

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 203-37 (COR)

Introduced by:

William A. Parkinson



AN ACT TO *REPEAL* CHAPTER 79, *REPEAL* AND *REENACT* §§ 14102, 14103, AND 14105 OF CHAPTER 14, *REPEAL* AND *REENACT* §§ 8102, 8103, AND 8107 OF CHAPTER 8, ALL OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ABOLISHING THE CONSOLIDATED COMMISSION ON UTILITIES, AND TO RESTORE THE BOARDS OF GUAM POWER AUTHORITY AND GUAM WATERWORKS AUTHORITY TO BOARDS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE LEGISLATURE PURSUANT TO THE GOVERNOR'S ORGANIC ACT POWERS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* hereby finds that it is in the public interest to abolish the elected Consolidated Commission on Utilities (“CCU”), to terminate the CCU’s ability to exercise authority over the Guam Waterworks Authority (“GWA”) and the Guam Power Authority (“GPA”) and to restore the powers previously exercised by the respective boards of directors of said authorities, as a Board of Directors appointed by the Governor with the advice and consent of *I Liheslaturan Guåhan*.

I Liheslaturan Guåhan further finds that serious legal questions exist as to whether the CCU in fact violates *I Maga'låhen Guåhan*'s Organic Act of 1950 duty to properly manage these critical utilities for the People of Guam, which is also

1 subject to *I Liheslaturan Guåhan*'s direct oversight in the selection of Board
2 members. The current constant electrical "load shedding" and failure to provide
3 water during critical times of emergency, i.e. Typhoon Mawar, calls into question
4 the part-time CCU's management ability. The failure of these critical utility power
5 and water services has adversely affected the People of Guam's healthcare, public
6 safety and education.

7 It is the intent of *I Liheslaturan Guåhan* that this Act shall not relieve GPA or
8 GWA of, or modify in any way other than as expressly set forth herein, any of the
9 respective existing rights, duties or obligations of the authorities and that such
10 respective rights, duties and obligations shall continue uninterrupted, inclusive of,
11 but not limited to, any financial obligations of said authorities, including payment of
12 debt service on and conditions imposed by bonds. Nor shall it eliminate the Public
13 Utilities Commission, which strikes the proper balance between capital investment
14 and reasonable utility rates. It is the further intent of *I Liheslaturan Guåhan* that such
15 respective rights, duties and obligations of each authority shall remain the rights,
16 duties and obligations only of such authority and shall not in any way become rights,
17 duties or obligations of the other.

18 **Section 2.** Chapter 79 of Title 12 Guam Code Annotated is hereby *repealed*
19 in its entirety.

20 **~~CHAPTER 79~~**

21 **~~CONSOLIDATED COMMISSION ON UTILITIES~~**

22 ~~§ 79100.— Creation of Commission.~~

23 ~~§ 79101.— Commissioners.~~

24 ~~§ 79102.— Non-partisan Office.~~

25 ~~§ 79103.— Terms of Office.~~

26 ~~§ 79104.— Reporting Requirements.~~

27 ~~§ 79105.— Vacancies.~~

1 ~~§ 79106. — Compensation.~~

2 ~~§ 79107. — Subpoena Powers.~~

3 ~~§ 79108. — Publishing Consumer Complaints.~~

4 **~~§ 79100. — Creation of Commission.~~**

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

10 **~~§ 79101. — Commissioners.~~**

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

17 ~~A person may not simultaneously serve as a Commissioner and an~~
18 ~~employee of the Guam Waterworks Authority, the Guam Power Authority, or~~
19 ~~the Public Utilities Commission, or simultaneously serve as a Commissioner~~
20 ~~and an unclassified or contracted employee of the government of Guam. An~~
21 ~~adjunct instructor, adjunct teacher, or adjunct professor employed by the~~
22 ~~University of Guam or the Guam Community College may serve as a~~
23 ~~Commissioner.~~

24 ~~Persons retired from the government of Guam may serve as~~
25 ~~Commissioners. At their first official meeting, the Commissioners shall elect~~
26 ~~from among the Commissioners a chairperson, who shall preside over~~
27 ~~meetings of the Commission. A majority of the Commissioners holding office~~

1 shall constitute a quorum. The affirmative vote of the Commissioners holding
2 office shall constitute the decision of the Commission. The Commission may
3 adopt rules and regulations governing the conduct of its affairs.

4 **§ 79102. — Non-partisan Office.**

5 The Office of Commissioner is a non-partisan office. Candidates for the
6 Office of Commissioner shall not identify themselves as members of any
7 political party on Guam for the purpose of their campaign, nor shall they
8 receive any endorsement or material support from any political party on Guam
9 during the course of their campaigns. No Primary Election is required for
10 candidates for this office. No nominating petitions shall be required of any
11 candidate for this Office. Any qualified person applying to the Guam Election
12 Commission, or its successor, for candidacy to this office shall be placed on
13 the General Election ballot. In each election, the candidates receiving the
14 highest numbers of votes shall be the elected Commissioners, without regard
15 to the actual number of votes cast or received, and no runoff elections shall be
16 required.

17 **§ 79103. — Terms of Office.**

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

21 (b) — The first election for members of the Commission shall occur
22 during the General Election in November, 2002. The three (3) candidates
23 receiving the highest numbers of votes shall each be elected to serve a four
24 (4) year term, and the two (2) candidates receiving the next highest numbers
25 of votes shall each be elected to serve a two (2) year term.

26 **§ 79104. Reporting Requirements.**

1 Commissioners and candidates for the Office of Commissioner shall be
2 subject to the same reporting requirements pertaining to their campaign
3 contributions and expenditures as apply to candidates and members of I
4 Liheslaturan Guåhan [the Legislature]. Commissioners and candidates for the
5 Office of Commissioner shall be required to file a personal disclosure
6 statement that shall contain the following items:

7 (a) ~~the source of all wages and commissions paid to the~~
8 Commissioner, or candidate for the Office of Commissioner;

9 (b) ~~a list of all corporations or partnerships in which the~~
10 Commissioner, or candidate for the Office of Commissioner, has a
11 material interest of five percent (5%) or greater; and

12 (c) ~~a list of all corporations, partnerships or sole~~
13 proprietorships in which the Commissioner, or candidate for the Office
14 of Commissioner, has a material interest of fifty percent (50%) or more.

15 A candidate for the Office of Commissioner shall be required to file the
16 personal disclosure statement required by this Section with the Guam Election
17 Commission upon filing that person=s candidacy with the Guam Election
18 Commission. A Commissioner is required to file the personal disclosure
19 statement required by this Section on an annual basis on the same dates
20 personal financial disclosures are required from members of *I Liheslaturan*
21 *Guåhan*.

22 **§ 79105. — Vacancies.**

23 (a) ~~A permanent vacancy in the Office of a Commissioner shall be~~
24 filled as follows:

25 (1) ~~If the vacancy to be filled is for twelve (12) months or~~
26 more, the vacancy shall be filled by the next highest vote getter in the
27 last General Election for Commissioner.

1 ~~(2) If the vacancy to be filled is for less than twelve (12)~~
2 ~~months, the position shall remain vacant until the next General~~
3 ~~Election.~~

4 ~~For the purpose of items (1) and (2) in determining how many~~
5 ~~months remaining on the vacant position, the effective date of vacancy~~
6 ~~shall be the date from which to measure the months remaining, and not~~
7 ~~the date when the vacancy is actually filled.~~

8 ~~(b) The vacancy being filled under this provision will be for the~~
9 ~~remaining balance of the term of the vacated position.~~

10 ~~**§ 79106. Compensation.**~~

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

20 ~~**§ 79107. Subpoena Powers.**~~

21 ~~The Chairperson of the Consolidated Commission on Utilities, upon his~~
22 ~~or her own initiative, upon the request of any member of the Commission, or~~
23 ~~upon the request of any party before the Commission, may summon in writing~~
24 ~~any person to attend before a meeting of the Commission as a witness and in~~
25 ~~a proper case, to bring with him or her any book, record, or paper which may~~
26 ~~be deemed material as evidence in the case. The fees for such attendance shall~~
27 ~~be same as the fees of witnesses before the Superior Court, except that if the~~

1 witness is a government employee no witness fees shall be given. The
2 subpoena shall issue in the name of the Consolidated Commission on Utilities,
3 and shall be directed to the person and shall be served in the same manner as
4 subpoenas to appear and testify before the Superior Court. If any person or
5 persons summoned to testify refuses or neglects to obey said subpoena, upon
6 petition, the Superior Court may compel the attendance of such person or
7 persons before the Commission, or punish said person or persons for contempt
8 in the same manner provided by law for securing the attendance of witnesses
9 or their punishment for neglect or refusal to attend in the Superior Court.

10 **§ 79108. — Publishing Consumer Complaints.**

11 (a) — Within ninety (90) days of the enactment of this Section, the
12 Commission shall adopt a policy, via Board Resolution, that establishes the
13 acceptance, review, distribution, and resolution of consumer complaints filed
14 with either the Guam Power Authority or the Guam Waterworks Authority.
15 Such policy shall include the creation of a reporting template, herein referred
16 to as the Consumer Complaint and Resolution Report, which will categorize
17 the type of complaint lodged with each entity, the date the complaint was
18 lodged, and the manner in which said complaint was addressed.

19 (b) — The Commission shall publish the Consumer Complaint Report
20 on its website on the twentieth (20th) day following the end of each calendar
21 month, and shall transmit the same within fifteen (15) days after the end of
22 every calendar quarter to *I Maga'lahaen Guåhan*, the Speaker of *I Liheslaturan*
23 *Guåhan*, and the Public Utilities Commission.”

24 **Section 3.** § 14102 of Chapter 14 of Title 12 of the Guam Code Annotated
25 is hereby *repealed* and *reenacted* to read as follows:

26 **“§ 14102. — Definitions.**

27 As used in this Chapter, unless otherwise indicated:

1 (a) ~~‘Authority’ means the Guam Waterworks Authority.~~

2 (b) ~~‘Board’ means the Consolidated Commission on Utilities~~
3 ~~established in Chapter 79 of Title 12 of the Guam Code Annotated.~~

4 (c) ~~‘Director’ means a Commissioner of the Consolidated~~
5 ~~Commission on Utilities.~~

6 **§ 14102. Definitions.**

7 As used in this Chapter, unless otherwise indicated:

8 (a) Authority means the Guam Waterworks Authority.

9 (b) Board means the Board of Directors of the Authority.

10 (c) Director means the Director of the Board.”

11 **Section 4.** § 14103, Chapter 14 of Title 12 of the Guam Code Annotated is
12 hereby *repealed* and *reenacted* to read as follows:

13 ~~“§ 14103. Continuation of Existence.~~

14 ~~Guam Waterworks Authority is continued in existence as a public~~
15 ~~corporation.~~

16 **§ 14103. Continuation of Existence.**

17 Guam Waterworks Authority is continued in existence as a public
18 corporation.”

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

21 ~~“§ 14105. Governance of Authority.~~

22 ~~All powers vested in the Authority, except as provided herein, shall be~~
23 ~~exercised by the Consolidated Commission on Utilities, as established in~~
24 ~~Chapter 79 of Title 12 of the Guam Code Annotated.~~

25 **§ 14105. Governance of Authority.**

26 All powers vested in the Authority, except as provided herein, shall be
27 exercised by the Board of Directors.

1 (a) The Authority shall be directed by the Board which shall
2 consist of five (5) directors appointed by the Governor with the advice
3 and consent of the Legislature.

4 (b) Three (3) directors shall constitute a quorum of the Board
5 and three (3) affirmative votes are required for the transaction of all
6 business.

7 (c) Any director vacancy shall be filled by the Governor, with
8 the advice and consent of the Legislature.

9 (d) The Board shall meet in regular session at least once each
10 month and in special session as often as it may deem necessary.

11 (e) Directors shall be paid Two Hundred Dollars (\$200.00)
12 per meeting, and shall be reimbursed for actual travel, subsistence and
13 necessary expenses incurred in the discharge of their responsibilities.”

14 **Section 6.** § 8102 of Chapter 8 of Title 12 of the Guam Code Annotated is
15 hereby *repealed* and *reenacted* to read as follows:

16 ~~“§ 8102. — Definitions.~~

17 ~~As used in this Chapter, unless otherwise indicated:~~

18 ~~(a) — ‘Authority’ means the Guam Power Authority.~~

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

21 ~~(c) — ‘Director’ means a Commissioner of the Consolidated~~
22 ~~Commission on Utilities.~~

23 **§ 8102. Definitions.**

24 As used in this Chapter, unless otherwise indicated:

25 (a) Authority means the Guam Power Authority.

26 (b) Board means the Board of Directors of the Authority.

27 (c) Director means the Director of the Board.”

1 **Section 7.** § 8103, Chapter 8 of Title 12 of the Guam Code Annotated is
2 hereby *repealed* and *reenacted* to read as follows:

3 ~~“§ 8103. — **Continuation of Existence.**~~

4 ~~Guam Power Authority is continued in existence as a public corporation~~

5 **§ 8103. Continuation of Existence.**

6 Guam Power Authority is continued in existence as a public
7 corporation.”

8 **Section 8.** § 8107, Chapter 8 of Title 12 of the Guam Code Annotated is
9 hereby *repealed* and *reenacted* to read as follows:

10 ~~“§ 8107. — **Governance of Authority.**~~

11 ~~All powers vested in the Authority, except as provided herein, shall be~~
12 ~~exercised by the Consolidated Commission on Utilities, as established in~~
13 ~~Chapter 79 of Title 12 of the Guam Code Annotated.~~

14 **§ 8107. Governance of Authority.**

15 All powers vested in the Authority, except as provided herein, shall be
16 exercised by the Board of Directors.

17 (a) The Authority shall be directed by the Board which shall
18 consist of five (5) directors appointed by the Governor with the advice
19 and consent of the Legislature.

20 (b) Three (3) directors shall constitute a quorum of the Board
21 and three (3) affirmative votes are required for the transaction of all
22 business.

23 (c) Any director vacancy shall be filled by the Governor, with
24 the advice and consent of the Legislature.

25 (d) The Board shall meet in regular session at least once each
26 month and in special session as often as it may deem necessary.

1 (e) Directors shall be paid Two Hundred Dollars (\$200.00)
2 per meeting, and shall be reimbursed for actual travel, subsistence and
3 necessary expenses incurred in the discharge of their responsibilities.”

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

9 **Section 10. PUC to Continue to Regulate Rates.** The Public Utilities
10 Commission (“PUC”) shall continue to have jurisdiction in regulating and setting
11 rates for both the Guam Waterworks Authority (“GWA”) and Guam Power
12 Authority (“GPA”). Nothing in this Act shall be construed as impairing the powers,
13 duties or effectiveness of the PUC in relation to GWA or GPA.

14 **Section 11. Severability.** If any provision of this Act or its application to any
15 person or circumstance is found to be invalid or inorganic, such invalidity shall not
16 affect other provisions or applications of this Act that can be given effect without
17 the invalid provision or application, and to this end the provisions of this Act are
18 severable.