

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
175-37 (COR)	Christopher M. Dueñas Frank Blas, Jr. Jesse A. Lujan Thomas J. Fisher Dwayne T.D. San Nicolas	AN ACT TO AMEND § 48101 (c), ADD NEW §§ 48101 (f), (g) AND (h), AMEND § 48104 (a), § 48104 (b)(3), § 48104 (b)(4), § 48104 (c) AND 48104 (d), ADD A NEW § 48104 (e), AMEND AND RENUMBER §§ 48106, AND § 48112.1, ADD A NEW § 48112.1 (b) AND § 48112.2, REPEAL § 48125 AND 48126 (a), ADD NEW §§ 48125, 48126, 48127, 48128 AND 48129 ALL OF CHAPTER 48, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO INCLUDE NITROGEN REDUCING SYSTEMS, ESTABLISH ADMINISTRATIVE PROCESS, AND CREATE THE SEWAGE DISPOSAL ASSISTANCE FUND.	9/27/23 9:23 a.m.	9/27/23	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	Request: 9/27/23 10/5/23			



COMMITTEE ON RULES

Senator Chris Barnett, Chairperson
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature

October 5, 2023

To: **Joaquin P. Taitague**
Substitute Clerk of the Legislature

From: **Senator Chris Barnett** 
Chairperson, Committee on Rules

Subject: **Fiscal Note for Bill No. 175-37 (COR)**

Håfa Adai yan Biba Guåhan!

Find the attached, Fiscal Note for the following bill:

Bill No. 175-37 (COR).

I also request that the same be sent to the respective Chairperson of the Standing Committee, to which this bill has been referred. Kindly forward the same to Management Information Services (MIS) for posting on our website.



Bureau of Budget & Management Research

Fiscal Note of Bill No. 175-37 (COR)

AN ACT TO AMEND § 48101 (c), ADD NEW §§ 48101 (f), (g) AND (h), AMEND § 48104 (a), § 48104 (b)(3), § 48104 (b)(4), § 48104 (c) AND 48104 (d), ADD A NEW § 48104 (e), AMEND AND RENUMBER §§ 48106, AND § 48112.1, ADD A NEW § 48112.1 (b) AND § 48112.2, REPEAL § 48125 AND 48126 (a), ADD NEW §§ 48125, 48126, 48127, 48128 AND 48129 ALL OF CHAPTER 48, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO INCLUDE NITROGEN REDUCING SYSTEMS, ESTABLISH ADMINISTRATIVE PROCESS, AND CREATE THE SEWAGE DISPOSAL ASSISTANCE FUND.

Department/Agency Appropriation Information

Dept./Agency Affected: Guam Environmental Protection Agency		Dept./Agency Head: Michelle Lastimoza, Administrator	
Department's General Fund (GF) appropriation(s) to date:		\$500,000	
Department's Other Fund appropriation(s) to date: Guam Environmental Trust Fund (\$466,532); Water Research & Development (\$72,893); Solid Waste Operations Fund (\$202,992); Beach Monitoring (\$46,903);		\$789,320	
Total Department/Agency Appropriation(s) to date:		\$1,289,320	

Fund Source Information of Proposed Appropriation

	General Fund:	Special Fund 1/	Total:
FY 2023 Unreserved Fund Balance	\$0	\$0	\$0
FY 2024 Adopted Revenues	\$0	0	0
FY 2024 Appro. (P.L. 37-42)	\$0	0	0
Sub-total:	\$0	0	0
Less appropriation in Bill	\$0	0	0
Total:	\$0	0	0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2024 (if applicable)	FY 2025	FY 2026	FY 2027	FY 2028
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Sewage Disposal Assistance Fund 1/	1/	1/	1/	\$0	\$0	\$0
Total	1/	1/	1/	\$0	\$0	\$0

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|---|---------|---------|--------|
| 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/agencies?
Is there a federal mandate to establish the program/agency? | /X/ N/A | / / Yes | /X/ No |
| 4. Will the enactment of this Bill require new physical facilities? | | /X/ Yes | / / No |
| 5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason:
/ / Requested agency comments not received by due date: GEPA / / Other: | | /X/ Yes | / / No |

Analyst: <u>Bernice Torres</u>	Date: <u>10/4/23</u>	Director: <u>Lester L. Carlson, Jr.</u>	Date: <u>OCT 05 2023</u>
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Notes:
1/ See attached comments and GEPA's response to Bill 175-37(COR).

Bureau of Budget & Management Research
Comments on Bill No. 175-37 (COR)

The proposed legislation is an act to *amend* § 48101 (c), *add new* §§ 48101 (f), (g) and (h), *amend* § 48104 (a), § 48104 (b)(3), § 48104 (b)(4), § 48104 (c) and 48104 (d), *add a new* § 48104 (e), *amend* and renumber §§ 48106, and § 48112.1, *add a new* § 48112.1 (b) and § 48112.2, repeal § 48125 and 48126 (a), *add new* §§ 48125, 48126, 48127, 48128 and 48129 all of Chapter 48, Title 10, Guam Code Annotated, relative to include nitrogen reducing systems, establish administrative process, and create the Sewage Disposal Assistance Fund.

The proposed legislation intends to establish a new Type 4 toilet facility to provide options for landowners who under existing laws cannot develop their property where sewer is unavailable and to encourage sewer connections for existing dwellings having access to new sewer lines. The Bill will also empower Guam Environmental Protection Agency (GEPA) to modernize the regulation of onsite wastewater disposal on Guam and to authorize GEPA to permit the installation, operation, and maintenance of such facilities, and to mandate GEPA to promulgate rules and regulations.

According to comments received from the GEPA, the GEPA supports the intent of this Bill. However, there are some provisions which GEPA notes concerns, and if not changed, may have significant negative environmental and fiscal consequences. A copy of GEPA's comments for the Bureau's reference is attached.

The Bureau notes that there may be additional costs to be incurred by GEPA due to the added mandates from this proposed legislation. Also, the establishment of fees and fines imposed in the Bill will generate revenues to be deposited into the newly created Sewage Disposal Assistance Fund for its purpose. However, the Bureau is unable to determine an approximate fiscal impact or an estimate of revenue collection at this time.



GUAM ENVIRONMENTAL PROTECTION AGENCY • AHENSIAN PRUTEKSIÓN LINA LA' GUÅHAN
LOURDES A. LEON GUERRERO • GOVERNOR OF GUAM | JOSE LUIS TENORIO • LIEUTENANT GOVERNOR OF GUAM
MICHELLE C. R. LASTIMOZA • ADMINISTRATOR

OCT 02 2023

MR. LESTER CARLSON JR.

Director
Bureau of Budget Management and Research
Ricardo J. Bordallo Complex
513 West Marine Corps Drive
Hagåtña, Guam 96913

RE: Comments on Bill No. 175-37 (COR) to Amend 10 GCA Chapter 48, Relative to Include Nitrogen Reducing Systems, Establish Administrative Process, and Create the Sewage Disposal Assistance Fund.

Hafa adai Director Carlson,

Buenas yan Saluda. This is to submit comments on the subject Bill related to potential fiscal impacts to the Guam Environmental Protection Agency (Guam EPA) and the Government of Guam, in general.

Generally speaking, Guam EPA supports the intent of this Bill, however there are some provisions which, if not changed, may have significant negative environmental and fiscal consequences.

1. Guam EPA objects to Section 7 of the proposed Bill, which would allow for development of unsewered one-quarter (1/4) acre lots within the Groundwater Protection Zone (GPZ) for anyone, provided that the proposed "Type 4" advanced nitrogen-reducing residential onsite disposal system is required for such lots, and would allow for the development of one-sixth (1/6) acre lots for persons who subdivide following the so-called parental and decedent subdivision processes established under the Subdivision Law at 21 GCA § 62104. Currently, Guam's laws and regulations allow for the development of unsewered lots of a minimum one-half (1/2) acre in size, and Guam EPA policy (since at least 1997) has allowed the development of 1/4 acre lots within the GPZ for parental lots only.

Over the past few years, Guam EPA has worked with stakeholders to develop potential amendments to 10 GCA Chapter 48 which would require the use of the proposed Type 4 system for the development of unsewered parental lots of no smaller than 1/4 acre, and potentially also for decedent lots, on the assumption that these were limited exceptions to the overall 1/2 acre rule. However, Bill 175-37 (COR) goes far beyond what Guam EPA has suggested to allow for the development of 1/4 acre lots for anyone within the GPZ – not just parental and decedent lot recipients – and 1/6 acre lots for parental and decedent lots. This would result in a doubling – a 100% increase – of the annual increase in wastewater loading to the aquifer compared to the status quo, and a tripling – 200%



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increase – in areas where land is subdivided under the parental or decedent provisions of the Subdivision Law. Even with the use of advanced on-site treatment systems, this will result in a significant degradation of groundwater quality. While the proposed Type 4 systems are capable of providing very good treatment of traditional wastewater parameters such as nitrate and overall wastewater “strength”, they are not capable of treating every contaminant associated with domestic sewage. As a single example, we know that these systems will not provide significant reduction of per- and poly-fluorinated alkyl substances (PFAS), and we know that domestic wastewater from septic systems is a source of PFAS contamination to groundwater.

While Guam EPA intends to provide this comment in greater detail as part of our testimony on Bill 175-37 (COR), we are providing this comment to BBMR in the context of **potential fiscal impact to the Government and people of Guam**. Contamination of Guam’s sole source aquifer to the point that it requires treatment in order to be consumed or used for other domestic purposes will **impose an enormous financial burden and hardship** upon the Government and people of Guam, in addition to negative impacts to public health. Treatment systems which remove wastewater pollutants from the drinking water system can cost in the range of **hundreds of thousands to millions of dollars per water well**, just to install, and operation and maintenance of such systems are substantial. Should levels of regulated contaminants approach drinking water standards, the Guam Waterworks Authority (GWA) will have no choice but to install such systems, at the expense of the Government of Guam and GWA ratepayers.

It is the opinion of Guam EPA that opening the development of unsewered 1/4 acre lots to everyone above the aquifer carries with it a very significant risk of contaminating the aquifer to the point that such **treatment expenses may be required**. Guam EPA has consistently put forward the opinion that such exceptions should be limited to those already granted under the Subdivision Law – parental lots and potentially also decedent lots – but only with the provision of the advanced Type 4 treatment systems, in order to minimize the risk to the aquifer and public health.

It is also worth noting that the majority of parental lots permitted over the past two years, since Guam EPA has been tracking this data, appear to have been developed by investors, not by individual homeowners. While Guam EPA supports efforts to promote the ability for individual homeowners to build on their family’s properties, **developers should be held accountable to pay** for the infrastructure that is required to protect public health and safety, as is required in other jurisdictions and in Guam under the Subdivision Law. The public should not bear the risks associated with high-density unsewered development over our aquifer.

2. Section 11 repeals 10 GCA §48125 and §48126 and replaces §48125 with a section now titled “Permitting of Type 4 Facilities and Holding Tanks”. Subpart (a) establishes an “Interim Permitting Authority” which Guam EPA supports. However, Subpart (a)(2) states that the interim permitting authority will expire either upon the issuance of regulations by Guam EPA, and in no case later than twelve (12) months after the



enactment of the amendments. Guam EPA's current personnel capacity will inhibit our ability to meet this 12 month requirement. Guam EPA had originally proposed that the Bill not include any deadline, so that the interim permitting authority would remain in place until such time regulations were issued. It is highly probable that the regulations will not be issued by Guam EPA until some time well beyond 12 months, leaving a potentially long period of time during which Guam EPA will not be able to issue permits for Type 4 systems and holding tanks. This will cause considerable hardship for anyone attempting to build on lots that require these types of facilities.


3. Section 14 – Sewage Disposal Assistance Fund. This proposed addition to 10 GCA Chapter 48 would establish a non-lapsing fund into which Guam EPA would deposit all fees, penalties, and other funds collected or received pursuant to this chapter. Guam EPA supports the establishment of this fund, but believes that as it is currently proposed, this section would create an additional burden on the agency which would not be supported by the anticipated fees. Namely, the proposed new section, under §48129(b) would require the agency to manage a grant program for sewer connections or the installation of on-site wastewater systems, using the funds collected by Guam EPA in addition to grants, which the Bill would require the Guam EPA Administrator to “make every effort” to apply for. While Guam EPA certainly supports the intent, we note that our fee collection is typically not enough to cover the costs of even a single employee, let alone the several that would be required to responsibly administer what amounts to a construction grant program. Moreover, this appears to duplicate and potentially conflict with existing GWA sewer connection programs. This section should be further reviewed for consistency with GWA programs, and to clarify that the program under subpart (b) would be required only in the event that Guam EPA receives adequate grant funding.

Additionally, this proposed addition would require the Administrator to report to the Guam EPA Board of Directors on a quarterly basis on the disposition of these funds. Given Guam EPA's limited staffing, this is an excessively burdensome requirement. This should be changed to annual reporting.

If you have any questions, please feel free to contact me at michelle.lastimoza@epa.guam.gov or at (671) 300-4751/52.

Dangkolu na si Yu'us ma'ase'.

Senseramente.


MICHELLE C. R. LASTIMOZA
Administrator

