

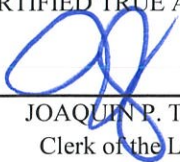
I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN

2024 (SECOND) Regular Session

VOTING RECORD

	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building April 26, 2024					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Chris Barnett	√					
Senator Frank Blas, Jr.		√				
Senator Joanne Brown		√				
Senator Christopher M. Dueñas		√				
Senator Thomas J. Fisher	√					
Senator Jesse A. Lujan		√				
Vice Speaker Tina Rose Muña Barnes	√	II				
Senator William A. Parkinson	√					
Senator Sabina Flores Perez	√					
Senator Roy A. B. Quinata		III √				
Senator Joe S. San Agustin	√					
Senator Dwayne T. D. San Nicolas		√				
Senator Amanda L. Shelton	√					
Senator Telo T. Taitague		II √				
Speaker Therese M. Terlaje	√					
TOTAL	8	7			0	0
	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused

CERTIFIED TRUE AND CORRECT:



JOAQUIN P. TAITAGUE
Clerk of the Legislature

I = Pass

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

Bill No. 165-37 (COR)

As amended by the Committee on Environment,
Revenue and Taxation, Labor, Procurement, and
Statistics, Research, and Planning; and further
amended on the Floor.

*

Introduced by:

Sabina Flores Perez
Chris Barnett
Therese M. Terlaje
Dwayne T.D. San Nicolas
Joe S. San Agustin

**AN ACT TO *ADD* A NEW ARTICLE 11 AND A NEW §
51A120(c) TO CHAPTER 51A OF TITLE 10, GUAM CODE
ANNOTATED; AND *ADD* A NEW § 14104(p) TO
CHAPTER 14 OF TITLE 12, GUAM CODE ANNOTATED,
RELATIVE TO ESTABLISHING THE GUAM SOLID
WASTE AUTHORITY ISLANDWIDE COLLECTION
PLAN.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that in 2004, the United States Environmental Protection Agency (USEPA)
4 implemented a consent decree with the government of Guam due to the government
5 of Guam's violation of the Clean Water Act stemming from the *Ordot* landfill's
6 leachate contamination. After ownership was transferred from the U.S. Navy to the
7 government of Guam in 1950, the *Ordot* landfill constituted Guam's sole landfill for
8 the island's population, including the U.S. Naval Base Guam and Andersen Air
9 Force Base; and the creation of military landfill options in the 1970s reduced the

1 *Ordot* landfill’s capacity to that of a municipal landfill and the landfill continued to
2 operate until its closure in 2011.

3 *I Liheslatura* finds that from 1986 to 2008, the government of Guam lacked
4 the financial and administrative capacity to prevent leachate contamination from the
5 *Ordot* landfill, of which includes contamination resulting from the U.S. military’s
6 usage of the landfill prior to the 1970s. The continued contamination of the *Ordot*
7 landfill, its interrelated status as a Superfund site, and the associated costs
8 culminated in the 2004 consent decree, the *Ordot* landfill’s 2011 closure, and the
9 ongoing post-closure cleanup. The *Ordot* landfill post-closure care continues to
10 comprise a substantial amount of Guam Solid Waste Authority’s (GSWA) total
11 expenditures, with forty percent (40%) of GSWA’s expenditures attributed to
12 assigned contracts and *Ordot* landfill post-closure care for Fiscal Year 2021. The
13 government of Guam has been the sole financier of the *Ordot* landfill’s closure and
14 cleanup to date, and consequently sued the U.S. Navy in 2017 for their contribution
15 to the *Ordot* landfill’s contamination and associated cleanup costs per Section
16 113(f)(3)(B) of the Comprehensive Environmental Response, Compensation, and
17 Liability Act (CERCLA).

18 *I Liheslatura* finds that the government of Guam’s inability to fully fund
19 operations concerning the *Ordot* landfill (i.e. closure and environmental protections)
20 and the Layon landfill (i.e. construction) resulted in the U.S. District Court of
21 Guam’s 2008 appointment of a Federal Receiver (Receiver). The U.S. District Court
22 of Guam appointed solid waste management consultants Gershman, Brickner &
23 Bratton, Inc. (GBB) as the Federal Receiver of the former Solid Waste Management
24 Division of the Guam Department of Public Works to ensure the government of
25 Guam’s compliance with the 2004 consent decree. In enforcing the terms of the
26 consent decree, the Receiver established tipping fees to compensate for the costs of
27 improving the island’s solid waste collection and disposal operations.

1 *I Liheslatura* finds that the Receiver’s research and analysis determined that
2 tipping fees would remain at a low cost; provided, that all Guam residents subscribed
3 to garbage collection services. However, GSWA has indicated that eighteen
4 thousand (18,000) of the island’s residents are unregistered for curbside garbage
5 collection services, further noting that their 2021 tonnage analysis paradoxically
6 demonstrates Layon landfill as receiving most of the island population’s refuse. The
7 discrepancies between unsubscribed residents and tonnage received at Layon landfill
8 suggest a multitude of avenues through which residents dispose of their garbage.
9 While some unsubscribed residents choose to dispose of their garbage at transfer
10 stations for a nominal fee, GSWA has also determined that some unsubscribed
11 residents dump their garbage in residential or commercial trash bins (i.e.,
12 “piggybacking”), with or without the subscriber’s consent, or elect to illegally dump
13 their trash in the environment. Both “piggybacking” and illegal dumping hold
14 negative financial consequences for the island’s collection and disposal program as
15 they respectively compromise the program’s financial and operational capacity
16 through diminished subscription and associated costs of collecting illegally disposed
17 waste.

18 *I Liheslaturan Guåhan* finds that if all of Guam’s residents subscribe to
19 GSWA garbage collection services the economies of scale will result in lower rates
20 per subscriber and simultaneously ensure that every resident’s garbage will be
21 collected and properly disposed of. The implementation of islandwide collection
22 would greatly mitigate the financial and logistical challenges posed by
23 “piggybacking” and illegal dumping. Islandwide collection services for Guam would
24 also parallel the initiatives of other domestic and international jurisdictions that have
25 instituted mandatory garbage collection services. Studies such as the 2020 Public
26 Utilities Commission Final Report on the Management Audit of the Guam Solid
27 Waste Authority demonstrate Guam as one of a very small number of similarly sized

1 jurisdictions that do not institute mandatory garbage collection services, indicating
2 that a majority of similar jurisdictions (i.e., similarly sized government and
3 population) have established mandatory garbage collection services. Such
4 implementation would include a Customer Assistance Program to financially
5 support the costs of services for eligible community members. Ultimately, the
6 implementation of mandatory garbage collection on Guam would mirror domestic
7 and international initiatives determined to increase the efficiency of garbage
8 collection services, prevent the detrimental financial consequences of
9 “piggybacking,” and reduce illegal dumping.

10 Therefore, it is the intent of *I Liheslaturan Guåhan* to implement an
11 Islandwide Collection Plan that will be administered by the Guam Solid Waste
12 Authority.

13 **Section 2.** A new Article 11 is *added* to Chapter 51A of Title 10, Guam
14 Code Annotated, to read as follows:

15 **“ARTICLE 11**

16 **ISLANDWIDE COLLECTION PLAN**

- 17 § 51A1101. Purpose.
18 § 51A1102. Islandwide Collection Plan Goals.
19 § 51A1103. Subscription for, and Mandatory Provision for, Garbage
20 Collection Services.
21 § 51A1104. Exemptions.
22 § 51A1105. Penalties for Failure to Subscribe.

23 **§ 51A1101. Purpose.**

24 *I Liheslaturan Guåhan* finds that if all of Guam’s residents subscribe to
25 GSWA garbage collection services, the economies of scale will result in lower rates
26 per subscriber and simultaneously ensure that every resident’s garbage will be
27 collected and properly disposed of. The implementation of islandwide collection

1 would greatly mitigate the financial and logistical challenges posed by
2 “piggybacking” and illegal dumping. Islandwide collection services for Guam would
3 also parallel the initiatives of other domestic and international jurisdictions that have
4 instituted mandatory garbage collection services. Such implementation would
5 include a Customer Assistance Program to financially support the costs of services
6 for eligible community members. Ultimately, the implementation of islandwide
7 collection services on Guam would mirror domestic and international initiatives
8 determined to increase the efficiency of garbage collection services, prevent the
9 detrimental financial consequences of “piggybacking,” and reduce illegal dumping.
10 Therefore, it is the intent of *I Liheslaturan Guåhan* to implement an Islandwide
11 Collection Plan that will be administered by the Guam Solid Waste Authority.

12 **§ 51A1102. Islandwide Collection Plan Goals.**

13 The goals and objectives of the Islandwide Collection Plan include:

- 14 (a) municipal garbage collection for all residential buildings
15 comprised of four (4) units or less;
- 16 (b) collection of unwanted appliances, electronics, and most
17 types of batteries;
- 18 (c) integration of public and private garbage collection
19 services;
- 20 (d) reduction in tipping fees and disposal fees for old
21 electronics and batteries; and
- 22 (e) reduction of littering and dumping violations.

23 **§ 51A1103. Subscription for, and Mandatory Provision of, Garbage**
24 **Collection Services.**

25 All owners of residential buildings shall subscribe to and obtain public
26 or private garbage collection services, except as provided in § 51A1104 of
27 this Article, under the following conditions:

1 (a) Applicants for new service and existing customers of the
2 Guam Waterworks Authority (GWA) shall be enrolled in garbage
3 collection services with the Guam Solid Waste Authority (GSWA) or a
4 private hauler. GWA shall provide any GSWA forms or applications to
5 implement this Section, and provide the applicant's enrollment forms
6 to GSWA. The applicant shall be solely responsible for establishing
7 solid waste collection services.

8 (b) The subscribed owner shall pay for garbage
9 collection services rendered to their occupied residential
10 building.

11 Nothing in this Section is intended to prevent an arrangement, or the
12 continuance of an existing arrangement, under which payments for garbage
13 collection services are made by a lessee, or lessee's agent, on behalf of the
14 owner; however, any such arrangement shall not affect the owner's obligation
15 to ensure subscription for garbage collection services and the associated
16 payment for such services, or for any customer assistance or lifeline rate
17 programs created and operated by or managed by the Authority.

18 **§ 51A1104. Exemptions.**

19 GSWA shall exempt from the requirements of § 51A1103 of this
20 Article any owner who shows, and only so long as the owner can continue to
21 show:

22 (a) the owner of a residential building comprised of four (4)
23 units or less, or other qualifying building, may forgo subscription if
24 the lessee is obligated, by the lease contract, to subscribe for garbage
25 collection services;

26 (b) if the building with a valid occupancy permit is vacant;

1 (c) if the building is occupied but not expected to generate
2 any form of municipal solid waste;

3 (d) if there is a contract for weekly collection services with a
4 permitted private collection hauler; or

5 (e) if the owner or lessee of a residential building registers
6 with GSWA as a self-hauler and utilizes the Residential Transfer
7 Stations.

8 Any owner who meets the requirements of this Section may petition the
9 GSWA for an exemption. The exemption eligibility shall be renewed annually
10 from the date the initial exemption is granted.

11 **§ 51A1105. Penalties for Failure to Subscribe.**

12 Penalties for failure to subscribe, failure to pay tipping fees, late
13 payment fees and any other fees, shall be established by the Guam Solid Waste
14 Authority Board of Directors pursuant to Chapter 9, Title 5, Guam Code
15 Annotated, and in conjunction with the tipping fees established by § 51A301
16 of this Chapter.”

17 **Section 3.** A new § 51A120(c) is *added* to Article 1 of Chapter 51A, Title
18 10, Guam Code Annotated, to read as follows:

19 “(c) Customer Assistance Program. GSWA is authorized to establish a
20 Customer Assistance Program to provide financial assistance to eligible ratepayers.
21 GSWA shall establish income eligibility standards for the residential class ratepayer
22 to receive financial assistance, which shall include a reduction or waiver of fees,
23 subject to the approval of the Guam Public Utilities Commission.”

24 **Section 4.** A new § 14104(p) is *added* to Article 1 of Chapter 14, Title 12,
25 Guam Code Annotated, to read as follows:

26 “(p) The Guam Waterworks Authority shall share customer information
27 with the Guam Solid Waste Authority as necessary to be used for establishing solid

1 waste collection services. The Guam Waterworks Authority shall not be held liable
2 for any damages or disputes resulting from the sharing of customer information.”

3 **Section 5. Revision of Rates and Fees.** GSWA shall review and revise
4 rates as needed to account for the implementation of Section 2 of this Act.

5 **Section 6. Promulgation of Rules and Regulations.** GSWA shall revise
6 its administrative rules and regulations to comply with the mandates of Chapter 51A,
7 Title 10, Guam Code Annotated, pursuant to Chapter 9 of Title 5, Guam Code
8 Annotated, and Chapter 51A of Title 10, Guam Code Annotated, within one hundred
9 eighty (180) days of enactment of this Act. The default approval provisions of 5
10 GCA, Chapter 9, Article 3, § 9303(c) shall not apply to this Act.

11 **Section 7. Implementation.** The Islandwide Collection Plan set forth in
12 Section 2 of this Act shall be implemented twelve (12) months after *I Liheslaturan*
13 *Guåhan*’s approval and adoption of the rules and regulations as promulgated
14 pursuant to Section 6 of this Act.

15 **Section 8. Effective Date.** This Act shall be effective upon enactment.

16 **Section 9. Severability.** If any provision of this Act or its application to any
17 person or circumstance is found to be invalid or inorganic, such invalidity shall not
18 affect other provisions or applications of this Act that can be given effect without
19 the invalid provision or application, and to this end the provisions of this Act are
20 severable.