of this law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this law which can be given effect without the invalid provisions or application, and to this end the provisions of this law are severable.
AN ACT TO AMEND §12000 OF CHAPTER 12 OF TITLE 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND §1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA), AND TO REPEAL §51118, ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10 GCA AND REENACT THEM UNDER A NEW CHAPTER 15, TITLE 12 GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent.

I Liheslaturan Guåhan finds that the history of the Government of Guam’s (GovGuam) violation of the Clean Water Act goes back to 1986, when the United States Environmental Protection Agency issued an administrative order directing the island’s Department of Public Works to cease the discharge of leachate from the Ordot Dump. Twenty-four (24) years later, the Ordot Dump, the island’s only municipal site for solid waste disposal, continues to leach contaminants, posing an environmental and health hazard. A Consent Decree was approved by the U.S. District Court of Guam in February 2004, yet compliance with its mandates has been minimal. GovGuam’s commitment to comply with the Consent Decree was not enough to rectify the island’s solid waste crisis. Consequently, on March 17, 2008, Gershman, Brickner & Bratton, Inc. (GBB), solid waste management consultants, was appointed as Receiver by the District Court of Guam
to achieve the government’s compliance with the Clean Water Act as set forth in the Consent Decree. GBB has full power and authority to enforce the terms of the Consent Decree to include assumption of the functions, powers and authority of the Solid Waste Management Division of the Department of Public Works insofar as they affect GovGuam’s compliance with the Consent Decree.

*I Liheslaturan Guåhan* intends to prepare GovGuam for the eventual resumption of all functions, responsibilities and authority for solid waste management and operations, subsequent to the U.S. District Court determination that the Consent Decree has been satisfied and that GovGuam would have the capability to manage, operate and sustain a compliant solid waste service and landfill. *I Liheslaturan Guåhan* intends to establish the Guam Solid Waste Authority (GSWA), an autonomous public corporation, as successor to the Solid Waste Management Division, a sub-entity of the Department of Public Works.

*I Liheslaturan Guåhan* intends to place the GSWA under the governance of the CCU. *I Liheslaturan Guåhan* finds that the Consolidated Commission on Utilities (CCU), a governing body created by P.L. 26-76 in March 2002, has successfully provided effective governance to the Guam Power Authority (GPA) and the Guam Waterworks Authority (GWA) using best management and business practices and that the CCU has the governing experience and capacity to similarly manage the GSWA. Placing the GSWA under the governance of the CCU from the outset, will better assure a successful and stabilized transition.

**Section 2.** §79100 of Chapter 79 of Title 12 of the Guam Code Annotated is hereby amended to read as follows:

**§79100. Creation of Commission.** There is established an elected Consolidated Commission on Utilities whose purpose is to exercise powers vested in them by the laws establishing the Guam Power Authority (‘GPA’), the Guam Solid Waste Authority (‘GSWA’) and the Guam Waterworks Authority (‘GWA’). The Consolidated Commission on Utilities, hereinafter referred to as “Commission” shall be elected by registered voters of Guam.
Section 3. §79101 of Chapter 79 of Title 12 of the Guam Code Annotated is hereby amended to read as follows:

§79101. Commissioners. The Commission shall be comprised of five (5) Commissioners elected at-large by the voters of Guam in a General Election. To be eligible to be a Commissioner, a person must be a registered voter of Guam and a minimum of twenty-five (25) years of age, and shall have been a resident of Guam for at least five (5) years immediately prior to the date of the Commissioner’s election.

A person may not simultaneously serve as a Commissioner and an employee of the Guam Waterworks Authority, the Guam Power Authority, the Guam Solid Waste Authority, or the Public Utilities Commission, or simultaneously serve as a Commissioner and an unclassified or contracted employee of the government of Guam. An adjunct instructor, adjunct teacher, or adjunct professor employed by the University of Guam or the Guam Community College may serve as a Commissioner.

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

Section 4. Transition Liaison. Upon enactment of this Act the Commission shall establish a liaison with the Receiver, Gershman, Brickner & Bratton, Inc. and begin discussions preliminary to achieving the objective of GovGuam’s eventual resumption of all functions, responsibilities and authority for solid waste management and operations and the governance thereof.

Section 5. Effective Date of Governance of the Authority. Governance of the Guam Solid Waste Authority by the Commission shall take effect upon determination by the United States District Court that the requirements of Section XIV of the Consent Decree (Civil Case No. 02-00022, United States of America, Plaintiff, v. Government of Guam,
Defendant) have been fulfilled, and governance of the Municipal Solid Waste Management is returned to the Government of Guam.

Section 6. A new Chapter 15 is hereby added to Title 12 the Guam Code Annotated, and shall read:

CHAPTER 15
GUAM SOLID WASTE AUTHORITY

Article 2. Guam Solid Waste Authority Revenue Bonds
Article 3. Transition to a Guam Solid Waste Authority
Article 4. Annual Contract for Scrap Removal
Article 5. Contract for Collection of Recyclable Paper
Article 6. Municipal Recycling Program
Article 7. Recycling Enterprise Zone

Article 1.
General Provisions.

§15001. Short Title.
§15002. Definitions.
§15003. Continuation of Existence.
§15004. Powers and Duties of the Authority
§15005. Governance of the Authority.
§15006. General Manager (GM).
§15008. Assistant GM: Administration
§15009. Chief Financial Officer.
§15010. Other Officers.
§15011. Employees.
§15012. Acquisition of Existing Systems, Employees and Debt.
§15013. Exemption from Taxation and In Lieu Payments.
§15014. General Operations.
§15015. Accounting and Expenditures.
§15016. Annual Budget.
§15017. Employment.
§15018. Solid Waste Operation Fund

§15001. Short Title.
This Chapter may be cited as the Guam Solid Waste Authority Act.

§15002. Definitions. As used in this Chapter, unless otherwise indicated:
(1) Authority means the Guam Solid Waste Authority (GSWA).
(2) General Manager (GM) means the General Manager of GSWA.
(3) Best public interest means any activity which: lessens the demand for landfill sites, conserves land resources and serves to insure proper, cost effective, and environmentally sound disposal of solid waste; and, does not pose health risks to human life or endanger plant and animal life.
(4) Commission means the Consolidated Commission on Utilities.
(5) Business means and includes any activity or conduct, whether proprietary, partnerships, corporate or whatever form, engaged in, or caused to be engaged in, with the object of gain or economic benefit, either direct or indirect, but shall not include casual sales, personal service contracts, fundraising activities by political candidates or the activities of non-profit associations.
(6) Collection or Collect means the removal of solid waste from a generator.
(7) Collector means any individual, governmental organization or business, which has received a permit to collect and transport waste in accordance with applicable laws and regulations.
(8) Combustion means to thermally break down certain types of solid waste in an enclosed device using controlled temperatures.
(9) Composting means the controlled degradation of organic solid waste.
(10) Disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water.
(11) Dump means a land site where solid waste is disposed without a valid permit, or a landfill that has historically been in regulatory noncompliance.
(12) *Duplex* means a residential building containing two (2) separate dwelling units either side by side or one above the other.

(13) *Dwelling* means a building or portion thereof designed exclusively for residential occupancy by one (1) family for living and sleeping purposes and not to exceed two (2) dwelling units.

(14) *Dwelling unit* means one (1) or more rooms and a single kitchen in a dwelling, designed as a unit for occupancy by one (1) family for living and sleeping purposes.

(15) *Financial assurance* means a financial guarantee assuring that funds are available to pay for the design, construction, operation and closure of a solid waste landfill facility, for rendering post-closure at a solid waste landfill facility, for corrective action and to compensate third parties for bodily injury and property damage caused by sudden and non-sudden accidents related to the operation of a solid waste landfill facility.

(16) *Generator* means any person that generates or produces solid waste.

(17) *Government* means the government of Guam, all of its agencies, whether line or autonomous, and all public corporations.

(18) *Hardfill* shall mean a method of compaction and earth cover of solid wastes other than those containing garbage or other putrescible (putrescent) waste, including, but not limited to, demolition material, and like materials not constituting a health or nuisance hazard, where cover need not be applied on a per day used basis. No combustible materials shall be deposited in a hardfill.

(a) *Combustible Materials* shall mean any solid or liquid that may be ignited.

(i) *Combustible Solids*, as defined in Title 49 of the Code of Federal Regulations, Chapter 1, Subtitle B, Part 173.124, are those capable of igniting and burning.

(ii) *Combustible Liquids*, as defined in Title 29 of the Code of Federal Regulations, Chapter 17, Subtitle B, Part 1910.106, shall mean any materials having a flash point at or above 100 degrees Fahrenheit (37.8 degrees Celsius), but below 200 degrees Fahrenheit (93.3 degrees Celsius), except any mixture having components with flashpoints of 200 degrees Fahrenheit (93.3 degrees Celsius), or higher, the total volume of which make up ninety-nine percent (99%) or more of the total volume of the mixture.
(19) *Hazardous Waste* means any material or substance which, by reason of its composition or characteristics:

(a) hazardous waste as defined in the Solid Waste Disposal Act, 42 USC '6901, et seq., as amended, replaced or superseded and the regulations implementing same,

(b) a hazardous substance as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC § 9601, et seq.,

(c) material the disposal of which is regulated by the Toxic Substances Control Act, 15 USC '2601, et seq., as amended, replaced or superseded, and the regulations implementing same,

(d) special nuclear or by-products material within the meaning of the Atomic Energy Act of 1954,

(e) pathological, infectious or biological waste,

(f) treated as hazardous waste or as a hazardous substance under applicable law,

(g) requires a hazardous waste or similar permit for its storage, treatment, incineration of disposal,

(h) may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness, or

(j) may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise damaged.

(20) *Highway* means the entire width between the boundary lines of every right-of-way or publicly maintained travel ways when any part thereof is open to the use of the public for purposes of vehicular travel.

(21) *Incinerator* means an enclosed device using controlled flame combustion, the primary purpose of which is to thermally break down solid waste.

(22) *Multi-family dwelling* means a building containing three (3) or more dwellings.

(23) *Operator* means any person who accepts solid waste from a collector for transfer, storage, recycling, combustion, processing or disposal.

(24) *Performance bond* means a security for financial loss caused by the act or default performance of a person or by uncontrollable conditions.
(25) **Person** means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, or any agency, department, or instrumentality of the Federal or local government, or any other legal representatives, agents or assigns.

(26) **Plan** means the interim or final Solid Waste Management Plan (‘SWMP’) prepared and adopted by the GEPA in accordance with the Administrative Adjudication Law.

(27) **Plasma torch heating technology** means converting electrical energy into heat energy producing clean fuel gas and recyclable slag.

(28) **Plasma Remediation In-Situ Materials** (‘PRISM’) means a plasma torch technology process that melts down and converts landfill material into slag and fuel gas.

(29) **Pollution** means the condition caused by the presence in the environment of substances of such character and in such quantities that the quality of the environment is impaired or rendered offensive to life.

(30) **Processing** means any method, system or other treatment designed to change the physical, chemical or biological character or composition of any solid waste. This includes the neutralization of any hazardous waste; the rendering of any hazardous waste non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume; or any other activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous.

(31) **Recyclable materials** includes the following materials discarded from households, businesses, commercial and industrial establishments, hotels, government, agricultural, landscaping, yard maintenance and military operations which may be reused or for which a market exists:

(a) **aluminum** means any product manufactured of aluminum or aluminum alloy;

(b) **battery** means any lead acid battery or dry cell battery discarded on Guam, independent of intended use;

(c) **biomass** means any large biomass source, such as trees, wood, grass, hedge cuttings, jungle growth, yard waste and sewage sludge;

(d) **construction debris** means the materials from building construction;
(e) **corrugated cardboard** means kraft, jute or test liner pulp which is made by combining two (2) or more webs of paper and formed or shaped into wrinkles or folds or into alternate ridges and grooves;

(f) **demolition waste** means the materials obtained from the demolition or razing of buildings;

(g) **glass** means any product manufactured from a mixture of silicates, borates or phosphates;

(h) **metal scrap** means any metal, in whole or in parts, from buildings, equipment, machinery or vehicles;

(i) **newspaper** means a publication which is distributed and contains news articles, opinions, features, and advertising and is printed on impermanent wood pulp materials;

(j) **office paper** means computer paper and white and colored ledger paper;

(k) **used oil** means any petroleum-based, mineral, or synthetic oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties; and

(l) such other materials which the Authority determines, from time to time, may be recycled.

(32) **Recycle or Recycling** means the method by which recovered resources are converted for use as raw material or feedstock to make new products.

(33) **Resource recovery** means the process of recovering recyclable materials or the recovery of energy from solid waste.

(34) **Resource Recovery Facility** (‘RRF’) is a facility that recovers for sale or reuse of recyclable materials.

(35) **Reusing** means the reintroduction of a commodity in the economic stream without any changes.

(36) **Sanitary landfill** means an approved site where solid waste and ash are disposed using modern sanitary landfilling techniques in accordance with Federal and local regulations.

(37) **Sanitary landflling** means an engineered method of disposing of solid waste on land in accordance with Federal and local regulations in a manner that protects the
environment by spreading the waste in thin layers, compacting it to the smallest practical volume, and covering it with approved material at the end of each working day.

(38) *Separation* means the systematic division of solid waste into designated components.

(39) *Single Family Residence* means a detached building designed for and/or occupied exclusively by one (1) family, or one (1) of two (2) dwelling units on a duplex.

(40) *Solid waste* means any garbage, refuse or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded and/or spilled materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, mining, commercial, and agriculture operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under '402 of the Federal Water Pollution Control Act, as amended (68 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(41) *Solid waste management* means the purposeful, systematic control of the generation, storage, collection, transportation, separation, processing and disposal of solid waste.

(42) *Solid waste management facilities* means any facility, or any machinery, equipment, vehicles, structures or any part of accessories thereof installed or acquired for the primary purpose of: collection, transportation, storage, recycling, processing or disposal of solid waste, and shall include sanitary landfills, resource recovery facilities, or plasma torch.

(43) *Solid Waste Management Plan* means a comprehensive plan and all amendments and revisions thereto for provisions of solid waste management throughout Guam.

(44) *Solid waste management practices* means the actions to effectuate the generation, storage, collection, transportation, processing, recycling, incineration, plasma torch or resource recovery or disposal of solid waste.

(45) *Solid Waste Management System* (‘SWMS’) means the entire system covered in the SWMP and designated by the Director for the storage, collection, generation,
transportation, processing, recycling, incineration, plasma torch and disposal of solid waste within Guam.

(46) **Source separated waste** means recyclable materials that are set aside by the generator for segregated collection and transport to solid waste management facilities.

(47) **Storage** means the interim containment of solid waste in accordance with Federal and local regulations.

(48) **Transfer station** shall mean any intermediate waste facility in which solid waste collected from any source is temporarily deposited and stored while awaiting transportation to another solid waste management facility.

§ 15003. Continuation of Existence. The Solid Waste Management Division, a sub-entity of the Department of Public Works shall continue in existence as an autonomous, public corporation now referred to as the Guam Solid Waste Authority (GSWA).

§ 15004. Powers and Duties of the Authority. The Authority shall have and exercise each and all of the following powers:

(a) Administer those powers listed under this Chapter 15, Title 12 of the Guam Code Annotated.

(b) Acquire by grant, purchase, gift, devise or lease, or by the exercise of the right of eminent domain in accordance with the provisions and subject to limitations of GCA Chapter 15, and hold and use any real or personal property necessary or convenient or useful for the carrying on of any of the powers pursuant to the provisions of this Chapter;

(c) Establish its internal organization and management, and adopt regulations for the administration of its operations;

(d) Establish and modify from time to time, with approval of the Public Utility Commission (PUC), reasonable rates and charges for the collection, transportation, disposal, storage, recycling and processing of solid waste to recover the full cost of providing such services, and collect money from customers using such services.

Similarly, the Authority shall establish and modify from time to time, with the approval of the Public Utilities Commission, reasonable rate and charges for servicing of debt obtained to undertake capital improvements to solid waste management;

(e) Enter into contracts and execute all instruments necessary or convenient in the
exercise of its powers, adopt a seal and sue or be sued in its own corporate name;

(f) At any time or from time to time, incur indebtedness pursuant to Article 2 of this Chapter;

(g) Enter into contracts with the Government of Guam or with the United States for loans or grants;

(h) Employ, retain or contract for the services of qualified solid waste management specialists or experts, as individuals or as organizations, to provide technical advice and assistance;

(i) Adopt such rules and regulations as may be necessary for the exercise of the powers and performance of the duties conferred or imposed upon the Authority or the Board by this Act;

(j) Control, operate, improve, equip, maintain, repair, renew, replace, reconstruct, alter and insure that the solid waste management system is compliant with any applicable zoning, building, environmental and health regulations of the territory of Guam; and

(k) Do any and all other things necessary to the full and convenient exercise of the above powers;

(l) enter into public-private partnerships for solid waste management facilities and operations, the closure and beneficial use of the Ordot Landfill site, source reduction, recycling, composting, resource recovery, waste reduction and transfer stations. This duty shall also address construction debris or demolition waste, metallic debris, white goods, tires and green waste contracts;

(m) organize, plan for, secure and manage resources and promote the implementation of the Solid Waste Management Plan;

(n) evaluate and promote capital improvements and maintenance programs to the solid waste management system;

(o) address the necessity for a facility for the shredding of tires for recycling or for use as rubberized asphalt;

(p) address the necessity for a facility for the recycling of glass, including its use as glassphalt;

(q) address the necessity for a facility for the recycling of scrap metals, including discarded vehicles, appliances and equipment, including shredding for containerization or
other shipment;

(r) require the preparation of any necessary environmental impact assessments or environmental impact reports;

(s) mandate the inspection and monitoring of all solid waste management facilities to assure compliance with this Act, the Plan, other law, rules and regulations applicable to Guam; and

(t) apply for all grants-in-aid requests and administer any such programs or funds, except those established for recycling.

Nothing contained in this Section or elsewhere in this Article shall be construed directly or by implication to be in any way in derogation or limitation of powers conferred upon or existing in the Authority or the Board by virtue of any provisions of the Organic Act of Guam or Statutes of the Territory or any other provision of this Code.

§ 15005. Governance of Authority. All powers vested in the Authority, except as provided herein, shall be exercised by the Board of Directors upon relief of the Receiver by the U.S. District Court.

§ 15006. General Manager.

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

i). A combined minimum of six (6) years of documented experience successfully managing a Solid Waste Management System of similar size as the GSWA system, and

ii). Graduation from an accredited institution of higher education with a Bachelors degree in Business Management, Engineering Management, Engineering Technology or Civil Engineering, or

(b) The Board shall fix the general manager’s compensation, notwithstanding any other provision of law. The general manager shall manage the construction, maintenance, operation and administration of business affairs of the Authority.

(c) The Board may contract with a business entity to perform any or all of the duties, and to exercise any or all of the powers of the general manager as provided in this Section, and the general manager, subject to the approval of the Board, may contract with
a business entity to perform some of the duties or to render expert and technical
assistance in the operation of the Authority. The Initial Term of such a management
contract shall be for a period of up to three (3) years. The Authority shall also have the
option for two (2) Renewal Terms of five (5) years each. The contracted business entity
pursuant to this Section must have a minimum of ten (10) years experience in
management and operation of a solid waste system of similar or greater scope than the
Authority.
(d) The powers and responsibilities of the General Manager shall include the
following:
(i) To enforce all rules and regulations of the Authority;
(ii) To attend all meetings of the Board and submit a general report of the
affairs of the Authority;
(iii) To keep the Board advised as to the needs of the Authority, to approve
demands for the payment of obligations of the Authority, and to
approve expenditures and collection of revenue within the purposes
and amounts authorized by the annual budget;
(iv) To prepare, or cause to be prepared, all plans and specifications for the
constructions of work by the Authority in accordance with the annual
budget;
(v) To select and appoint the employees of the Authority, except as
otherwise provided by this Chapter, and to plan, organize, coordinate
and control the services of such employees in the exercise of the
powers of the Authority under the general direction of the Board;
(vi) To cause to be published within one hundred twenty (120) days from
the end of each fiscal year a financial report, which shall include an
annual financial audit pursuant to §1908 and §1909 of Chapter 19,
Title 1 Guam Code Annotated. This report should present the result
of operations for the preceding fiscal year and the financial status of
the Authority on the last day thereof. The publication shall be made in
the manner provided by the Board; and
(vii) To perform such other and additional duties as the Board may require.

The General Manager, with the consent of the Board, may appoint an Assistant General Manager for Operations and Technical Support, who shall serve at the pleasure of the General Manager.

(a) The Assistant General Manager of Operations and Technical Support shall be entitled to receive compensation as recommended by the General Manager and approved by the Board.

(b) Such Assistant General Manager shall devote his entire time to the business of the Authority and shall have full charge and control, subject to the direction of the General Manager, of all operations, engineering and technical services pertaining to the generation, storage, collection, transportation, processing, recycling, resource recovery or disposal of solid waste.

(c) Such Assistant General Manager shall have such other duties as may be designated by the General Manager.

§15008. Assistant General Manager: Administration.

The General Manager, with the consent of the Board, may appoint an Assistant General Manager for Administration, who shall serve at the pleasure of the General Manager.

(a) The Assistant General Manager of Administration shall be entitled to receive compensation as recommended by the General Manager and approved by the Board.

(b) Such Assistant General Manager shall devote his/her entire time to the business of the Authority and shall have full charge and control, subject to the direction of the General Manager, of all administration of the Authority.

(c) Such Assistant General Manager shall have such other duties as may be designated by the General Manager.

§15009. Chief Financial Officer. The Board may appoint a chief financial officer who shall be a Certified Public Accountant. The Board shall fix the chief financial officer’s compensation. The chief financial officer shall have full charge and control of the fiscal, business and accounting operations of the Authority, subject to the supervision of the Board.

§15010. Other Officers.
(a) The Board may also appoint a Secretary and an Attorney, who all shall serve at
the pleasure of the Board and whose duties and compensation shall be fixed by the Board.
The Board may appoint one or more assistants to any such office. Any of such offices
may be consolidated in one person.

(b) The Secretary shall have charge of all records and minutes of the Board.

(c) The Attorney, who must have been admitted to practice in Guam, shall advise
the Board and the General Manager on all legal matters to which the Authority is a party
or in which the Authority is legally interested and may represent the Authority in
connection with legal matters before the Legislature, boards and other agencies of the
Territory. The Attorney General shall represent the Authority in litigation concerning the
affairs of the Authority provided that he may delegate this duty to the Attorney of the
Authority, with respect to any such litigation.

§ 15011. Employees. All employees of the Authority shall be eligible for all insurance,
retirement, worker’s compensation and other benefits as extended to employees of the
government of Guam, and shall be employees of the government of Guam for the
purposes of the application of all civil service laws and personnel rules and regulations
that apply to government of Guam employees, inclusive of all scales, tables and
schedules for compensation. With respect to compensation, this Section shall not apply to
the compensation of the General Manager, Assistant General Manager: Administration,
Assistant General Manager: Operations and Technical Support, Secretary, Attorney or the
Chief Financial Officer.

§ 15012. Acquisition of Existing Systems, Employees, and Debt. Ninety (90) days
after the effective date of this Act the Authority shall assume in writing from the
Department of Public Works, Solid Waste Management Division:

(a) all real property under the DPW Solid Waste Management Division (SWMD)
administration and items of property, materials and supplies which the SWMD owns or
controls, including construction work in progress.

(b) all working capital, cash, accounts payable and receivable, deposits, advances
payable and receivable, all books, records and maps and all other rights, obligations,
assets, liabilities, agreements and privileges of the Authority or attributable to the
Authority.
(c) Each Government of Guam employee assigned to the Department of Public Works, Solid Waste Management Division at the date of the transfer pursuant to statute shall be transferred to the Authority. All classified employees shall remain classified.

§ 15013. Exemption from Taxation, and In Lieu Payments. As an instrumentality of the Territory, the Authority and all property acquired by or for the Board and all revenues and income from taxation by the Territory or by any political subdivision or public corporation thereof and from all taxes imposed under the authority of the Legislature of the Territory, or with respect to which the Legislature is authorized to grant exemption.

§ 15014. General Operations. Rates for Services. The Authority shall apply to the Public Utilities Commission (PUC) for establishment of its rates for its services including, but not limited to:

(a) Operating Costs:

i. Layon Landfill

ii. Commercial Transfer Stations

iii. Retail Transfer Stations

iv. Residential Trash Collection

v. Bulky and Metallic Waste collection

vi. Recycling

vii. Customer Service and Education

viii. Equipment Maintenance

ix. Household Hazardous Waste

x. Administration

(b) Reserve Fund Costs.

i. Debt Service

ii. Equipment Replacement

iii. New Cell Development

iv. Closure of Cells

v. Post Closure Care

§ 15015. Accounting and Expenditures.

(a) The Board shall adopt and maintain a system of accounting.

(b) The Board shall authorize, by means of the annual budget, payment of demands
against the Authority resulting from the exercise of its powers under this Act if:
   i. the purposes and amounts of such demands are projected in the budget, expressed in terms of major account groups of the Uniform System of Accounts, which has been adopted by the Board after receiving recommendations from the General Manager; and
   ii. the specific demands which are made are approved by the Board before payment.

(c) The Board shall employ, in accordance with the appropriate procurement laws and the annual budget, a firm of locally licensed, independent Certified Public Accountants who shall annually examine the financial status and workings of the Authority for the previous fiscal year. Said firm shall submit no later than February 1st of each year, a written report on the financial status and workings of the Authority during the previous fiscal year to I Magalahan Guåhan [Governor], the General Manager and I Liheslaturan Guåhan. I Magalahan Guåhan and I Liheslaturan Guåhan may request special reports within thirty (30) days after the end of each fiscal quarter. The financial information presented in the reports required by this Section shall be in accordance with the Uniform System of Accounts adopted by the Board. Claims against the Guam Solid Waste Authority shall be submitted to the Attorney General of Guam in accordance with the Government Claims Act.

§ 15016. Annual Budget. For the purposes of Chapter 15 of Title 12 of the Guam Code Annotated, the term annual budget means a balanced budget for expenditures of the Guam Solid Waste Authority for a fiscal year to be funded by the anticipated revenues and other funds to be received and expended for the same fiscal year, submitted to the Board and approved by resolution, with amendment and modification as may be desired by the Board.

(a) If the Authority fails to submit a budget for the next fiscal year, the current fiscal year’s budget shall be deemed approved for the next fiscal year, subject to Board modification.

§ 15017. Employment.

(a) Pursuant to the provisions of 4 GCA §§4105 and 4106, the Board shall establish rules and regulations regarding selection, promotion, performance evaluation, demotion,
suspension and other disciplinary action for the employees of the Authority which shall be transmitted to I Liheslatura Guahan [Legislature] to be ratified, which thereafter shall supersede the provisions in §15110 of this Chapter. All contracts for the hiring of off island employees shall conform to the provisions of 4 GCA §§6501 and 6501.1.

(b) Classified employees of the Authority shall be members of the government of Guam Retirement Fund. The Authority shall contribute to the government of Guam Retirement Fund on the basis of annual billings as determined by the Board of Trustees of the government of Guam Retirement Fund, for the government share of the cost of the retirement benefits applicable to the Authority’s employees and their beneficiaries. The Authority shall also contribute to the Worker’s Compensation Fund, on the basis of annual billings as determined by the Worker’s Compensation Commissioner, for the benefit payments made from such Fund on account of the Authority’s employees.

(c) Notwithstanding any other provisions of law, neither the General Manager, Assistant General Managers, Secretary, Chief Financial Officer, nor Attorney of the Authority shall be within the classified service of the government of Guam but shall be hired, compensated and employed under the terms and conditions fixed by, and at the pleasure of the Board.

Article 2. Guam Solid Waste Authority Revenue Bonds.

§15200. Authorization of Indebtedness Through GEDA.

§15201. Guam Economic Development Authority as Central Financial Manager.

§15202. Evidence of Transfers Filed at the Department of Land Management.

§15203. Statutory Approval Required for Sale.

§15204. Acceptance of Payments, Installation Applications and Service/Repair Requests via the Internet.

§15200. Authorization of indebtedness through GEDA. The Guam Economic Development Authority (‘GEDA’) may obtain funds through the issuance of bonds or other obligations on behalf of the Authority.

(a) Bonds or Notes. Accordingly, the Authority, through GEDA, with the approval of I Magalahan Guahan and I Liheslaturan Guahan is authorized to incur indebtedness, and to issue bonds or notes therefor, secured by a pledge of all or any portion of the
revenues of the Authority, to establish and facilitate the Solid Waste Management Plan,
and collection, transportation, storage, recycling, processing or disposal of solid waste,
which shall include sanitary landfills and resource recover facilities.

(b) Subordinated Indebtedness. In addition, the Authority, acting through GEDA,
may incur indebtedness for any other lawful purpose of the Authority, provided that such
indebtedness shall have a term not exceeding fifty (50) years and shall be subordinate to
any contractual obligation of the Authority to the holders of any indebtedness issued
pursuant to subsection (a) of this section.

(c) Short Term Borrowing. Pursuant to GEDA, the Authority may incur
indebtedness with the approval of the Governor for any lawful purpose for a term not
exceeding five (5) years; provided, that such indebtedness shall be subject and
subordinate to any contractual obligation of the Authority to the holders of any bonds
issued pursuant to paragraphs (a) or (b) of this section. The principal of and interest of
any such short term borrowing may be repaid from revenues, or if incurred for a purpose
for which bonds may be issued, from revenues or from the proceeds of sale of bonds.

(d) Character of Indebtedness. All indebtedness incurred by the Authority pursuant
to this Article shall be repayable solely from monies of the Authority available therefor,
including revenues, and shall not be deemed to be public indebtedness of the Territory as
that term is used in Section 11 of the Organic Act.

(e) Waiver of Immunity. Notwithstanding any substantive or procedural provision
of Chapter 6, Title 5, Guam Code Annotated, the Authority shall not be entitled to
immunity from any suit or action in contract on the indebtedness authorized by this
Article.

§15201. Guam Economic Development Authority as Central Financial Manager.
Notwithstanding any other provisions of this Article, the Guam Economic Development
Authority shall act as the Central Financial Manager and Consultant to the Authority and
shall provide technical assistance in obtaining funds through the issuance of bonds or
other obligations. The Authority must comply with all provisions under this section
relative to the financial requirements and needs as directed by GEDA.

§ 15202. Evidence of Transfers Filed at the Department of Land Management.
Transfer of real property interests pursuant to this Act, including but not limited to fee
estates, easements and land use rights evidenced by easements, leases and licenses, shall
be filed in the form of deeds or assignments signed by I Magalahan Guahan in good form
containing specific property descriptions, lot numbers and map numbers, at the
Department of Land Management within 360 days of the effective date of this Act. Any
transfer not filed within such time frame shall lapse and be of no further force and effect
unless re-initiated or authorized by separate statutory legislation authority. Any
subsequent easements or transfers of property from the Government of Guam, including
the Chamorro Land Trust Commission, shall be in the form of deeds or assignments in
good form containing specific property descriptions, lot numbers and map numbers,
recorded at the Department of Land Management.

§ 15203. Statutory Approval Required for Sale. Notwithstanding any of the provisions
of this Act, specific legislative statutory approval shall be required prior to sale, transfer
or lease of any real property assets or lands of the Guam Solid Waste Authority. Nothing
herein shall be construed as such approval. In addition, notwithstanding any other
provision contained herein, the provisions of 1 GCA § 1800 shall be applicable to the
Guam Solid Waste Authority.

§ 15204. Acceptance of Payments, Installation Applications and Service/Repair
Requests via the Internet.

(a) Notwithstanding any other provision of law, the Guam Solid Waste Authority
shall provide that the following services be made available via the internet:

   (i) Acceptance of online payments;

   (ii) Application for installation of new and additional services, and

   (iii) Requests for service and repair.

(b) The Guam Solid Waste Authority shall provide an email address(es) for
inquiries regarding subsection (a) (1), (2) and (3).

(c) Nothing herein shall be construed as limiting the Authority’s ability to receive
payments through online payment and/or banking services.

(d) The Guam Solid Waste Authority shall set, by Administrative Rule, the
timeframes to which email inquiries must be addressed and dispensed with.

(e) The Guam Solid Waste Authority shall adopt appropriate security measures
necessary to protect its customers from fraud and identity theft.
Article 3. Transition to the Guam Solid Waste Authority

§15301. Effective Date.

§15301. Effective Date. The provisions of this Act shall take effect upon ninety (90) days of enactment of this Act except as specified in Section 5 of this Act.

Section 7. §51118 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted as §15018, Chapter 15, Title 12 Guam Code Annotated, and shall read:

§15018. Solid Waste Operations Fund.

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

(b) Commercial and Residential Tipping Fees. All commercial and residential tipping fees charged by the Authority shall be subject to the review and approval of the Public Utilities Commission.

(c) Business and Governmental Tipping Fees. A tipping fee per cubic yard, uncompacted, shall be established for business and government generators, subject to approval by the Public Utilities Commission (PUC), and shall be published in a rate order developed by the PUC.

(d) Residential Tipping Fees. A residential tipping fee, which may include collection charges and a Self-Drop Fee, may be established subject to the approval of the PUC.

(e) PUC Rate-making. The Public Utilities Commission of Guam ['PUC'] is hereby authorized to establish, amend and approve, in accordance with Chapter 12 of Title 12, Guam Code Annotated, all commercial, government and residential tipping and user fees [including without limitation a self-drop fee, a variable residential tipping fee and, collectively referred to as ‘tipping fees’], which when established shall replace those previously created by law. Tipping fees authorized and established by PUC shall be based on volume and on an analysis of operations costs, including those cost components specifically listed under §15014 of this Act. PUC is empowered to undertake a focused management audit of the existing operations of the Guam Solid Waste Authority. In performing its duties under this Section, PUC shall have the full authority and powers...
conferred upon it by its enabling legislation, 12 GCA 12000 et. sec., including the audit
power conferred upon it by Public Laws 25-05:12 and 26-78:2.

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

Section 8. Article 3 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed*
and *reenacted* under Article 4, Chapter 15, Title 12 Guam Code Annotated, and shall
read:

**ARTICLE 4**

**ANNUAL CONTRACT FOR SCRAP REMOVAL**

§15401. Contract to Remove Scrap

§15402. Biennial Contract.

§15403. Environmental Impact Study

§15404. Conformity to Waste Removal Regulations

§15405. Reports

§15401. Contract to Remove Scrap

The General Manager, after duly advertising for a request for proposals for the removal
of scrap metal, shall enter into a contract with any interested business organization, either
local or off-island, to collect and remove from Guam scrap metal. The successful offeror
may not be charged for the scrap metal but shall post a performance bond equal to 70% of
contract value to assure contract completion of the removal project within twenty-four
(24) months from receiving from the General Manager a Notice to Proceed. A “Scrap
Metal” for the purpose of this Article means abandoned vehicles and other abandoned
metal implements of which the Authority has jurisdiction and the right to dispose. In so
disposing of such scrap metal, the General Manager shall not charge any fees to the
owner of the same.
§ 15402. Biennial Contract.
The General Manager shall advertise for and execute such a contract every two (2) years with any qualified party on the same terms as are set out in §15401 of this Article.

§ 15403. Environmental Impact Study.
The Guam Solid Waste Authority shall cause an environmental impact study to be undertaken by the successful offeror prior to the issuance of a permit and the Notice to Proceed to ensure that scrap removal project will not have potential adverse ecological damage to aquifers or the environment at the temporary consolidation site and source location.

§ 15404. Conformity to Waste Removal Regulations.
The successful offeror shall perform all work under this Article in compliance with applicable rules and regulations of GEPA on the removal of scrap metal and hazardous waste. As a minimum, the Authority shall ensure that all successful offerors include as part of their processing, an intake system to screen and remove batteries and other potentially hazardous residual material including, engine oil, hydraulic fluids and coolant and freon from air conditioning units.

§ 15405. Reports.
Each successful bidder shall file a report on a quarterly basis with I Maga’lahen Guåhan [the Governor], I Liheslaturan Guåhan [the Legislature] and the Guam Solid Waste Authority outlining the following:

(a) total type and amount of scrap metals, batteries and other potentially hazardous residual material referenced in §15404;
(b) cost comparison of the cost of the scrap metal program versus landfill disposal of scrap metals, or any less-than-conventional methods of scrap metal waste reduction; and
(c) recommendations for permanent implementation and improvements to the recycling program.

Section 9. Article 4 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted under Article 5, Chapter 15, Title 12 Guam Code Annotated, and shall read:
ARTICLE 5

CONTRACT FOR COLLECTION OF RECYCLABLE PAPER.


§15502. Biennial Contract.

§15503. Conformity to All Laws and Rules and Regulations.

§15504. Reports.


The Authority, in accordance with the applicable procurement laws, and after advertising for a request for proposals (‘RFP’) for the collection of recyclable paper, shall enter into a two (2) - year contract with any qualified local interested business or nonprofit organization, to accept and collect recyclable paper to include newsprint, office paper and magazines from the public, and to implement a plan to prevent them from entering Guam’s waste stream. The qualified local business or nonprofit organization shall have active recycling experience and knowledge in Guam. The RFP shall include the requirement that the prospective contractor accepts and pays for all recyclable paper, to include newsprint, office paper and magazines offered by the public. The successful offeror shall be one who bids the highest amount per pound to be paid to the public for the recyclable paper for the duration of the contract term. The successful offeror may not be charged for the recyclable paper but shall post a performance bond equal to 70% of contract value to assure contract completion of the recyclable paper collection project within twenty-four (24) months from receiving from the General Manager a Notice to Proceed.

§15502. Biennial Contract.

The Authority shall advertise for and execute such a contract every two (2) years with any qualified party on the same terms as are set out in §15501 of this Article.

§15503. Conformity to All Laws and Rules and Regulations.

The successful offeror shall perform all work under this Article in compliance with all applicable laws, including those of this Chapter, and rules and regulations of GEPA as may be established. As a minimum, the Authority shall ensure that all offerors include as part of their processing, a plan to remove the collected paper from Guam’s waste stream.

§15504. Reports.
Each successful bidder shall file a report on a quarterly basis with I Maga’lahen Guåhan [the Governor], I Liheslaturan Guåhan [the Legislature] and the Guam Solid Waste Authority outlining the following:

(a) total type and amount of paper recycled;
(b) cost comparison of the cost of the paper-recycling program versus landfill disposal of paper, or any less-than-conventional methods of paper waste reduction; and
(c) recommendations for permanent implementation and improvements to the recycling program.

Section 10. Article 6 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted under Article 6, Chapter 15, Title 12 Guam Code Annotated, and shall read:

ARTICLE 6
MUNICIPAL RECYCLING PROGRAM

§15601. Definitions.

§15602. Creation of Municipal Recycling Proceeds Fund for each village.

§15603. Creation of the Municipal Recycling Program.


§ 15601. Definitions.

For purposes of this Article, except as otherwise provided, the following words and phrases, together with all of the common derivatives thereof, shall have the meaning ascribed to them as follows:

(1) ‘GEPÁ’ shall mean the Guam Environmental Protection Agency.
(2) ‘Recycling’ means the process by which recovered resources are transformed into new products in such a manner that products lose their initial identity, as defined in § 51102 (18) of Chapter 51 of Title 10 of the Guam Code Annotated.
(3) ‘Recyclable materials’ means materials which still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:
(a) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);
(b) automobiles, buses, and trucks or any form of motorized vehicle;
(c) tires (passenger/commercial);
(d) enameled white goods;
(e) home appliances (other small appliances that are not considered enameled white goods);
(f) glass and plastic bottles;
(g) foam padding;
(h) lead;
(i) metals (ferrous/non-ferrous);
(j) organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);
(k) paper products;
(l) wood pallets and scrap wood;
(m) construction and demolition debris (‘C&D’);
(n) x-ray film;
(o) automobile oil and fluids;
(p) Freon and other refrigerant gases;
(q) electronic waste (i.e., computers, circuit boards, televisions, and portable phones);
(r) heavy equipment; and
(s) other recyclable materials deemed recyclable by GEPA pursuant to the Rules and Regulations.

‘Recycling Company’ means any business licensed by the Department of Revenue and Taxation, and issued a permit, as required in § 51104 of Chapter 51 of Title 10 of the Guam Code Annotated, from the Guam Environmental Protection Agency to conduct business on Guam.

There is hereby established a Municipal Recycling Proceeds Fund for each municipality which shall be maintained separate and apart from any other funds, including the General
Fund of the government of Guam, and independent records and accounts shall be maintained in connection therewith. The proceeds from the sale of recyclable materials collected, in accordance with the Municipal Recycling Program, from each village shall be deposited in the respective Municipal Recycling Proceeds Fund. All revenue deposited in each Municipal Recycling Proceeds Fund shall not be commingled with General Fund monies and shall be kept in a separate bank account. All proceeds from fees collected in accordance with §15703 of this Article shall be deposited in the Municipal Recycling Proceeds Fund for the respective village and used exclusively for the purposes authorized in §15704 of this Article. The Municipal Planning Council of each municipality shall administer the Municipal Recycling Proceeds Fund for its municipality which shall be subject to audits by the Public Auditor.

§ 15603. Creation of the Municipal Recycling Program.

There is hereby created a Municipal Recycling Program within the Guam Solid Waste Authority to promote recycling on the municipal level in partnership with the village mayors. The program shall incorporate the following components:

(a) Recycling Drop-Off Bins. GSWA shall solicit drop-off bins from recycling companies that would be made available to each mayor participating in the Municipal Recycling Program. The recycling drop-off bins shall be rust-proof, and located at a suitable site within the respective villages so that the residents will have a repository to which they can bring recyclable materials in accordance with guidelines established by the Guam Solid Waste Authority. The mayors of each village participating in the program will be responsible for the security and cleaning of the bins, and the supervision of their use for recycling purposes.

(b) Village Education Program. In coordination with the village mayors, GEPA and GSWA shall create educational programs to promote recycling and the use of the recycling drop-off bins within each village.

(c) Sale of Recyclable Materials. In partnership with the village mayors, GSWA shall arrange for the sale of recyclable materials, collected at the Recycling Drop-off Bins in each village, to recycling companies. The proceeds from the sale of recyclable materials shall be deposited into the respective Municipal Recycling Proceeds Fund of the village from which the recyclable materials were collected.
(d) The Program shall first begin with pilot programs at three (3) villages; one
(1) each from northern, central, and southern Guam. The selection of the three (3)
villages shall be made by GSWA in concert with the village mayors.

§ 15604. Authorization for Municipal Planning Councils to Use the Proceeds from
the Sale of Recyclable Materials for Village Needs.
The proceeds from the sale of recyclable materials from a village site shall be retained for
use by the municipal government of that village in its Municipal Recycling Proceeds
Fund. Expenditures from a village’s Municipal Recycling Proceeds Fund shall be
exclusively for the needs of that village as determined by the respective Municipal
Planning Council through adoption of a resolution.

Section 11. Article 7, Article 8 and Article 9 of Chapter 51, Title 10 Guam Code
Annotated are hereby repealed and reenacted under Article 7, Chapter 15, Title 12 Guam
Code Annotated, and shall read:

ARTICLE 7
RECycling ENTERPRISE ZONE

§ 15701. Definitions.

§ 15702. Establishment of Recycling Enterprise Zone.

§ 15703. Eligibility of Recycling Companies for use of the Recycling Enterprise
Zone.

§ 15701. Definitions.
For purposes of this Act, and except as otherwise provided, the following words and
phrases, together with all of the common derivatives thereof, shall have the meaning
ascribed to them as follows:
(1) JLGCP shall mean the Jose D. Leon Guerrero Commercial Port.
(2) Recycle or ‘Recycling’ means the method by which recovered resources are converted
for use as raw material or feedstock to make new products, as defined in § 51102 (35) of
Chapter 51, Title 10 of the Guam Code Annotated.
(3) Recycling company means any business licensed by the Department of Revenue
and Taxation, and has been issued a permit as required in § 51104 of Chapter 51, Title 10
of the Guam Code Annotated by the Guam Environmental Protection Agency (‘GEPA’)
to conduct business on Guam and that specifically commits eighty percent (80%) of its
operations to recycling.

(4) *Transshipment* shall mean to transfer for further transportation from one (1) ship or
conveyance to another.

(4) *Recyclable materials* means materials that still have useful physical or chemical
properties after serving a specific purpose for the same or other purpose. Recyclable
materials are as follows:

(a) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium,
sealed types for power backup);
(b) automobiles, buses, and trucks or any form of motorized vehicle;
(c) tires (passenger/commercial);
(d) enameled white goods;
(e) home appliances (other small appliances that are not considered enameled
white goods);
(f) glass and plastic bottles;
(g) foam padding;
(h) lead;
(i) metals (ferrous/non-ferrous);
(j) organic material (i.e., tree trimmings, palm fronds, grass, food waste,
soiled cardboard);
(k) paper products;
(l) wood pallets and scrap wood;
(m) construction and demolition debris (‘C&D’);
(n) x-ray film;
(o) automobile oil and fluids;
(p) freon and other refrigerant gases;
(q) electronic waste (i.e., computers, circuit boards, televisions, and portable
phones);
(r) heavy equipment; and
(s) other recyclable materials deemed recyclable by GEPA pursuant to the
Rules and Regulations.
§ 15702. Establishment of Recycling Enterprise Zone.

There is established a “Recycling Enterprise Zone” at the Jose D. Leon Guerrero Commercial Port for use by recycling companies for the processing of automobiles, trucks and tires for recycling purposes, and the transshipment of recyclable materials. The size of the zone and its site on the JLGCP property shall be designated by the Board of Directors of the Port Authority of Guam and guided by the provisions of Section 7.1.4 of the Integrated Solid Waste Management Plan. Such designation shall be made within sixty (60) days of the enactment hereof and the site shall be made available for lease to recycling companies. The Board of Directors of the Port Authority of Guam shall determine and charge a reasonable rate for the lease of said property.

§ 15703. Eligibility of Recycling Companies for use of the Recycling Enterprise Zone.

Lease space in the Recycling Enterprise Zone shall only be available to companies that qualify for Qualifying Certificates as recycling companies under guidelines established by the Guam Economic Development Authority.

Section 12. §1921 of Title 1, Chapter 19 Guam Code Annotated is hereby amended to read as follows:

§1921. Supervision of Audits in Autonomous Agencies and Grantees, Manpower Audits.

The Public Auditor is specifically authorized to supervise audits, or at the Public Auditor’s discretion, perform audits, of autonomous agencies and instrumentalities of the government of Guam, inclusive of, but not limited to, the Guam Visitors Bureau (‘GVB’), the Guam Economic Development & Commerce Authority (‘GEDCA’), the Port Authority of Guam (‘PAG’), the A.B. Won Pat Guam International Authority (‘GIAA’), the University of Guam (‘UOG’), the Guam Community College (‘GCC’), the Guam Memorial Hospital (‘GMHA’), the Guam Housing Corporation (‘GHC’), the Guam Housing and Urban Renewal Authority (‘GHURA’), the Guam Power Authority (‘GPA’), the Guam Waterworks Authority (‘GWA’), the Guam Telephone Authority (‘GTA’), the Government of Guam Retirement Fund (‘GGRF’), and the Guam Solid Waste Authority (‘GSWA’).

The Public Auditor is authorized to supervise audits of all funds in excess of Three...
Hundred Thousand Dollars ($300,000.00) for a single fiscal year from the government of Guam that are given in grant or subsidy to non-profit or profit-making groups, inclusive of GVB. The Public Auditor is authorized to audit the hiring practices, manpower levels and staffing patterns of all departments, agencies and bureaus of the Executive Branch of the government of Guam, and to determine and report to I Maga'lahen Guåhan [Governor], I Liheslaturan Guåhan [Legislature] and the Public Utilities Commission (‘PUC’), as appropriate, on the necessity and applicability of employment levels and categories to the department or agency’s purpose and function, as well as draw comparisons with similar entities located elsewhere.

Section 13. §12000 of Chapter 12, Title 12 Guam Code Annotated is hereby amended to read:

§ 12000. Definitions.

As used in this Chapter:

(a) Public Utility means the Guam Power Authority, the Jose D. Leon Guerrero Commercial Port, the Guam Waterworks Authority, the Guam Solid Waste Authority or any duly licensed private contractors operating:

(i) a facility or subsystem of the community-wide water production and distribution system, or

(ii) a facility or subsystem of the community-wide waste water disposal system, or both, or any private golf course management corporation leasing public property providing preferential golf rates and reservations to Guam residents, or

(iii) a marine terminal with facilities for loading and unloading commercial cargo or passengers onto and from ocean common carriers.

(b) Commission means the Public Utilities Commission.

(c) General lifeline rate means a lower than average cost per unit charge for a level of utility service necessary to fulfill the essential needs of all residential customers.

Section 14. Severability. If any provision of this law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect
other provisions or applications of this law which can be given effect without the invalid provisions or application, and to this end the provisions of this law are severable.
Bili No. 35-31 (COR) - T.C. Ada / R.J. Respicio / B.J.F. Cruz / A.B. Palacios, Sr. / A.A. Yamashita / V.A. Ada / C. Duenas / M.S. Taijeron / D.G. Rodriguez, Jr. - An act to amend §12000 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to repeal §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and reenact them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation.

<table>
<thead>
<tr>
<th>NAME</th>
<th>AGENCY OR ORGANIZATION</th>
<th>SUPPORT? OPPOSE?</th>
<th>WRITTEN TESTIMONY</th>
<th>ORAL TESTIMONY</th>
<th>PHONE NUMBER</th>
<th>EMAIL ADDRESS</th>
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</thead>
<tbody>
<tr>
<td>Joseph T. Duenas</td>
<td>AGO</td>
<td>Support</td>
<td>v</td>
<td>v</td>
<td>476-5568</td>
<td><a href="mailto:jtduenas@hotmai.com">jtduenas@hotmai.com</a></td>
</tr>
</tbody>
</table>
Mr. Chairman, the Guam Environmental Protection Agency (Guam EPA) appreciates this opportunity to offer its testimony on Bill 35-31 for your consideration. This Agency supports the intent of Bill 35-31 in its foresight and vision to initiate the process in preparing for the future operations of solid waste. However, please note Guam EPA does not support placing management of the Guam Solid Waste Authority under the purview of the Consolidated Commission on Utilities.

Since July 2010, original discussions on this subject began with Bill 426-30, which Guam EPA participated in roundtable discussions organized by Senator Tom Ada, who was the primary sponsor of that Bill. Since then, modifications on the original content of Bill 426-30 have been made to ensure that Guam EPA’s authority and primacy in solid waste and hazardous waste are not compromised.

There was a recommendation in the 1999 Integrated Solid Waste Management Plan (ISWMP) developed by Dueñas and Associates. As part of the “Management Options Analysis”, the creation of a Solid Waste Management Authority was recommended to
improve the effectiveness of solid waste management in light of the environmental, political and social challenges in implementing the laws and the ISWMP at that time. Although the 1999 ISWMP adopted the public utility as the organizational option and listed the advantages for this option to include long-term debt management, regulation by the public utilities commission, focused mission, privatization and stability, Guam EPA will recommend other options.

In 2006, the ISWMP was updated to reflect the status of solid waste management operations at that time, inclusive of significant events such as the 2004 Consent Decree. Based on the conditions then, the recommendation for the establishment of a Guam Solid Waste Authority was maintained. Moreover, the 2006 ISWMP referenced findings from PUC's Audit Report, which recommended that the Department of Public Works (DPW) Solid Waste Division and activities be transferred to a public corporation. In this light, Guam EPA now recommends that the Guam Solid Waste Authority be under the purview of a Board of Directors, whose members will be appointed by the Governor, and confirmed by the Legislature.

While Guam EPA supports the intent of Bill 35-31 to establish the Guam Solid Waste Authority as an autonomous public corporation, this Agency offers the following recommendations for your consideration:

1. *All* references relating to the "Consolidated Commission on Utilities" or "CCU" in the language of Bill 35-31 should be removed and replaced with references to a Board of Directors whose members shall be appointed by the Governor, and confirmed by the Legislature. This change will allow initial oversight of this fledgling autonomous public corporation by the Legislative and Executive Branches.

2. *Repeal* 10 GCA Chapter 51, Section 51103(b) in its entirety. To provide additional clarity on the transfer of responsibilities from the Department of Public Works Solid Waste Management Division to the Guam Solid Waste Authority, Guam EPA recommends that the *powers and duties of the Department* be removed from this Chapter.

3. *Amend* language in Bill 35-3 to *add* a provision for Guam EPA to receive at least 5% of the tipping fees to augment our current funding in implementing the Solid Waste Management Program within this Agency, including continued compliance inspection of the operations of the Layon Landfill, Ordot Closure and Post Closure, Solid Waste Transfer Stations, etc. The 5% tipping fees should be deposited to the Solid Waste Management fund.\(^1\) GEPA will use the funds to provide administrative and operating expenses related to the regulatory oversight of the Guam Solid Waste Authority.

---

\(^1\) 10 GCA 51 §51117 (PL 23-62) created the Solid Waste Management Fund. "All fees, reimbursements, assessments, fines, bail forfeitures and other funds collected or received pursuant to this Article shall be deposited in this Fund and used for the administration and implementation of this Article, including purchase of equipment and payment of personnel costs of the Agency."
Guam receives no federal funding to implement its solid waste program. Funds received from permit fees and fines cannot sustain the implementation of the program. Aside from GEPA’s recycling program staff of 1, who is 100% funded by the Recycling Revolving Fund, Guam EPA can only support one other full-time employee dedicated to solid waste permitting, inspection, and compliance. In light of our mandated responsibilities and the increase in workload associated with the buildup, a sustainable funding source is needed to maintain this Agency’s mandated responsibilities on solid waste. Thanks to the foresight of Senator Ben Pangelinan and the legislature in allocating some funding for the GEPA solid waste program in FY 2011, GEPA can now outsource technical assistance, albeit for a limited time period.

Considering Guam EPA’s islandwide role in solid waste management, compliance, and enforcement, we believe that the use of the tipping fees towards the support of this Agency’s Solid Waste Management Program is relevant, appropriate, and beneficial to the people of Guam.

This concludes my Testimony on Bill 35-31. Thank you.

IVAN C. QUINATA
Acting Administrator
The Honorable Benjamin J. F. Cruz  
Vice-Speaker, Thirtieth Guam Legislature  
155 Hesler Place  
Hagatna, Guam 96910  

Re: Government of Guam Employees Group Health Insurance Contracts with Selectcare for FY2011 (AG Ref: 10-0966)  

Dear Senator Cruz:  

I am in receipt of your letter dated October 4, 2010 regarding the matter referenced above. We have also received copies of letters you sent to Ms. Bertha Duenas, Director of the Bureau of Budget and Management Research, and to Ms. Lourdes Perez, Director of the Department of Administration, regarding the same matter and raising the same issues.  

We will be reviewing the concerns you brought up in all three letters and will respond to you as soon as our review is completed. Thank you.  

Sincerely,  

John Weisenberger  
Attorney General of Guam  

cc: Ms. Bertha Duenas, Director of BIMR  
Ms. Lourdes Perez, Director of DOA
February 24, 2011

Memorandum

To: Pat C. Santos
   Clerk of the Legislature

From: Senator Rory J. Respicio
       Chairperson, Committee on Rules

Subject: Fiscal Notes

Hafa Adai!

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

Bill Nos.:  
30-31 (COR)  65-31 (COR)  
31-31 (COR)  66-31 (COR)  
35-31 (COR)  68-31 (COR)  
49-31 (COR)  69-31 (COR)  
50-31 (COR)  71-31 (COR)  
56-31 (COR)  72-31 (COR)  
58-31 (COR)  74-31 (COR)  
59-31 (COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!

---
Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Lihealutan Guåhan
The 31st Guam Legislature
155 Hester Place
Hagåtña, Guam 96910

Hafa Adai Senator Respicio:

Transmitted herewith are Fiscal Notes on the following Bill Nos.: 35-31(COR), 49-31(COR), 50-31(COR), 74-31(COR); and Fiscal Note Waivers on Bill Nos.: 31-31(COR), 69-31(COR), 58-31(COR), 59-31(COR) and 56-31(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.

Benita Manglona
Acting Director

Enclosures

cc: Senator Vicente (Ben) Pangelinan
AN ACT TO AMEND §§12090 OF CHAPTER 12 OF TITLE 12, §§79100 AND §§79101 OF CHAPTER 79 OF TITLE 12 AND §§1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA), AND TO REPEAL §§118, ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10 GCA AND REENACT THEM UNDER A NEW CHAPTER 15, TITLE 12 GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

Department/Agency Appropriation Information

Dept./Agency Affected: Public Works
Dept./Agency Head: Joanne M.S. Brown
Department's General Fund (GF) appropriation(s) to date: $8,781,513
Dept.'s Other Fund (Specify) appropriation(s) to date: DPW Building & Design Fund $562,912; Solid Waste Operations Fund $6,446,626; Territorial Highway Fund $8,564,123
Total Department/Agency Appropriation(s) to date: $24,354,274

Fund Source Information of Proposed Appropriation

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<th>General Fund</th>
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<tr>
<td>FY 2011 Adopted Revenues</td>
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<td>$0</td>
</tr>
<tr>
<td>FY 2011 Appro. (F.L. 38-196)</td>
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<tr>
<td>Sub-total:</td>
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<tr>
<td>Less appropriation in Bill</td>
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<tr>
<td>Total:</td>
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<td>$0</td>
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Estimated Fiscal Impact of Bill

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<td>$0</td>
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<td>$/ No</td>
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<tr>
<td>Total</td>
<td>$/ Yes</td>
<td>$/ No</td>
<td>$/ Yes</td>
<td>$/ No</td>
</tr>
</tbody>
</table>

1. Does the bill contain "revenue generating" provisions?
   If Yes, see attachment.
   /X/ Yes / / No

2. Is amount appropriated adequate to fund the intent of the appropriation?
   If no, what is the additional amount required? $ ___________
   /X/ N/A / / Yes / / No

3. Does the Bill establish a new program/agency?
   If yes, will the program duplicate existing programs/agency?
   / / Yes / / No

4. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason:
   /X/ Requested agency comments not received by due date / / Other:
   / / Yes / / No

5. Was Fiscal Note coordinated with the affected dept/agency?
   /X/ Yes / / No

Footnotes:

1. The Bill has a potential for additional funding impact in terms of its transition into and continuation as an autonomous, public corporation to include the hiring of certain administrative positions, and the establishment of physical locations as may be required to implement certain programs specified in the bill language. However, in its present form, that impact cannot be determined at this time.
Bureau of Budget & Management Research
Attachment to Fiscal Note No. 35-31 (COR)
(for revenue generating provisions)

<table>
<thead>
<tr>
<th>Projected Multi-Year Revenues</th>
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</thead>
<tbody>
<tr>
<td>Year 1</td>
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<tr>
<td>--------</td>
</tr>
<tr>
<td>General Fund</td>
</tr>
<tr>
<td>Other Fund: 1/</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

Comments:

1/ Subject to approval of the Public Utility Commission (PUC), the proposed legislation includes revenue-generating provisions through rates and charges for the collection, transportation, disposal, storage, recycling and processing of solid waste; and additionally, through rates and charges for the servicing of debt obtained to undertake capital improvements to solid waste management.
January 19, 2011

MEMORANDUM

To: Pat Santos
   Clerk of the Legislature

From: Senator Rory J. Respicio
   Chairperson, Committee on Rules

Subject: Referral of Bill Nos. 32-31 (COR) through 35-31 (COR)

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 32-31 (COR) through 35-31 (COR).

Please ensure that the subject bills are referred, in my name, to the respective committees, as shown on the attachment. I also request that the same be forwarded to all Senators of I Mina'trentai Unu Na Liheslaturan Guðhan.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu’os ma’āse!

(3) Attachments
<table>
<thead>
<tr>
<th>Bill No.</th>
<th>Sponsor(s)</th>
<th>Title</th>
<th>Date Introduced</th>
<th>Date Referred</th>
<th>Committee/Office Referred</th>
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<tbody>
<tr>
<td>35-31 (COR)</td>
<td>T.C. Ada, R.J. Respicio, B.J.F. Cruz, A.B. Palacios, Sr., A.A. Yamashita, Ph.D., V.A. Ada, C.M. Duenas, M.S. Taijeron, D.G. Rodriguez, Jr.</td>
<td>An act to amend §12000 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to repeal §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and reenact them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation.</td>
<td>1/18/11 3:39 p.m.</td>
<td>1/19/2011</td>
<td>Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting.</td>
</tr>
</tbody>
</table>
March 3, 2011

MEMORANDUM

TO: All Members/All Senators

FROM: Vice Speaker Benjamin J.F.Cruz

RE: First Notice of Public Hearing -March 10, 2011

Hafa Adai! Please be advised that the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting will conduct a Public Hearing on Thursday, March 10, 2011, beginning at 2:30 p.m., in the Legislature's Public Hearing Room for the following items:

• Confirmation Hearing for Cathy Gogue as the General Manager of PBS Guam.
• **Bill No. 35-31 (COR)** - T.C. Ada / R.J. Respicio / B.J.F. Cruz / A.B. Palacios, Sr. / A.A. Yamashita / V.A. Ada / C. Duenas / M.S. Taljeron / D.G. Rodriguez, Jr. - An act to amend §12000 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to repeal §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and reenact them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation.
• **Bill No. 81-31 (COR)** - D.G. Rodriguez, Jr. - An act relative to equitably implementing the certification pay differential salary adjustments for licensed practical nurses of the government of Guam as mandated by law, by amending §6229.6 of Chapter 6, Title 4, Guam Code Annotated.
• **Bill No. 90-31 (COR)** - J.T. Won Pat, Ed.D. - An act to amend §8113, Chapter 8 of Title 5 Guam Code Annotated relative to the minutes of every meeting of each public agency being posted on the public agency's website.

If written testimonies are to be presented at the hearing, we request that you provide copies for distribution, or they may be submitted one day prior to the Office of the Vice Speaker Benjamin J.F Cruz, 155 Hesler Place, Hagatna Guam 96910. They may be sent via facsimile to 477-2522, or via email to chris.carillo@senatorbjcruz.com.

We comply with Title II of the Americans with Disabilities Act (ADA) should you require assistance or accommodations please contact Garrett Duenas at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at garrett.duenas@senatorbjcruz.com.

cc: Clerk of the Legislature
Protocol
Audio/Visual
All Media
Public Hearing 1st Notice 03/10/2011
FestPacPHNotice031011.pdf; BJCRUZ PublicHearing031011.pdf

Hafa Adai,

Please see the attached notices.

Senseramente,

Chris Carillo
Office of the Vice-Speaker, Senator Benjamin J.F.Cruz
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting

I Mina'Trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96910
Phone: (671) 477-2520/1
Fax: (671) 477-2522
Web Address: http://www.senatorbjcruz.com
E-mail: chris.carillo@senatorbjcruz.com

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Hafa Adai All,

Attached are the Corrected Notices.....

Senseramente,

Chris Carillo
Office of the Vice-Speaker, Senator Benjamin J.F.Cruz
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting

I Mina’Trentai Unu na Liheslaturan Guåhan
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March 8, 2011

MEMORANDUM

TO: All Members/All Senators

FROM: Vice Speaker Benjamin J.F.Cruz


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cc: Clerk of the Legislature
    Protocol
    Audio/Visual
    All Media
Thursday, March 10, 2011 - 2:30 PM
Lihae laturu • Public Hearing Room • Hagåtña, Guam

AGENDA

- Confirmation Hearing for Cathy Gogue as the General Manager of PBS Guam.

- Bill No. 35-31 (COR) - T.C. Ada / R.J. Respicio / B.J.F. Cruz / A.B. Palacios, Sr. / A.A. Yamashita / V.A. Ada / C. Duenas / M.S. Taijeron / D.G. Rodriguez, Jr. - An act to amend §12000 of Chapter 12 of Title 12, §79100 and §79101 of Chapter 79 of Title 12 and §1921 of Chapter 19 of Title 1 Guam Code Annotated (GCA), and to repeal §51118, Article 3, Article 4, Article 6, Article 7, Article 8 and Article 9 of Chapter 51 of Title 10 GCA and reenact them under a new Chapter 15, Title 12 GCA for a Guam Solid Waste Authority, an autonomous, public corporation.

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March 18, 2011

MEMORANDUM

To: Patricia C. Santos
   Clerk of the Legislature

From: Senator Judith P. Guthertz, DPA
   Acting Chairperson, Committee on Rules

Subject: Written Testimonies - Bill No. 35-31 (COR) as Substituted

Hafa Adai!

Please attach the enclosed Written Testimonies for Bill No. 35-31 (COR) as Substituted to the Committee Report on Bill No. 35-31 (COR) as Substituted.

Please make the appropriate indication in your records; and forward to MIS for posting on our website.

Si Yu'os ma'åse'!
TESTIMONY OF
IVAN C. QUINATA
ACTING ADMINISTRATOR, GUAM ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE COMMITTEE ON YOUTH, CULTURAL AFFAIRS, PROCUREMENT, GENERAL GOVERNMENT OPERATIONS, AND PUBLIC BROADCASTING

HEARING ON BILL 35-31(COR): AN ACT TO AMEND §12000 OF CHAPTER 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND §1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA), AND TO REPEAL §51118, ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10 GCA AND REENACT THEM UNDER A NEW CHAPTER 15, TITLE 12 GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

March 10, 2011

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In 2006, the ISWMP was updated to reflect the status of solid waste management operations at that time, inclusive of significant events such as the 2004 Consent Decree. Based on the conditions then, the recommendation for the establishment of a Guam Solid Waste Authority was maintained. Moreover, the 2006 ISWMP referenced findings from PUC’s Audit Report, which recommended that the Department of Public Works (DPW) Solid Waste Division and activities be transferred to a public corporation. In this light, Guam EPA now recommends that the Guam Solid Waste Authority be under the purview of a Board of Directors, whose members will be appointed by the Governor, and confirmed by the Legislature.

While Guam EPA supports the intent of Bill 35-31 to establish the Guam Solid Waste Authority as an autonomous public corporation, this Agency offers the following recommendations for your consideration:

1. *All* references relating to the “Consolidated Commission on Utilities” or “CCU” in the language of Bill 35-31 should be removed and replaced with references to a Board of Directors whose members shall be appointed by the Governor, and confirmed by the Legislature. This change will allow initial oversight of this fledgling autonomous public corporation by the Legislative and Executive Branches.

2. *Repeal* 10 GCA Chapter 51, Section 51103(b) in its entirety. To provide additional clarity on the transfer of responsibilities from the Department of Public Works Solid Waste Management Division to the Guam Solid Waste Authority, Guam EPA recommends that the *powers and duties of the Department* be removed from this Chapter.

3. *Amend* language in Bill 35-3 to *add* a provision for Guam EPA to receive at least 5% of the tipping fees to augment our current funding in implementing the Solid Waste Management Program within this Agency, including continued compliance inspection of the operations of the Layon Landfill, Ordot Closure and Post Closure, Solid Waste Transfer Stations, etc. The 5% tipping fees should be deposited to the Solid Waste Management fund.¹ GEPA will use the funds to provide administrative and operating expenses related to the regulatory oversight of the Guam Solid Waste Authority.

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¹ 10 GCA 51 §51117 (PL 23-62) created the *Solid Waste Management Fund*. “All fees, reimbursements, assessments, fines, bail forfeitures and other funds collected or received pursuant to this Article shall be deposited in this Fund and used for the administration and implementation of this Article, including purchase of equipment and payment of personnel costs of the Agency.”
Guam receives no federal funding to implement its solid waste program. Funds received from permit fees and fines cannot sustain the implementation of the program. Aside from GEPA’s recycling program staff of 1, who is 100% funded by the Recycling Revolving Fund, Guam EPA can only support one other full-time employee dedicated to solid waste permitting, inspection, and compliance. In light of our mandated responsibilities and the increase in workload associated with the buildup, a sustainable funding source is needed to maintain this Agency’s mandated responsibilities on solid waste. Thanks to the foresight of Senator Ben Pangelinan and the legislature in allocating some funding for the GEPA solid waste program in FY 2011, GEPA can now outsource technical assistance, albeit for a limited time period.

Considering Guam EPA’s islandwide role in solid waste management, compliance, and enforcement, we believe that the use of the tipping fees towards the support of this Agency’s Solid Waste Management Program is relevant, appropriate, and beneficial to the people of Guam.

This concludes my Testimony on Bill 35-31. Thank you.

IVAN C. QUINATA
Acting Administrator
October 6, 2010

The Honorable Benjamin J. F. Cruz  
Vice-Speaker, Thirtieth Guam Legislature  
155 Hesler Place  
Hagatna, Guam 96910  

Re:  Government of Guam Employees Group Health Insurance  
Contracts with Selectcare for FY2011 (AG Ref: 10-0966)  

Dear Senator Cruz:

I am in receipt of your letter dated October 4, 2010 regarding the matter referenced above. We have also received copies of letters you sent to Ms. Bertha Duenas, Director of the Bureau of Budget and Management Research, and to Ms. Lourdes Perez, Director of the Department of Administration, regarding the same matter and raising the same issues.

We will be reviewing the concerns you brought up in all three letters and will respond to you as soon as our review is completed. Thank you.

Sincerely,

[Signature]

JOHN M. WEISENBERGER  
Attorney General of Guam

cc:  Ms. Bertha Duenas, Director of BBMR  
Ms. Lourdes Perez, Director of DOA
March 18, 2011

The Honorable Rory J. Respicio
Chairperson, Committee of Rules
I Mina’Tentai Unu Na Liheslatuaran Guahan
155 Hesler Place
Hagatna, Guam 96910

Dear Senator Respicio,

Please allow the following testimony to be appended to the Committee Report for Substitute Bill 35-81. The Public Hearing was on March 10 2011 and is well within the 10 day limit. I appreciate it.

Sincerely,

Benjamin J.F. Cruz
March 22, 2011

MEMORANDUM

To: Patricia C. Santos
   Clerk of the Legislature

From: Senator Judith P. Guthertz, DPA
       Acting Chairperson, Committee on Rules

Subject: Written Testimonies - Bill No. 35-31 (COR) as Substituted

Hafa Adai!

Please attach the enclosed Written Testimonies for Bill No. 35-31 (COR) as Substituted to the Committee Report on Bill No. 35-31 (COR) as Substituted.

Please make the appropriate indication in your records; and forward to MIS for posting on our website.

Si Yu'os ma'åse'!
March 14, 2011

Honorable Thomas C. Ada
Chairman
Committee on Utilities, Transportation, Public Works and Veterans Affairs
Senator, Thirty-First Guam Legislature
Suite 207, Ada Plaza Center
173 Aspinall Ave.
Hagatna, Guam 96910

Subject: Bill 35-31 re: Guam Solid Waste Authority

Dear Chairman Ada,

Buenas yan Håfa Adai! The Office of the Attorney General respectfully submits this written testimony on Bill 35-31 with regard to two issues.

We first observed that the proposed new Chapter 15 of Title 12 G.C.A. (that creates the Guam Solid Waste Authority) does not appear to include any provisions that address the statutory authority that Mayors' Offices have "to dump for free trash or debris at the Ordot dump, the Agat transfer station and any other permitted dump site operated by the Department of Public Works (DPW)." See 5 G.C.A. §40113(d). Although it is certainly a policy call to leave that matter alone for another day, we anticipate there may be a future dispute over whether the new Guam Solid Waste Authority as contemplated by Bill 35-31 can charge the Mayors' Offices' statutory authority to dump trash and debris that they have collected. The Guam Legislature may want to make certain that there is no inconsistency or ambiguity between these two laws.

The second issue concerns the hiring and compensation of the Guam Solid Waste Authority's attorney. On page 19 of Bill 35-31, subsection (c) of §15017 of Title 12 G.C.A. reads as follows:

( c ) Notwithstanding any other provisions of law, neither the General Manager, Assistant General Managers, Secretary, Chief Financial Officer, nor Attorney of the Authority shall be within the classified service of the government of Guam but shall be hired, compensated under the terms and conditions fixed by, and at the pleasure of the Board.
(emphasis added). This subsection of the bill indicates that the attorney for the Authority is not within the classified service. This raises the same issue that was before the court in *Haesuer v. Department of Law*, 97 F.3d 1152 (9th Cir. 1996). The *Haesuer* case provides that the Organic Act requires that government attorneys must be included within the merit system unless it is “impracticable” to do so.\(^1\)

\[A\]lthough we do not micromanage Guam's civil service system, we must ensure that the legislature had a reasonable basis for concluding that it was impracticable to include assistant attorneys general within the classified system. Our inquiry is somewhat like rational basis review, (citation omitted) but stricter and more focused. The government cannot exempt a position from the merit system simply for some legitimate governmental purpose, (citation omitted), but only if it is “impracticable” to include the position within the merit system. If it is “practicable” to include the position within the merit system, the position must be included in the merit system. (citation omitted) Moreover, the government cannot rely on mere assertions as to the impracticability of including the position within the merit system. Rather, it must demonstrate—either in the legislative record or in the record before the court—that it is not practicable to include assistant attorneys general within the merit system. (citation omitted).

*Haesuer* at *1157* (internal quotation marks for citing cases omitted). Hence, if it is “practicable,” attorneys— not procured or hired under a contract— who are hired as regular government employees, must receive the same government benefits, including being subject to the same pay scale, as all government attorneys and must receive the same classified employee rights as all other government attorneys.

It is the recommendation of the Office of the Attorney General that the Legislature take into consideration the *Haesuer* case when considering this bill.

Should you have any questions do not hesitate to contact me. *Dângkolo na Agradesimientio!*

Signed,

PHILLIP I. TYDINGCO
Chief Deputy Attorney General

cc: Hon. Leonardo M. Rapadas
    Attorney General of Guam
    Patrick Mason
    Deputy Attorney General (Civil/Solicitors Division)

\(^1\) This would not include attorneys who are under contract with the government and receive full payment for invoices submitted to the government, which invoices are based upon an hourly rate established by contract, and who receive no government benefits.
March 17, 2011

The Honorable Thomas C. Ada, Chairperson
Committee on Utilities, Transportation, Public Works and Veterans Affairs
I Mina’trentai Unu Na Lihesluran Guåhan
Suite 207, Ada Plaza Center
Hagåtña, Guam 96910

Re: Bill No. 35-31

Buenas yan Hafa Adai Senator Ada!

Thank you for permitting the Department of Public Works (DPW) an opportunity to present the following views and written testimony on the above referenced Bill.

For several decades the DPW has had the responsibility for collecting and disposing of residential trash and operating the island’s only municipal solid waste disposal facility, the Ordot Dump. This responsibility was removed from the DPW in March, 2008, when the U.S. District Court of Guam appointed a solid waste management consultant, Gershman, Brickner & Bratton, Inc. (GBB), as Receiver to insure the government of Guam’s compliance with the 2004 Consent Decree to close the Ordot Dump and open a new sanitized landfill. GBB occupies a two story building and a portion of DPW’s compound in upper Tumon and has administrative oversight of approximately sixty-five DPW employees for its operations. Monthly payments for residential trash pick-up and tipping fees for disposal at the Ordot Dump are used by GBB to finance current solid waste disposal operations.

In response to Bill No. 35-31, DPW supports the creation of a Guam Solid Waste Authority (GSWA). We agree that to insure the future success for solid waste management on Guam would be best served with the existence of the Solid Waste Authority. This issue has been discussed for a number of years and was originally proposed in the Solid Waste Management Plan that was developed by Guam EPA to address the best alternatives for waste management.

We are in agreement with the most components of Bill No. 35-31, however, DPW recommends the governing of structure of the GSWA be placed under a Board of Directors appointed by the Governor of Guam, with confirmation of the members by I Lihesluran Guåhan, similar to the boards of directors of the Guam International Airport Authority (GIAA) and the Port Authority of Guam (PAG). This arrangement would be beneficial and preferable than governance by the Consolidated Commission on Utilities (CCU) as the CCU is already burdened with the important responsibility of two large utilities, the Guam Power Authority (GPA) and the Guam Waterworks Authority (GWA). DPW is of the
position that the operation of the new Layon landfill, closure of the Ordot Dump which is anticipated to take two years or more, the continued collection of residential trash, improved recycling programs and the impact to solid waste disposal due to the impending military buildup will require the utmost and full attention of a dedicated Board of Directors.

The DPW appreciates your forth sidedness and vision in introducing legislation that will address the transition process from the Solid Waste Receivership to returning the oversight of solid waste management to the governance of the people of Guam. We appreciate the opportunity to provide comment.

Si Yu’os Ma’ase’,


g

cc: Speaker J.T. Won Pat
Vice Speaker B.J. Cruz
Senator Tina Muna-Barnes
Senator Rory J. Respicio
Senator Judith P. Guthertz
Senator Vicente C. Pangelen
Senator Thomas C. Ada
Senator Adolpho B. Palacios, Sr.
Senator Dennis G. Rodriguez, Jr.
Senator Frank F. Blas, Jr.
Senator Aline A. Yamashita
Senator V. Anthony Ada
Senator Christopher M. Duenas
Senator Sam Mabini
Senator Mana Silva Taijeron
Chrono
AN ACT TO AMEND §12000 OF CHAPTER 12 OF TITLE 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND §1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA), AND TO REPEAL §51118, ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10 GCA AND REENACT THEM UNDER A NEW CHAPTER 15, TITLE 12 GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent.

I Liheslaturan Guåhan finds that the history of the Government of Guam’s (GovGuam) violation of the Clean Water Act goes back to 1986, when the United States Environmental Protection Agency issued an administrative order directing the island’s Department of Public Works to cease the discharge of leachate from the Ordot Dump. Twenty-four (24) years later, the Ordot Dump, the island’s only municipal site for solid waste disposal, continues to leach contaminants, posing an environmental and health hazard. A Consent Decree was approved by the U.S. District Court of Guam in February 2004, yet compliance with its mandates has been minimal. GovGuam’s commitment to comply with the Consent Decree was not enough to rectify the island’s solid waste crisis. Consequently, on March 17, 2008, Gershman, Brickner & Bratton, Inc. (GBB), solid waste management consultants, was appointed as Receiver by the District Court of Guam
to achieve the government’s compliance with the Clean Water Act as set forth in the Consent Decree. GBB has full power and authority to enforce the terms of the Consent Decree to include assumption of the functions, powers and authority of the Solid Waste Management Division of the Department of Public Works insofar as they affect GovGuam’s compliance with the Consent Decree.

I Liheslaturan Guåhan intends to prepare GovGuam for the eventual resumption of all functions, responsibilities and authority for solid waste management and operations, subsequent to the U.S. District Court determination that the Consent Decree has been satisfied and that GovGuam would have the capability to manage, operate and sustain a compliant solid waste service and landfill. I Liheslaturan Guåhan intends to establish the Guam Solid Waste Authority (GSWA), an autonomous public corporation, as successor to the Solid Waste Management Division, a sub-entity of the Department of Public Works.

I Liheslaturan Guåhan intends to place the GSWA under the governance of the CCU. I Liheslaturan Guåhan finds that the Consolidated Commission on Utilities (CCU), a governing body created by P.L. 26-76 in March 2002, has successfully provided effective governance to the Guam Power Authority (GPA) and the Guam Waterworks Authority (GWA) using best management and business practices and that the CCU has the governing experience and capacity to similarly manage the GSWA. Placing the GSWA under the governance of the CCU from the outset, will better assure a successful and stabilized transition.

Section 2. §79100 of Chapter 79 of Title 12 of the Guam Code Annotated is hereby amended to read as follows:

§79100. Creation of Commission. There is established an elected Consolidated Commission on Utilities whose purpose is to exercise powers vested in them by the laws establishing the Guam Power Authority (‘GPA’), the Guam Solid Waste Authority (‘GSWA’) and the Guam Waterworks Authority (‘GWA’). The Consolidated Commission on Utilities, hereinafter referred to as “Commission” shall be elected by registered voters of Guam.
Section 3. §79101 of Chapter 79 of Title 12 of the Guam Code Annotated is hereby amended to read as follows:

§79101. Commissioners. The Commission shall be comprised of five (5) Commissioners elected at-large by the voters of Guam in a General Election. To be eligible to be a Commissioner, a person must be a registered voter of Guam and a minimum of twenty-five (25) years of age, and shall have been a resident of Guam for at least five (5) years immediately prior to the date of the Commissioner’s election.

A person may not simultaneously serve as a Commissioner and an employee of the Guam Waterworks Authority, the Guam Power Authority, the Guam Solid Waste Authority, or the Public Utilities Commission, or simultaneously serve as a Commissioner and an unclassified or contracted employee of the government of Guam. An adjunct instructor, adjunct teacher, or adjunct professor employed by the University of Guam or the Guam Community College may serve as a Commissioner.

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

Section 4. Transition Liaison. Upon enactment of this Act the Commission shall establish a liaison with the Receiver, Gershman, Brickner & Bratton, Inc. and begin discussions preliminary to achieving the objective of GovGuam’s eventual resumption of all functions, responsibilities and authority for solid waste management and operations and the governance thereof.

Section 5. Effective Date of Governance of the Authority. Governance of the Guam Solid Waste Authority by the Commission shall take effect upon determination by the United States District Court that the requirements of Section XIV of the Consent Decree (Civil Case No. 02-00022, United States of America, Plaintiff, v. Government of Guam,
Defendant) have been fulfilled, and governance of the Municipal Solid Waste Management is returned to the Government of Guam.

Section 6. A new Chapter 15 is hereby added to Title 12 the Guam Code Annotated, and shall read:

CHAPTER 15

GUAM SOLID WASTE AUTHORITY

Article 2. Guam Solid Waste Authority Revenue Bonds
Article 3. Transition to a Guam Solid Waste Authority
Article 4. Annual Contract for Scrap Removal
Article 5. Contract for Collection of Recyclable Paper
Article 6. Municipal Recycling Program
Article 7. Recycling Enterprise Zone

Article 1.

General Provisions.

§15001. Short Title.
§15002. Definitions.
§15003. Continuation of Existence.
§15004. Powers and Duties of the Authority
§15005. Governance of the Authority.
§15006. General Manager (GM).
§15008. Assistant GM: Administration
§15009. Chief Financial Officer.
§15010. Other Officers.
§15011. Employees.
§15012. Acquisition of Existing Systems, Employees and Debt.
§15013. Exemption from Taxation and In Lieu Payments.
§15014. General Operations.
§15015. Accounting and Expenditures.
§15016. Annual Budget.
§15001. Short Title.

This Chapter may be cited as the Guam Solid Waste Authority Act.

§15002. Definitions. As used in this Chapter, unless otherwise indicated:

1. **Authority** means the Guam Solid Waste Authority (GSWA).

2. **General Manager** (GM) means the General Manager of GSWA.

3. **Best public interest** means any activity which: lessens the demand for landfill sites, conserves land resources and serves to insure proper, cost effective, and environmentally sound disposal of solid waste; and, does not pose health risks to human life or endanger plant and animal life.

4. **Commission** means the Consolidated Commission on Utilities.

5. **Business** means and includes any activity or conduct, whether proprietary, partnerships, corporate or whatever form, engaged in, or caused to be engaged in, with the object of gain or economic benefit, either direct or indirect, but shall not include casual sales, personal service contracts, fundraising activities by political candidates or the activities of non-profit associations.

6. **Collection** or **Collect** means the removal of solid waste from a generator.

7. **Collector** means any individual, governmental organization or business, which has received a permit to collect and transport waste in accordance with applicable laws and regulations.

8. **Combustion** means to thermally break down certain types of solid waste in an enclosed device using controlled temperatures.

9. **Composting** means the controlled degradation of organic solid waste.

10. **Disposal** means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water.

11. **Dump** means a land site where solid waste is disposed without a valid permit, or a landfill that has historically been in regulatory noncompliance.
(12) *Duplex* means a residential building containing two (2) separate dwelling units either side by side or one above the other.

(13) *Dwelling* means a building or portion thereof designed exclusively for residential occupancy by one (1) family for living and sleeping purposes and not to exceed two (2) dwelling units.

(14) *Dwelling unit* means one (1) or more rooms and a single kitchen in a dwelling, designed as a unit for occupancy by one (1) family for living and sleeping purposes.

(15) *Financial assurance* means a financial guarantee assuring that funds are available to pay for the design, construction, operation and closure of a solid waste landfill facility, for rendering post-closure at a solid waste landfill facility, for corrective action and to compensate third parties for bodily injury and property damage caused by sudden and non-sudden accidents related to the operation of a solid waste landfill facility.

(16) *Generator* means any person that generates or produces solid waste.

(17) *Government* means the government of Guam, all of its agencies, whether line or autonomous, and all public corporations.

(18) *Hardfill* shall mean a method of compaction and earth cover of solid wastes other than those containing garbage or other putrescible (putrescent) waste, including, but not limited to, demolition material, and like materials not constituting a health or nuisance hazard, where cover need not be applied on a per day used basis. No combustible materials shall be deposited in a hardfill.

(a) *Combustible Materials* shall mean any solid or liquid that may be ignited.

(i) *Combustible Solids*, as defined in Title 49 of the Code of Federal Regulations, Chapter 1, Subtitle B, Part 173.124, are those capable of igniting and burning.

(ii) *Combustible Liquids*, as defined in Title 29 of the Code of Federal Regulations, Chapter 17, Subtitle B, Part 1910.106, shall mean any materials having a flash point at or above 100 degrees Fahrenheit (37.8 degrees Celsius), but below 200 degrees Fahrenheit (93.3 degrees Celsius), except any mixture having components with flashpoints of 200 degrees Fahrenheit (93.3 degrees Celsius), or higher, the total volume of which make up ninety-nine percent (99%) or more of the total volume of the mixture.
(19) **Hazardous Waste** means any material or substance which, by reason of its composition or characteristics:

   (a) hazardous waste as defined in the Solid Waste Disposal Act, 42 USC '6901, et seq., as amended, replaced or superseded and the regulations implementing same,

   (b) a hazardous substance as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC § 9601, et seq.,

   (c) material the disposal of which is regulated by the Toxic Substances Control Act, 15 USC '2601, et seq., as amended, replaced or superseded, and the regulations implementing same,

   (d) special nuclear or by-products material within the meaning of the Atomic Energy Act of 1954,

   (e) pathological, infectious or biological waste,

   (f) treated as hazardous waste or as a hazardous substance under applicable law,

   (g) requires a hazardous waste or similar permit for its storage, treatment, incineration of disposal,

   (h) may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness, or

   (j) may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise damaged.

(20) **Highway** means the entire width between the boundary lines of every right-of-way or publicly maintained travel ways when any part thereof is open to the use of the public for purposes of vehicular travel.

(21) **Incinerator** means an enclosed device using controlled flame combustion, the primary purpose of which is to thermally break down solid waste.

(22) **Multi-family dwelling** means a building containing three (3) or more dwellings.

(23) **Operator** means any person who accepts solid waste from a collector for transfer, storage, recycling, combustion, processing or disposal.

(24) **Performance bond** means a security for financial loss caused by the act or default performance of a person or by uncontrollable conditions.
(25) Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, or any agency, department, or instrumentality of the Federal or local government, or any other legal representatives, agents or assigns.

(26) Plan means the interim or final Solid Waste Management Plan (‘SWMP’) prepared and adopted by the GEPA in accordance with the Administrative Adjudication Law.

(27) Plasma torch heating technology means converting electrical energy into heat energy producing clean fuel gas and recyclable slag.

(28) Plasma Remediation In-Situ Materials (‘PRISM’) means a plasma torch technology process that melts down and converts landfill material into slag and fuel gas.

(29) Pollution means the condition caused by the presence in the environment of substances of such character and in such quantities that the quality of the environment is impaired or rendered offensive to life.

(30) Processing means any method, system or other treatment designed to change the physical, chemical or biological character or composition of any solid waste. This includes the neutralization of any hazardous waste; the rendering of any hazardous waste non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume; or any other activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous.

(31) Recyclable materials includes the following materials discarded from households, businesses, commercial and industrial establishments, hotels, government, agricultural, landscaping, yard maintenance and military operations which may be reused or for which a market exists:

   (a) aluminum means any product manufactured of aluminum or aluminum alloy;

   (b) battery means any lead acid battery or dry cell battery discarded on Guam, independent of intended use;

   (c) biomass means any large biomass source, such as trees, wood, grass, hedge cuttings, jungle growth, yard waste and sewage sludge;

   (d) construction debris means the materials from building construction;
**(e)** *corrugated cardboard* means kraft, jute or test liner pulp which is made by combining two (2) or more webs of paper and formed or shaped into wrinkles or folds or into alternate ridges and grooves;

**(f)** *demolition waste* means the materials obtained from the demolition or razing of buildings;

**(g)** *glass* means any product manufactured from a mixture of silicates, borates or phosphates;

**(h)** *metal scrap* means any metal, in whole or in parts, from buildings, equipment, machinery or vehicles;

**(i)** *newspaper* means a publication which is distributed and contains news articles, opinions, features, and advertising and is printed on impermanent wood pulp materials;

**(j)** *office paper* means computer paper and white and colored ledger paper;

**(k)** *used oil* means any petroleum-based, mineral, or synthetic oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties; and

**(l)** such other materials which the Authority determines, from time to time, may be recycled.

**(32)** *Recycle* or *Recycling* means the method by which recovered resources are converted for use as raw material or feedstock to make new products.

**(33)** *Resource recovery* means the process of recovering recyclable materials or the recovery of energy from solid waste.

**(34)** *Resource Recovery Facility* (‘RRF’) is a facility that recovers for sale or reuse of recyclable materials.

**(35)** *Reusing* means the reintroduction of a commodity in the economic stream without any changes.

**(36)** *Sanitary landfill* means an approved site where solid waste and ash are disposed using modern sanitary landfilling techniques in accordance with Federal and local regulations.

**(37)** *Sanitary landfilling* means an engineered method of disposing of solid waste on land in accordance with Federal and local regulations in a manner that protects the
environment by spreading the waste in thin layers, compacting it to the smallest practical volume, and covering it with approved material at the end of each working day.

(38) Separation means the systematic division of solid waste into designated components.

(39) Single Family Residence means a detached building designed for and/or occupied exclusively by one (1) family, or one (1) of two (2) dwelling units on a duplex.

(40) Solid waste means any garbage, refuse or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded and/or spilled materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, mining, commercial, and agriculture operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under '402 of the Federal Water Pollution Control Act, as amended (68 Stat. 880) , or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(41) Solid waste management means the purposeful, systematic control of the generation, storage, collection, transportation, separation, processing and disposal of solid waste.

(42) Solid waste management facilities means any facility, or any machinery, equipment, vehicles, structures or any part of accessories thereof installed or acquired for the primary purpose of: collection, transportation, storage, recycling, processing or disposal of solid waste, and shall include sanitary landfills, resource recovery facilities, or plasma torch.

(43) Solid Waste Management Plan means a comprehensive plan and all amendments and revisions thereto for provisions of solid waste management throughout Guam.

(44) Solid waste management practices means the actions to effectuate the generation, storage, collection, transportation, processing, recycling, incineration, plasma torch or resource recovery or disposal of solid waste.

(45) Solid Waste Management System (‘SWMS’) means the entire system covered in the SWMP and designated by the Director for the storage, collection, generation,
transportation, processing, recycling, incineration, plasma torch and disposal of solid waste within Guam.

(46) Source separated waste means recyclable materials that are set aside by the generator for segregated collection and transport to solid waste management facilities.

(47) Storage means the interim containment of solid waste in accordance with Federal and local regulations.

(48) Transfer station shall mean any intermediate waste facility in which solid waste collected from any source is temporarily deposited and stored while awaiting transportation to another solid waste management facility.

§ 15003. Continuation of Existence. The Solid Waste Management Division, a sub-entity of the Department of Public Works shall continue in existence as an autonomous, public corporation now referred to as the Guam Solid Waste Authority (GSWA).

§ 15004. Powers and Duties of the Authority. The Authority shall have and exercise each and all of the following powers:

(a) Administer those powers listed under this Chapter 15, Title 12 of the Guam Code Annotated.

(b) Acquire by grant, purchase, gift, devise or lease, or by the exercise of the right of eminent domain in accordance with the provisions and subject to limitations of GCA Chapter 15, and hold and use any real or personal property necessary or convenient or useful for the carrying on of any of the powers pursuant to the provisions of this Chapter;

(c) Establish its internal organization and management, and adopt regulations for the administration of its operations;

(d) Establish and modify from time to time, with approval of the Public Utility Commission (PUC), reasonable rates and charges for the collection, transportation, disposal, storage, recycling and processing of solid waste to recover the full cost of providing such services, and collect money from customers using such services.

Similarly, the Authority shall establish and modify from time to time, with the approval of the Public Utilities Commission, reasonable rate and charges for servicing of debt obtained to undertake capital improvements to solid waste management;

(e) Enter into contracts and execute all instruments necessary or convenient in the
exercise of its powers, adopt a seal and sue or be sued in its own corporate name;

(f) At any time or from time to time, incur indebtedness pursuant to Article 2 of this Chapter;

(g) Enter into contracts with the Government of Guam or with the United States for loans or grants;

(h) Employ, retain or contract for the services of qualified solid waste management specialists or experts, as individuals or as organizations, to provide technical advice and assistance;

(i) Adopt such rules and regulations as may be necessary for the exercise of the powers and performance of the duties conferred or imposed upon the Authority or the Board by this Act;

(j) Control, operate, improve, equip, maintain, repair, renew, replace, reconstruct, alter and insure that the solid waste management system is compliant with any applicable zoning, building, environmental and health regulations of the territory of Guam; and

(k) Do any and all other things necessary to the full and convenient exercise of the above powers;

(l) enter into public-private partnerships for solid waste management facilities and operations, the closure and beneficial use of the Ordot Landfill site, source reduction, recycling, composting, resource recovery, waste reduction and transfer stations. This duty shall also address construction debris or demolition waste, metallic debris, white goods, tires and green waste contracts;

(m) organize, plan for, secure and manage resources and promote the implementation of the Solid Waste Management Plan;

(n) evaluate and promote capital improvements and maintenance programs to the solid waste management system;

(o) address the necessity for a facility for the shredding of tires for recycling or for use as rubberized asphalt;

(p) address the necessity for a facility for the recycling of glass, including its use as glassphalt;

(q) address the necessity for a facility for the recycling of scrap metals, including discarded vehicles, appliances and equipment, including shredding for containerization or
other shipment;

(r) require the preparation of any necessary environmental impact assessments or environmental impact reports;

(s) mandate the inspection and monitoring of all solid waste management facilities to assure compliance with this Act, the Plan, other law, rules and regulations applicable to Guam; and

(t) apply for all grants-in-aid requests and administer any such programs or funds, except those established for recycling.

Nothing contained in this Section or elsewhere in this Article shall be construed directly or by implication to be in any way in derogation or limitation of powers conferred upon or existing in the Authority or the Board by virtue of any provisions of the Organic Act of Guam or Statutes of the Territory or any other provision of this Code.

§ 15005. Governance of Authority. All powers vested in the Authority, except as provided herein, shall be exercised by the Board of Directors upon relief of the Receiver by the U.S. District Court.

§ 15006. General Manager.

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

i). A combined minimum of six (6) years of documented experience successfully managing a Solid Waste Management System of similar size as the GSWA system, and

ii). Graduation from an accredited institution of higher education with a Bachelors degree in Business Management, Engineering Management, Engineering Technology or Civil Engineering, or

(b) The Board shall fix the general manager’s compensation, notwithstanding any other provision of law. The general manager shall manage the construction, maintenance, operation and administration of business affairs of the Authority.

(c) The Board may contract with a business entity to perform any or all of the duties, and to exercise any or all of the powers of the general manager as provided in this Section, and the general manager, subject to the approval of the Board, may contract with
a business entity to perform some of the duties or to render expert and technical assistance in the operation of the Authority. The Initial Term of such a management contract shall be for a period of up to three (3) years. The Authority shall also have the option for two (2) Renewal Terms of five (5) years each. The contracted business entity pursuant to this Section must have a minimum of ten (10) years experience in management and operation of a solid waste system of similar or greater scope than the Authority.

(d) The powers and responsibilities of the General Manager shall include the following:

(i) To enforce all rules and regulation of the Authority;
(ii) To attend all meetings of the Board and submit a general report of the affairs of the Authority;
(iii) To keep the Board advised as to the needs of the Authority, to approve demands for the payment of obligations of the Authority, and to approve expenditures and collection of revenue within the purposes and amounts authorized by the annual budget;
(iv) To prepare, or cause to be prepared, all plans and specifications for the constructions of work by the Authority in accordance with the annual budget;
(v) To select and appoint the employees of the Authority, except as otherwise provided by this Chapter, and to plan, organize, coordinate and control the services of such employees in the exercise of the powers of the Authority under the general direction of the Board;
(vi) To cause to be published within one hundred twenty (120) days from the end of each fiscal year a financial report, which shall include an annual financial audit pursuant to §1908 and §1909 of Chapter 19, Title 1 Guam Code Annotated. This report should present the result of operations for the preceding fiscal year and the financial status of the Authority on the last day thereof. The publication shall be made in the manner provided by the Board; and
(vii) To perform such other and additional duties as the Board may require.
§15007. **Assistant General Manager: Operations and Technical Support.**

The General Manager, with the consent of the Board, may appoint an Assistant General Manager for Operations and Technical Support, who shall serve at the pleasure of the General Manager.

(a) The Assistant General Manager of Operations and Technical Support shall be entitled to receive compensation as recommended by the General Manager and approved by the Board.

(b) Such Assistant General Manager shall devote his entire time to the business of the Authority and shall have full charge and control, subject to the direction of the General Manager, of all operations, engineering and technical services pertaining to the generation, storage, collection, transportation, processing, recycling, resource recovery or disposal of solid waste.

(c) Such Assistant General Manager shall have such other duties as may be designated by the General Manager.

§15008. **Assistant General Manager: Administration.**

The General Manager, with the consent of the Board, may appoint an Assistant General Manager for Administration, who shall serve at the pleasure of the General Manager.

(a) The Assistant General Manager of Administration shall be entitled to receive compensation as recommended by the General Manager and approved by the Board.

(b) Such Assistant General Manager shall devote his/her entire time to the business of the Authority and shall have full charge and control, subject to the direction of the General Manager, of all administration of the Authority.

(c) Such Assistant General Manager shall have such other duties as may be designated by the General Manager.

§15009. **Chief Financial Officer.** The Board may appoint a chief financial officer who shall be a Certified Public Accountant. The Board shall fix the chief financial officer’s compensation. The chief financial officer shall have full charge and control of the fiscal, business and accounting operations of the Authority, subject to the supervision of the Board.

§15010. **Other Officers.**
(a) The Board may also appoint a Secretary and an Attorney, who all shall serve at
the pleasure of the Board and whose duties and compensation shall be fixed by the Board.
The Board may appoint one or more assistants to any such office. Any of such offices
may be consolidated in one person.

(b) The Secretary shall have charge of all records and minutes of the Board.

(c) The Attorney, who must have been admitted to practice in Guam, shall advise
the Board and the General Manager on all legal matters to which the Authority is a party
or in which the Authority is legally interested and may represent the Authority in
connection with legal matters before the Legislature, boards and other agencies of the
Territory. The Attorney General shall represent the Authority in litigation concerning the
affairs of the Authority provided that he may delegate this duty to the Attorney of the
Authority, with respect to any such litigation.

§ 15011. Employees. All employees of the Authority shall be eligible for all insurance,
retirement, worker’s compensation and other benefits as extended to employees of the
government of Guam, and shall be employees of the government of Guam for the
purposes of the application of all civil service laws and personnel rules and regulations
that apply to government of Guam employees, inclusive of all scales, tables and
schedules for compensation. With respect to compensation, this Section shall not apply to
the compensation of the General Manager, Assistant General Manager: Administration,
Assistant General Manager: Operations and Technical Support, Secretary, Attorney or the
Chief Financial Officer.

§ 15012. Acquisition of Existing Systems, Employees, and Debt. Ninety (90) days
after the effective date of this Act the Authority shall assume in writing from the
Department of Public Works, Solid Waste Management Division:

(a) all real property under the DPW Solid Waste Management Division (SWMD)
administration and items of property, materials and supplies which the SWMD owns or
controls, including construction work in progress.

(b) all working capital, cash, accounts payable and receivable, deposits, advances
payable and receivable, all books, records and maps and all other rights, obligations,
assets, liabilities, agreements and privileges of the Authority or attributable to the
Authority.
(c) Each Government of Guam employee assigned to the Department of Public Works, Solid Waste Management Division at the date of the transfer pursuant to statute shall be transferred to the Authority. All classified employees shall remain classified.

§ 15013. Exemption from Taxation, and In Lieu Payments. As an instrumentality of the Territory, the Authority and all property acquired by or for the Board and all revenues and income from taxation by the Territory or by any political subdivision or public corporation thereof and from all taxes imposed under the authority of the Legislature of the Territory, or with respect to which the Legislature is authorized to grant exemption.

§ 15014. General Operations. Rates for Services. The Authority shall apply to the Public Utilities Commission (PUC) for establishment of its rates for its services including, but not limited to:

(a) Operating Costs:

i. Layon Landfill
ii. Commercial Transfer Stations
iii. Retail Transfer Stations
iv. Residential Trash Collection
v. Bulky and Metallic Waste collection
vi. Recycling
vii. Customer Service and Education
viii. Equipment Maintenance
ix. Household Hazardous Waste
x. Administration

(b) Reserve Fund Costs.

i. Debt Service
ii. Equipment Replacement
iii. New Cell Development
iv. Closure of Cells
v. Post Closure Care

§ 15015. Accounting and Expenditures.

(a) The Board shall adopt and maintain a system of accounting.

(b) The Board shall authorize, by means of the annual budget, payment of demands
against the Authority resulting from the exercise of its powers under this Act if:

i. the purposes and amounts of such demands are projected in the budget, expressed in terms of major account groups of the Uniform System of Accounts, which has been adopted by the Board after receiving recommendations from the General Manager; and

ii. the specific demands which are made are approved by the Board before payment.

(c) The Board shall employ, in accordance with the appropriate procurement laws and the annual budget, a firm of locally licensed, independent Certified Public Accountants who shall annually examine the financial status and workings of the Authority for the previous fiscal year. Said firm shall submit no later than February 1st of each year, a written report on the financial status and workings of the Authority during the previous fiscal year to I Magalahan Guåhan [Governor], the General Manager and I Lihesluran Guåhan. I Magalahan Guåhan and I Lihesluran Guåhan may request special reports within thirty (30) days after the end of each fiscal quarter. The financial information presented in the reports required by this Section shall be in accordance with the Uniform System of Accounts adopted by the Board. Claims against the Guam Solid Waste Authority shall be submitted to the Attorney General of Guam in accordance with the Government Claims Act.

§ 15016. Annual Budget. For the purposes of Chapter 15 of Title 12 of the Guam Code Annotated, the term annual budget means a balanced budget for expenditures of the Guam Solid Waste Authority for a fiscal year to be funded by the anticipated revenues and other funds to be received and expended for the same fiscal year, submitted to the Board and approved by resolution, with amendment and modification as may be desired by the Board.

(a) If the Authority fails to submit a budget for the next fiscal year, the current fiscal year’s budget shall be deemed approved for the next fiscal year, subject to Board modification.

§ 15017. Employment.

(a) Pursuant to the provisions of 4 GCA §§4105 and 4106, the Board shall establish rules and regulations regarding selection, promotion, performance evaluation, demotion.
suspension and other disciplinary action for the employees of the Authority which shall
be transmitted to I Liheslatura Guahan [Legislature] to be ratified, which thereafter shall
supersede the provisions in §15110 of this Chapter. All contracts for the hiring of off
island employees shall conform to the provisions of 4 GCA §§6501 and 6501.1.
(b) Classified employees of the Authority shall be members of the government of
Guam Retirement Fund. The Authority shall contribute to the government of Guam
Retirement Fund on the basis of annual billings as determined by the Board of Trustees
of the government of Guam Retirement Fund, for the government share of the cost of the
retirement benefits applicable to the Authority’s employees and their beneficiaries. The
Authority shall also contribute to the Worker’s Compensation Fund, on the basis of
annual billings as determined by the Worker’s Compensation Commissioner, for the
benefit payments made from such Fund on account of the Authority’s employees.
(c) Notwithstanding any other provisions of law, neither the General
Manager, Assistant General Managers, Secretary, Chief Financial Officer, nor Attorney
of the Authority shall be within the classified service of the government of Guam but
shall be hired, compensated and employed under the terms and conditions fixed by, and
at the pleasure of the Board.

Article 2. Guam Solid Waste Authority Revenue Bonds.
§15200. Authorization of Indebtedness Through GEDA.
§15201. Guam Economic Development Authority as Central
Financial Manager.
§15202. Evidence of Transfers Filed at the Department of Land Management.
§15203. Statutory Approval Required for Sale.
§15204. Acceptance of Payments, Installation Applications and
Service/Repair Requests via the Internet.

§15200. Authorization of indebtedness through GEDA. The Guam Economic
Development Authority (‘GEDA’) may obtain funds through the issuance of bonds or
other obligations on behalf of the Authority.
(a) Bonds or Notes. Accordingly, the Authority, through GEDA, with the approval
of I Magalahan Guahan and I Liheslaturan Guahan is authorized to incur indebtedness,
and to issue bonds or notes therefor, secured by a pledge of all or any portion of the
revenues of the Authority, to establish and facilitate the Solid Waste Management Plan, and collection, transportation, storage, recycling, processing or disposal of solid waste, which shall include sanitary landfills and resource recover facilities.

(b) Subordinated Indebtedness. In addition, the Authority, acting through GEDA, may incur indebtedness for any other lawful purpose of the Authority, provided that such indebtedness shall have a term not exceeding fifty (50) years and shall be subordinate to any contractual obligation of the Authority to the holders of any indebtedness issued pursuant to subsection (a) of this section.

(c) Short Term Borrowing. Pursuant to GEDA, the Authority may incur indebtedness with the approval of the Governor for any lawful purpose for a term not exceeding five (5) years; provided, that such indebtedness shall be subject and subordinate to any contractual obligation of the Authority to the holders of any bonds issued pursuant to paragraphs (a) or (b) of this section. The principal of and interest of any such short term borrowing may be repaid from revenues, or if incurred for a purpose for which bonds may be issued, from revenues or from the proceeds of sale of bonds.

(d) Character of Indebtedness. All indebtedness incurred by the Authority pursuant to this Article shall be repayable solely from monies of the Authority available therefor, including revenues, and shall not be deemed to be public indebtedness of the Territory as that term is used in Section 11 of the Organic Act.

(e) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6, Title 5, Guam Code Annotated, the Authority shall not be entitled to immunity from any suit or action in contract on the indebtedness authorized by this Article.

§15201. Guam Economic Development Authority as Central Financial Manager.

Notwithstanding any other provisions of this Article, the Guam Economic Development Authority shall act as the Central Financial Manager and Consultant to the Authority and shall provide technical assistance in obtaining funds through the issuance of bonds or other obligations. The Authority must comply with all provisions under this section relative to the financial requirements and needs as directed by GEDA.

§ 15202. Evidence of Transfers Filed at the Department of Land Management.

Transfer of real property interests pursuant to this Act, including but not limited to fee
estates, easements and land use rights evidenced by easements, leases and licenses, shall
be filed in the form of deeds or assignments signed by I Magalahan Guahan in good form
containing specific property descriptions, lot numbers and map numbers, at the
Department of Land Management within 360 days of the effective date of this Act. Any
transfer not filed within such time frame shall lapse and be of no further force and effect
unless re-initiated or authorized by separate statutory legislation authority. Any
subsequent easements or transfers of property from the Government of Guam, including
the Chamorro Land Trust Commission, shall be in the form of deeds or assignments in
good form containing specific property descriptions, lot numbers and map numbers,
recorded at the Department of Land Management.

§ 15203. Statutory Approval Required for Sale. Notwithstanding any of the provisions
of this Act, specific legislative statutory approval shall be required prior to sale, transfer
or lease of any real property assets or lands of the Guam Solid Waste Authority. Nothing
herein shall be construed as such approval. In addition, notwithstanding any other
provision contained herein, the provisions of 1 GCA § 1800 shall be applicable to the
Guam Solid Waste Authority.

§ 15204. Acceptance of Payments, Installation Applications and Service/Repair

Requests via the Internet.

(a) Notwithstanding any other provision of law, the Guam Solid Waste Authority
shall provide that the following services be made available via the internet:

(i) Acceptance of online payments;

(ii) Application for installation of new and additional services, and

(iii) Requests for service and repair.

(b) The Guam Solid Waste Authority shall provide an email address(es) for
inquiries regarding subsection (a) (1), (2) and (3).

(c) Nothing herein shall be construed as limiting the Authority’s ability to receive
payments through online payment and/or banking services.

(d) The Guam Solid Waste Authority shall set, by Administrative Rule, the
timeframes to which email inquiries must be addressed and dispensed with.

(e) The Guam Solid Waste Authority shall adopt appropriate security measures
necessary to protect its customers from fraud and identity theft.
Article 3. Transition to the Guam Solid Waste Authority

§15301. Effective Date.

§15301. Effective Date. The provisions of this Act shall take effect upon ninety (90) days of enactment of this Act except as specified in Section 5 of this Act.

Section 7. §51118 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted as §15018, Chapter 15, Title 12 Guam Code Annotated, and shall read:

§15018. Solid Waste Operations Fund.

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

(b) Commercial and Residential Tipping Fees. All commercial and residential tipping fees charged by the Authority shall be subject to the review and approval of the Public Utilities Commission.

(c) Business and Governmental Tipping Fees. A tipping fee per cubic yard, uncompacted, shall be established for business and government generators, subject to approval by the Public Utilities Commission (PUC), and shall be published in a rate order developed by the PUC.

(d) Residential Tipping Fees. A residential tipping fee, which may include collection charges and a Self-Drop Fee, may be established subject to the approval of the PUC.

(e) PUC Rate-making. The Public Utilities Commission of Guam [‘PUC’] is hereby authorized to establish, amend and approve, in accordance with Chapter 12 of Title 12, Guam Code Annotated, all commercial, government and residential tipping and user fees [including without limitation a self-drop fee, a variable residential tipping fee and, collectively referred to as ‘tipping fees’], which when established shall replace those previously created by law. Tipping fees authorized and established by PUC shall be based on volume and on an analysis of operations costs, including those cost components specifically listed under §15014 of this Act. PUC is empowered to undertake a focused management audit of the existing operations of the Guam Solid Waste Authority. In performing its duties under this Section, PUC shall have the full authority and powers
conferred upon it by its enabling legislation, 12 GCA 12000 et. sec., including the audit
power conferred upon it by Public Laws 25-05:12 and 26-78:2.

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

**Section 8.** Article 3 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed*
and *reenacted* under Article 4, Chapter 15, Title 12 Guam Code Annotated, and shall
read:

**ARTICLE 4**

**ANNUAL CONTRACT FOR SCRAP REMOVAL**

§15401. *Contract to Remove Scrap*

§15402. *Biennial Contract.*

§15403. *Environmental Impact Study*

§15404. *Conformity to Waste Removal Regulations*

§15405. *Reports*

§15401. *Contract to Remove Scrap*

The General Manager, after duly advertising for a request for proposals for the removal
of scrap metal, shall enter into a contract with any interested business organization, either
local or off-island, to collect and remove from Guam scrap metal. The successful offeror
may not be charged for the scrap metal but shall post a performance bond equal to 70%
of contract value to assure contract completion of the removal project within twenty-four
(24) months from receiving from the General Manager a Notice to Proceed. A “Scrap
Metal” for the purpose of this Article means abandoned vehicles and other abandoned
metal implements of which the Authority has jurisdiction and the right to dispose. In so
disposing of such scrap metal, the General Manager shall not charge any fees to the
owner of the same.
§ 15402. Biennial Contract.
The General Manager shall advertise for and execute such a contract every two (2) years with any qualified party on the same terms as are set out in § 15401 of this Article.

§ 15403. Environmental Impact Study.
The Guam Solid Waste Authority shall cause an environmental impact study to be undertaken by the successful offeror prior to the issuance of a permit and the Notice to Proceed to ensure that scrap removal project will not have potential adverse ecological damage to aquifers or the environment at the temporary consolidation site and source location.

§ 15404. Conformity to Waste Removal Regulations.
The successful offeror shall perform all work under this Article in compliance with applicable rules and regulations of GEPA on the removal of scrap metal and hazardous waste. As a minimum, the Authority shall ensure that all successful offerors include as part of their processing, an intake system to screen and remove batteries and other potentially hazardous residual material including, engine oil, hydraulic fluids and coolant and freon from air conditioning units.

§ 15405. Reports.
Each successful bidder shall file a report on a quarterly basis with I Maga’lahen Guåhan [the Governor], I Liheslaturan Guåhan [the Legislature] and the Guam Solid Waste Authority outlining the following:

(a) total type and amount of scrap metals, batteries and other potentially hazardous residual material referenced in §15404;

(b) cost comparison of the cost of the scrap metal program versus landfill disposal of scrap metals, or any less-than-conventional methods of scrap metal waste reduction; and

(c) recommendations for permanent implementation and improvements to the recycling program.

Section 9. Article 4 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted under Article 5, Chapter 15, Title 12 Guam Code Annotated, and shall read:
ARTICLE 5

CONTRACT FOR COLLECTION OF RECYCLABLE PAPER.


§15502. Biennial Contract.

§15503. Conformity to All Laws and Rules and Regulations.

§15504. Reports.


The Authority, in accordance with the applicable procurement laws, and after advertising for a request for proposals (‘RFP’) for the collection of recyclable paper, shall enter into a two (2) - year contract with any qualified local interested business or nonprofit organization, to accept and collect recyclable paper to include newsprint, office paper and magazines from the public, and to implement a plan to prevent them from entering Guam’s waste stream. The qualified local business or nonprofit organization shall have active recycling experience and knowledge in Guam. The RFP shall include the requirement that the prospective contractor accepts and pays for all recyclable paper, to include newsprint, office paper and magazines offered by the public. The successful offeror shall be one who bids the highest amount per pound to be paid to the public for the recyclable paper for the duration of the contract term. The successful offeror may not be charged for the recyclable paper but shall post a performance bond equal to 70% of contract value to assure contract completion of the recyclable paper collection project within twenty-four (24) months from receiving from the General Manager a Notice to Proceed.

§15502. Biennial Contract.

The Authority shall advertise for and execute such a contract every two (2) years with any qualified party on the same terms as are set out in §15501 of this Article.

§15503. Conformity to All Laws and Rules and Regulations.

The successful offeror shall perform all work under this Article in compliance with all applicable laws, including those of this Chapter, and rules and regulations of GEPA as may be established. As a minimum, the Authority shall ensure that all offerors include as part of their processing, a plan to remove the collected paper from Guam’s waste stream.

§15504. Reports.
Each successful bidder shall file a report on a quarterly basis with I Maga’lahen Guåhan [the Governor], I Lihešlaturan Guåhan [the Legislature] and the Guam Solid Waste Authority outlining the following:

(a) total type and amount of paper recycled;
(b) cost comparison of the cost of the paper-recycling program versus landfill disposal of paper, or any less-than-conventional methods of paper waste reduction; and
(c) recommendations for permanent implementation and improvements to the recycling program.

Section 10. Article 6 of Chapter 51, Title 10 Guam Code Annotated is hereby repealed and reenacted under Article 6, Chapter 15, Title 12 Guam Code Annotated, and shall read:

ARTICLE 6
MUNICIPAL RECYCLING PROGRAM

§15601. Definitions.

§15602. Creation of Municipal Recycling Proceeds Fund for each village.

§15603. Creation of the Municipal Recycling Program.


§ 15601. Definitions.

For purposes of this Article, except as otherwise provided, the following words and phrases, together with all of the common derivatives thereof, shall have the meaning ascribed to them as follows:

(1) ‘GEPA’ shall mean the Guam Environmental Protection Agency.
(2) ‘Recycling’ means the process by which recovered resources are transformed into new products in such a manner that products lose their initial identity, as defined in § 51102 (18) of Chapter 51 of Title 10 of the Guam Code Annotated.
(3) ‘Recyclable materials’ means materials which still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:
(a) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);
(b) automobiles, buses, and trucks or any form of motorized vehicle;
(c) tires (passenger/commercial);
(d) enameled white goods;
(e) home appliances (other small appliances that are not considered enameled white goods);
(f) glass and plastic bottles;
(g) foam padding;
(h) lead;
(i) metals (ferrous/non-ferrous);
(j) organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);
(k) paper products;
(l) wood pallets and scrap wood;
(m) construction and demolition debris (‘C&D’);
(n) x-ray film;
(o) automobile oil and fluids;
(p) Freon and other refrigerant gases;
(q) electronic waste (i.e., computers, circuit boards, televisions, and portable phones);
(r) heavy equipment; and
(s) other recyclable materials deemed recyclable by GEPA pursuant to the Rules and Regulations.

(4) ‘Recycling Company’ means any business licensed by the Department of Revenue and Taxation, and issued a permit, as required in § 51104 of Chapter 51 of Title 10 of the Guam Code Annotated, from the Guam Environmental Protection Agency to conduct business on Guam.

There is hereby established a Municipal Recycling Proceeds Fund for each municipality which shall be maintained separate and apart from any other funds, including the General
Fund of the government of Guam, and independent records and accounts shall be maintained in connection therewith. The proceeds from the sale of recyclable materials collected, in accordance with the Municipal Recycling Program, from each village shall be deposited in the respective Municipal Recycling Proceeds Fund. All revenue deposited in each Municipal Recycling Proceeds Fund shall not be commingled with General Fund monies and shall be kept in a separate bank account. All proceeds from fees collected in accordance with §15703 of this Article shall be deposited in the Municipal Recycling Proceeds Fund for the respective village and used exclusively for the purposes authorized in §15704 of this Article. The Municipal Planning Council of each municipality shall administer the Municipal Recycling Proceeds Fund for its municipality which shall be subject to audits by the Public Auditor.

§ 15603. Creation of the Municipal Recycling Program.

There is hereby created a Municipal Recycling Program within the Guam Solid Waste Authority to promote recycling on the municipal level in partnership with the village mayors. The program shall incorporate the following components:

(a) Recycling Drop-Off Bins. GSWA shall solicit drop-off bins from recycling companies that would be made available to each mayor participating in the Municipal Recycling Program. The recycling drop-off bins shall be rust-proof, and located at a suitable site within the respective villages so that the residents will have a repository to which they can bring recyclable materials in accordance with guidelines established by the Guam Solid Waste Authority. The mayors of each village participating in the program will be responsible for the security and cleaning of the bins, and the supervision of their use for recycling purposes.

(b) Village Education Program. In coordination with the village mayors, GEPA and GSWA shall create educational programs to promote recycling and the use of the recycling drop-off bins within each village.

(c) Sale of Recyclable Materials. In partnership with the village mayors, GSWA shall arrange for the sale of recyclable materials, collected at the Recycling Drop-off Bins in each village, to recycling companies. The proceeds from the sale of recyclable materials shall be deposited into the respective Municipal Recycling Proceeds Fund of the village from which the recyclable materials were collected.
(d) The Program shall first begin with pilot programs at three (3) villages; one each from northern, central, and southern Guam. The selection of the three (3) villages shall be made by GSWA in concert with the village mayors.


The proceeds from the sale of recyclable materials from a village site shall be retained for use by the municipal government of that village in its Municipal Recycling Proceeds Fund. Expenditures from a village’s Municipal Recycling Proceeds Fund shall be exclusively for the needs of that village as determined by the respective Municipal Planning Council through adoption of a resolution.

Section 11. Article 7, Article 8 and Article 9 of Chapter 51, Title 10 Guam Code Annotated are hereby repealed and reenacted under Article 7, Chapter 15, Title 12 Guam Code Annotated, and shall read:

ARTICLE 7
RECYCLING ENTERPRISE ZONE

§ 15701. Definitions.

§ 15702. Establishment of Recycling Enterprise Zone.

§ 15703. Eligibility of Recycling Companies for use of the Recycling Enterprise Zone.

§ 15701. Definitions.

For purposes of this Act, and except as otherwise provided, the following words and phrases, together with all of the common derivatives thereof, shall have the meaning ascribed to them as follows:

(1) JLGCP shall mean the Jose D. Leon Guerrero Commercial Port.

(2) Recycle or ‘Recycling’ means the method by which recovered resources are converted for use as raw material or feedstock to make new products, as defined in § 51102 (35) of Chapter 51, Title 10 of the Guam Code Annotated.

(3) Recycling company means any business licensed by the Department of Revenue and Taxation, and has been issued a permit as required in § 51104 of Chapter 51, Title 10 of the Guam Code Annotated by the Guam Environmental Protection Agency (‘GEPA’).
to conduct business on Guam and that specifically commits eighty percent (80%) of its
operations to recycling.

(4) Transshipment shall mean to transfer for further transportation from one (1) ship or
conveyance to another.

(4) Recyclable materials means materials that still have useful physical or chemical
properties after serving a specific purpose for the same or other purpose. Recyclable
materials are as follows:

(a) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium,
sealed types for power backup);
(b) automobiles, buses, and trucks or any form of motorized vehicle;
(c) tires (passenger/commercial);
(d) enameled white goods;
(e) home appliances (other small appliances that are not considered enameled
white goods);
(f) glass and plastic bottles;
(g) foam padding;
(h) lead;
(i) metals (ferrous/non-ferrous);
(j) organic material (i.e., tree trimmings, palm fronds, grass, food waste,
soiled cardboard);
(k) paper products;
(l) wood pallets and scrap wood;
(m) construction and demolition debris (‘C&D’);
(n) x-ray film;
(o) automobile oil and fluids;
(p) freon and other refrigerant gases;
(q) electronic waste (i.e., computers, circuit boards, televisions, and portable
phones);
(r) heavy equipment; and
(s) other recyclable materials deemed recyclable by GEPA pursuant to the
Rules and Regulations.
§ 15702. Establishment of Recycling Enterprise Zone.

There is established a “Recycling Enterprise Zone” at the Jose D. Leon Guerrero Commercial Port for use by recycling companies for the processing of automobiles, trucks and tires for recycling purposes, and the transshipment of recyclable materials. The size of the zone and its site on the JLGCP property shall be designated by the Board of Directors of the Port Authority of Guam and guided by the provisions of Section 7.1.4 of the Integrated Solid Waste Management Plan. Such designation shall be made within sixty (60) days of the enactment hereof and the site shall be made available for lease to recycling companies. The Board of Directors of the Port Authority of Guam shall determine and charge a reasonable rate for the lease of said property.

§ 15703. Eligibility of Recycling Companies for use of the Recycling Enterprise Zone.

Lease space in the Recycling Enterprise Zone shall only be available to companies that qualify for Qualifying Certificates as recycling companies under guidelines established by the Guam Economic Development Authority.

Section 12. § 1921 of Title 1, Chapter 19 Guam Code Annotated is hereby amended to read as follows:

§ 1921. Supervision of Audits in Autonomous Agencies and Grantees, Manpower Audits.

The Public Auditor is specifically authorized to supervise audits, or at the Public Auditor’s discretion, perform audits, of autonomous agencies and instrumentalities of the government of Guam, inclusive of, but not limited to, the Guam Visitors Bureau (‘GVB’), the Guam Economic Development & Commerce Authority (‘GEDCA’), the Port Authority of Guam (‘PAG’), the A.B. Won Pat Guam International Airport Authority (‘GIAA’), the University of Guam (‘UOG’), the Guam Community College (‘GCC’), the Guam Memorial Hospital (‘GMHA’), the Guam Housing Corporation (‘GHC’), the Guam Housing and Urban Renewal Authority (‘GHURA’), the Guam Power Authority (‘GPA’), the Guam Waterworks Authority (‘GWA’), the Guam Telephone Authority (‘GTA’), the Government of Guam Retirement Fund (‘GGRF’), and the Guam Solid Waste Authority (‘GSWA’).

The Public Auditor is authorized to supervise audits of all funds in excess of Three
Hundred Thousand Dollars ($300,000.00) for a single fiscal year from the government of Guam that are given in grant or subsidy to non-profit or profit-making groups, inclusive of GVB. The Public Auditor is authorized to audit the hiring practices, manpower levels and staffing patterns of all departments, agencies and bureaus of the Executive Branch of the government of Guam, and to determine and report to I Maga’lahen Guahan [Governor], I Liheslaturan Guahan [Legislature] and the Public Utilities Commission (“PUC”), as appropriate, on the necessity and applicability of employment levels and categories to the department or agency’s purpose and function, as well as draw comparisons with similar entities located elsewhere.

Section 13. §12000 of Chapter 12, Title 12 Guam Code Annotated is hereby amended to read:

§ 12000. Definitions.

As used in this Chapter:

(a) Public Utility means the Guam Power Authority, the Jose D. Leon Guerrero Commercial Port, the Guam Waterworks Authority, the Guam Solid Waste Authority or any duly licensed private contractors operating:

(i) a facility or subsystem of the community-wide water production and distribution system, or

(ii) a facility or subsystem of the community-wide waste water disposal system, or both, or any private golf course management corporation leasing public property providing preferential golf rates and reservations to Guam residents, or

(iii) a marine terminal with facilities for loading and unloading commercial cargo or passengers onto and from ocean common carriers.

(b) Commission means the Public Utilities Commission.

(c) General lifeline rate means a lower than average cost per unit charge for a level of utility service necessary to fulfill the essential needs of all residential customers.

Section 14. Severability. If any provision of this law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect
other provisions or applications of this law which can be given effect without the invalid
provisions or application, and to this end the provisions of this law are severable.