



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT

Received By: [Signature]
Time: 4:40
Date: 3-12-96

MAR 12 1996

The Honorable Ted S. Nelson
Acting Speaker
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT

Received By: [Signature]
Time: [Signature]
Date: [Signature]

Dear Speaker Nelson:

Enclosed please find a copy of Bill No. 302 (LS), "AN ACT TO AMEND 9 GCA §70.25 RELATIVE TO JET SKI OPERATION", which I have signed into law today as **Public Law No. 23-78**.

Presently, due to Administrative action, there are no jet ski companies operating in the Pago Bay area. There is also a pending amendment to the Recreational Water Use Management Plan (RWUMP) of the Department of Parks and Recreation which calls for restrictions on the usage of jet skis and other recreational water vehicles, which will further organize the different activities to take place in the waters along our shoreline.

There must be areas that are available on the shoreline for traditional activities such as fishing. It is appropriate that Pago Bay, long a site for these traditional endeavors, to be set aside for these purposes.

Very truly yours,

[Signature]
Carl T. C. Gutierrez

Attachment
231035

Office of
VICE-SPEAKER TED S. NELSON

Received by: [Signature]

Print Name: _____ Initial: _____
Date: 3/12 Time: 1:30pm

TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) Regular Session

This is to certify that Bill No. 302 (LS), "AN ACT TO AMEND 9 GCA §70.25 RELATIVE TO JET SKI OPERATION," was on the 28th day of February, 1996, duly and regularly passed.



D. PARKINSON
Speaker

Attested:



JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 1ST day of MARCH,
1996, at 5:40 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 3-12-96

Public Law No. 23-78

TWENTY-THIRD GUAM LEGISLATURE
1995 (First) Regular Session

Bill No. 302 (LS)

Introduced by:

J. M. S. Brown
T. S. Nelson
T. C. Ada

J. P. Aguon
E. Barrett-Anderson
A. C. Blaz
F. P. Camacho
M. C. Charfauros
H. A. Cristobal
M. Forbes
A. C. Lamorena V
C. A. Leon Guerrero
L. A. Leon Guerrero
S. L. Orsini
V. C. Pangelinan
D. Parkinson
J. T. San Agustin
A. L. G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO AMEND 9 GCA §70.25 RELATIVE TO JET
SKI OPERATION.

1 **BE IT RESOLVED BY THE PEOPLE OF THE TERRITORY OF GUAM:**
2 **Section 1.** §70.25 of Title 9, Guam Code Annotated, is hereby amended
3 to read:
4 **"§70.25. Jet Ski Operation, Tumon Bay and Pago Bay.** No person
5 shall operate a jet ski or water ski within the reef along Tumon Bay and

1 Pago Bay except that a jet ski may be operated in the channel to enter or
2 exit Tumon Bay and Pago Bay. This prohibition shall not apply to the
3 use of jet ski for emergency rescue or for law enforcement purposes.
4 Any person who violates this Section is guilty of a misdemeanor."

TWENTY-THIRD GUAM LEGISLATURE

1996 (SECOND) Regular Session

Date: 2/22/96

VOTING SHEET

Bill No. 302

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL 21 0 0 0

CERTIFIED TRUE AND CORRECT:

Recording Secretary

PL 73-18

Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice, and Environmental Affairs Twenty-Third Guam Legislature

Ada's Commercial and Professional Center
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910

Tel: (671) 472-3342/3/5
Fax: (671) 472-3440
E-Mail: markchar@uog9.uog.edu

February 12, 1996

SPEAKER DON PARKINSON
Twenty-Third Guam Legislature
155 Hesler St.
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Criminal Justice and Environmental Affairs to which was referred **Bill No. 302**, wishes to report back to the Legislature with its recommendation to pass **Bill No. 302**- "AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI OPERATION."

The voting record is as follows:

TO PASS	<u>10</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.


MARK C. CHARFAUROS

Attachments.

Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice, and Environmental Affairs Twenty-Third Guam Legislature

Ada's Commercial and Professional Center
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910

Tel: (671) 472-3342/3/5
Fax: (671) 472-3440
E-Mail: markchar@uog9.uog.edu

February 5, 1996

MEMORANDUM

TO: Members

FROM: Chairman

SUBJECT: Committee Report - **Bill No. 302** "AN ACT TO AMEND 9 GCA 70.25
RELATIVE TO JET SKI OPERATION."

Transmitted herewith for your information and action is the Committee on Judiciary,
Criminal Justice and Environmental Affairs' Report on the subject Bill.

The narrative report is accompanied by the following:

1. Original Bill 302;
2. Committee Voting Sheet;
3. Testimony and Sign-in Sheet
4. Public Hearing Notice.

Should you have any questions on the narrative report or the accompanying documents, I
would be most happy to answer any of them.

Please take the appropriate action on the attached voting sheet and return the documents
to my office for transmittal to the other members.

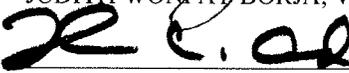
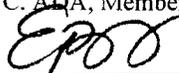
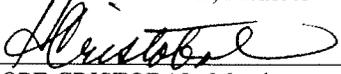
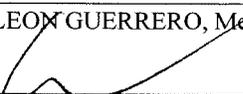
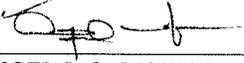
Your attention and cooperation in this matter is greatly appreciated.

Attachments.


MARK C. CHARFAUROS

**COMMITTEE ON JUDICIARY, CRIMINAL JUSTICE AND
ENVIRONMENTAL AFFAIRS
23rd Guam Legislature
VOTING RECORD**

Bill No. 302 "AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI OPERATION."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK C. CHARFAUROS, Chairman	✓	—	—	—
 JUDITH WONPAT BORJA, Vice-Chairperson	✓	—	—	—
 THOMAS C. ADA, Member	✓	—	—	—
 ELIZABETH BARRETT-ANDERSON, Member	✓	—	—	—
 JOANNE BROWN, Member	✓	—	—	—
ANTHONY C. BLAZ, Member	—	—	—	—
 HOPE CRISTOBAL, Member	✓	—	—	—
 A. TONY LAMORENA, Member	✓	—	—	—
LOU LEON GUERRERO, Member	—	—	—	—
 TED S. NELSON, Member	✓	—	—	—
VICENTE C. PANGELINAN, Member	—	—	—	—
 ANGEL L.G. SANTOS, Member	✓	—	—	—
DON PARKINSON, Ex-Officio Member	—	—	—	—

COMMITTEE ON JUDICIARY, CRIMINAL
JUSTICE AND ENVIRONMENTAL
AFFAIRS

Twenty-Third Guam Legislature

COMMITTEE REPORT

on

Bill No. 302

“AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI OPERATION.”

December 15, 1995

I. OVERVIEW

The Committee on Judiciary, Criminal Justice and Environmental Affairs scheduled a public hearing on December 15, 1995 at 9:30 a.m. at the Legislative Public Hearing Room. Public notice was announced on the December 13, 1995 issue of the PDN. Members present were:

Senator Mark C. Charfauros, Chairman
Senator Ben Pangelinan
Senator Ted Nelson
Senator Judith WonPat-Borja
Senator Hope Cristobal
Senator Angel L.G. Santos
Senator Tom Ada
Senator Lou Leon Guerrero
Senator Alberto Lamorena
Senator Joanne S. Brown

Appearing before the Committee to testify on the bill were:

Phil Tydingco, Legal Counsel, Guam Police Department, **oral**.
Rosanna D. San Miguel, Mayor, Chalan Pago/Ordot, **oral**.
A.J. Sonny Shelton, Director, Department of Parks and Recreation, **written**.
Francisco C. Duenas, Inetnon Peskatdot Association of Guam, **written**.
Gus F. Diaz, Acting Attorney General, Department of Law, **written**.
Jack S. Shimizu, Chief, Guam Police Department, **written**.

II. SUMMARY OF TESTIMONY

Mr. Phil Tydingco, Legal Counsel, Guam Police Department, testified in support of Bill 302. He questioned the reasons for the increase in penalties, **oral**.

Senator Joanne S. Brown, author of Bill 302, responded that the increased penalties would provide for a \$500 increase in fines for violating this section, stating that it would send a stronger message to people that they must abide by the law.

Ms. Rosanna D. San Miguel, Mayor, Chalan Pago/Ordot, testified in support of Bill 302. She stated that the Bill will guarantee the safety of the children and the fishermen in the area, as well as preserve the tranquility of Pago Bay, **oral**.

Mr. A.J. Sonny Shelton, Director, Department of Parks and Recreation, **written, attached**.

Mr. Francisco C. Duenas, Inetnon Peskatdot Association of Guam, testified in support of Bill 302, **written, attached**.

Gus F. Diaz, Acting Attorney General, Department of Law, **written, attached**.

Jack S. Shimizu, Chief, Guam Police Department, **written, attached**.

III. FINDING AND RECOMMENDATION

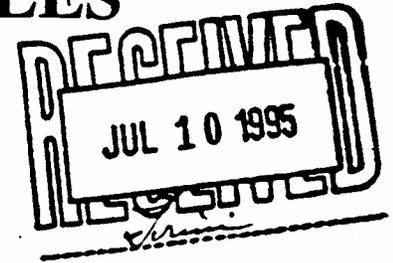
The Committee finds that Bill 302 would prohibit the operation of jet skis in Pago Bay. The Committee finds that Bill 302 is a response to recent controversies surrounding both private and commercial use of jet skis in the area. The Committee further finds that the community of Chalan Pago, as represented by Mayor Rosanna D. San Miguel, has indicated support for the Bill. The Committee finds that testimony received regarding Bill 302 has been favorable.

Accordingly, the Committee on Judiciary, Criminal Justice and Environmental Affairs, to which was referred **Bill No. 302**, does hereby submit its findings and recommendation to the Twenty-Third Guam Legislature **TO DO PASS Bill No. 302** "AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI OPERATION."



COMMITTEE ON RULES

Twenty-Third Guam Legislature
155 Hesler St., Agana, Guam 96910



July 10, 1995

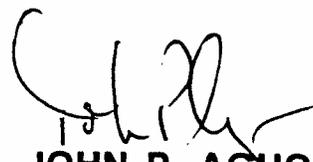
MEMORANDUM

TO: Chairman, Committee on Judiciary, Criminal Justice
and Environmental Affairs

FROM: Acting Chairman, Committee on Rules

SUBJECT: Referral - Bill No. 302

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.


JOHN P. AGUON

Attachment:

THIRTY-THIRD GUAM LEGISLATURE
1995 (First) Regular Session

Bill No.: 302

Introduced by:

J.M.S. Brown 

AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI
OPERATION

1 BE IT RESOLVED BY THE PEOPLE OF THE TERRITORY OF
2 GUAM:

3
4 Section 1. Title 9 Guam Code Annotated Section 70.25 is hereby
5 amended to read:

6
7 Section 70.25. Jet Ski Operation, Tumon Bay and Pago Bay.
8 No person shall operate a jet ski or water ski within the reef along Tumon Bay
9 and Pago Bay except that a jet ski may be operated in the channel to enter or
10 exit Tumon Bay and Pago Bay. This prohibition shall not apply to the use of jet
11 ski for emergency rescue or for law enforcement purposes. Any person who
12 violates this Section is guilty of a ~~petty~~ misdemeanor.

FAX TRANSMITTAL

of pages

SENATOR MARK CHARFAUROS
 Chairman on Judiciary, Criminal Ju
 and Environmental Affairs
 Twenty-Third Guam Legislature
 Agana, Guam 96910

To SENATOR BROWN	From FRANK DUENAS
Dept./Agency	Phone 339-6140
Fax # 472-4090	Fax # 339-2265
NSN 7540-01-317-7368	5099-101 GENERAL SERVICES ADMINISTRATION

15 Dec 95

Dear Senator Charfuros,

The INETNON PESKATDOT ASSOCIATION OF GUAM, and other concern citizens of the district of Ordot/Chalan Pago, supports Bill 302 introduced by Senator Joanne Brown; however we feel that the language needs to be change and insert the following (or motor craft) between the words *ski* and *within* on the first sentence. A motor craft is usuually the vehicle that pulls the water ski. By doing this the proposed amendment will be clear and concise so that no mistakes on it's interpretation.

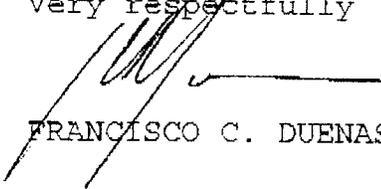
Mr. Chairman, the second sentence (**Except that a jet ski may be operated in the channel to enter or exit Tumon Bay and Pago Bay**) needs to be change or be remove completely for the following reasons:

- a. It gives operators the opportunity to take advantaged of the language set forth enter and exit specially for the Pago Bay area.
- b. The INETNON PESKADOT members does not support this section of the proposed amendment unless the following words are added. (**for emergency purposes only**)

In an effort to be heard, I am submitting this written testimony and to appeal to you Mr. Chairman to ensure that our recommendation be inserted into this amendment. If the change is made on the second sentence we the people of Guam will once again enjoy our waters, either for recreation or fishing.

Mr. Chairman, thank you for your support in ensuring that the changes are made, and to you Senator Brown, thank you for introducing Bill 302. Now our people of Guam can be given the opportunity to utilized the waters around our island as our ancestors did.

Very respectfully


 FRANCISCO C. DUENAS



Carl T.C. Gutierrez
Governor

Madeleine Z. Bordallo
Lt. Governor

DEPARTMENT OF PARKS AND RECREATION

GOVERNMENT OF GUAM
BUILDING 13-8, TIYAN
Post Office Box 2950
Agana, Guam 96910
Telephone: (671) 475-6296/7
Facsimile: (671) 472-9626



A.J. Sonny Shelton
Director

Franklin J. Gutierrez
Deputy Director

December 15, 1995

**Senator Mark C. Charfauros
Chairman, Committee on Judiciary, Criminal
Justice and Environmental Affairs
Twenty-Third Guam Legislature
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910**

RE: BILL NO. 302

Dear Mr. Chairman:

As conveyed in my testimony at your most recent public hearing regarding RWUMP, this department in coordination with the RWUMP committee, has developed and routed proposed amendments addressing jetski usage in Pago Bay and the eastern seaboard. The proposed amendments envision specific prohibition of jet skis within the reef areas of Pago Bay and the eastern seaboard.

As such, it would appear that this department and the legislature via bill no. 302 are progressing along parallel tracks towards the same goal.

Sincerely,



**A. J. SONNY SHELTON
Director**



The Way Forward!



Calvin E. Holloway, Sr.
Attorney General

Gus F. Diaz
Chief Deputy Attorney General

Office of the Attorney General
Territory of Guam

Phone: (671) 475-3324
Telefax: (671) 472-2493

December 15, 1995

HAND DELIVER

The Honorable Mark C. Charfauros
Chairman, Committee on Judiciary & Criminal Justice
and Environmental Affairs
Twenty-Third Guam Legislature
Ada's Commercial & Professional Center
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910

Re: Bill Nos. 274, 302, 310, 381, 394, 398, 420,
and Resolution No. 340

Dear Senator Charfauros:

Hafa Adai!

In response to your letter dated December 7, 1995, which was received by our office on December 11, 1995, I hope the following written testimony will be helpful to your committee in connection with the bills and resolution cited above.

COMMENT: BILL NO. 274

This bill would create a second Guam Police Department Reserve composed of former regular officers who have retired or left the department and hold other jobs. It would also pay the volunteers at the same rate as regular active duty officers. This could cause those employees who are currently drawing retirement to run afoul of the requirement in 4 G.C.A. 8121 which requires suspension of their retirement payments if they return to work as an employee for the government.

COMMENT: BILL NO. 302



Commonwealth Now!

This bill is apparently a reaction to the controversy over the operation of the Pago Bay Marine Club. The issue is now moot as the Club is no longer in operation, and no other group will be able to get a permit to operate in Pago Bay since the Water Recreational Use Management Plan (WRUMP) has been drafted for that area and prohibits the use of motorized watercraft in that area as well as all along the east side of the island.

COMMENT: BILL NO. 310

This bill would restore an earlier requirement for a regular re-registration of firearms. Basically it will restore prior legislation. However, there is a sentence on page 3 at lines 6-7 that should be removed. The requirement for the ID card should be placed in another section entirely. At lines 6-7, the bill removes the word "permanent" preceding "firearms identification card" and would leave 10 G.C.A. §60107 as being the only place in the code which indicates the length of time for which a firearms identification card is valid--3 years. It would be preferable to delete the entire sentence from this section. It does not need to be placed in another section as §60106 already requires firearms identification cards if one possesses, etc., a firearm.

The second section creates an amnesty period for those who have unregistered firearms to register them. This is a good idea that may result in the registration of illegal firearms..

COMMENT: BILL NO. 381

We are of the opinion that the bill is a good idea for Guam because it would provide a relatively easy and inexpensive way to invest someone with the power to act on another person's behalf in making important, even crucial, decisions should that other person later become unable to act on his or her own behalf because of physical disability or mental incapacity.

To lessen the chances for overreaching by relatives or other putative agents or any kind of hanky panky as to when a principal is "disabled" or "incompetent", the bill perhaps should contain definitions for those terms. Chapter 38 of Guam's Probate Code, 15 GCA, defines "incompetent person", "incompetent" and "mentally incompetent" to mean "any person, whether insane or not, who by reason of old age, disease, weakness of mind or other cause, is unable, unassisted, properly to manage and take care of himself or his property, and by reason thereof is likely to be deceived or imposed upon by artful or designing persons". At page 5 of the bill, Section 21504, which sets out the sample form for a durable power of attorney for health care decisions, uses the test of "if I should develop a terminal condition or permanent loss of the ability to communicate concerning medical treatment decision with no reasonable chance of

regaining this ability." Presumably, a treating physician would make that determination, but the bill doesn't spell that out. The bill impliedly contemplates the objective opinion of a qualified medical authority as to the physical condition or capacity of the principal in question.

Although Section 1 of the bill covers both medical and non-medical situations, the later focus of the measure is mostly upon the health care kinds of decisions. The sample form, for example, is for only those kinds of decisions. A sample form for the contractual or non-medical setting might be advisable.

On page 3 of the bill, at line 17, the sentence is incomplete. The missing last word probably is "presence".

Section 21503, detailing the requirements for a durable power of attorney, requires that it be signed in the presence of two or more witnesses. The bill should provide, in the alternative, that the power of attorney may be signed in the presence of and authenticated by a notary public. (Guam has an ample supply of notaries. These notaries would appreciate the recognition of their authority and ability to perform this kind of transaction under our notary laws!)

At page 4 of the bill, on line 9, after "physician" the word "an" should be corrected to read "and".

A further note on the terms "disability" and "incapacity": A footnote to Am Jur Section 58 discussing the Uniform Durable Power of Attorney Act S.2, cites the Commissioners' Comment that those terms "embrace legal incompetence as well as less grievous disadvantages". Evidently the drafters of the uniform act eschewed any statutory definition of the terms in favor of a liberal interpretation of their meaning. We believe the term "disability" suggests more of a lack of physical capability to perform an act, whereas "incapacity" refers to incompetence or a lack of legal ability to act. Actually, as a matter of legal interpretation, the two terms are practically interchangeable, depending upon the context in which they are used.

COMMENT: Bill 394

Bill No. 394 could jeopardize federal funding of our Family Division's child support and paternity program inasmuch as it would mandate the Department of Law to perform a function (the temporary restraining orders) which is not part of the child support program. Guam's program is, in most respects, 66% federally funded and, in some respects (including paternity establishment), 90% federally funded.

When our department enters an ongoing marriage dissolution case, we are strictly limited to

handling only the child support aspect. Many of our cases involve couples not married to each other; thus, there is no legal relationship by which the Bill's provisions concerning transferring assets should be applied to them. The custodian of the children is often a relative other than a parent, and such a provision would be even less fair. Other provisions of the Bill would involve us in custody issues. We have many cases where we are simply seeking to recover past welfare paid to a parent who now resides with the other parent and the children - this Bill forces them to separate. Other cases involve unmarried couples who get along fine, without rancor, and we properly file a case for child support because the custodial parent receives welfare; this bill could create conflicts where none otherwise existed and may disturb the parental relationship with their children.

Last, under Public Law 22-99, section 3, the Department of Law does not represent either parent in a child support (or paternity) action. We represent the Territory (e.g., welfare reimbursement) and/or the best interests of the children as to meeting Guam's Child Support Guidelines. The Bill would make us act as an attorney for one parent or party, so in many of our cases where the Department of Public Health and Social Services is the plaintiff, that department would be under the restraining order.

We urge you to remove references to paternity and child support cases and feel it is inappropriate to comment on the Bill otherwise since marital dissolutions are not the province of the Department of Law. Certainly, this department is in full support of legislation to deal with all forms of domestic violence.

COMMENT: Bill 398

Bill No. 398 includes language from a family violence statute which has already encountered problems with at least one Judge of the Guam Superior Court for being unconstitutionally vague. As an example of such vagueness, the phrase, "physically abuses," should be defined. To my knowledge, our department was not asked for input on this statute, and we would be happy to assist in drafting such an important statute.

COMMENT: Bill 420

Earlier this month, Public Law 23-64 was enacted. As the following analysis indicates, this bill is, in most respects, already contained within P.L. 23-64.

Section 51103 (b) of P.L. 23-64 states that public sanitary landfills, hardfills, etc., as currently exist or may be established will be operated and maintained by the Department of Public Works (DPW). It also provides that "The Director of Public Works, with the approval of the

Governor, may execute a contract after public bid with a private party or firm for the collection and disposal of any solid or bulky waste . . . including the operation of any sanitary landfill, hardfill, transfer stations. . . which is publicly owned . . ." This seems to match the intent and vision of Bill 420.

P.L. 23-64 also authorizes DPW to negotiate for and approve contracts for recycling and composting at the Ordot Landfill or at any other site approved by GEPA, as does Bill 420.

Page 2 of Bill 420, line 4, states that the Governor is authorized to negotiate the regulations by which the landfill will be operated. Regulations are, of course, promulgated through the Administrative Adjudication Law process and would require public hearings as well as legislative action.

DPW has been working very hard to pass its Guam Users Fee Ordinance. These are the service fees DPW will be charging residential users for curbside trash collection and commercial haulers that dump at the landfill. These fees are to be used towards closure of the Ordot Landfill, operation of a recovery facility and the new landfill. DPW, in this ordinance, reserved its authority to contract out for collection and disposal of solid wastes and that these contracts would be awarded in accordance with the Guam Procurement Law. This seems to satisfy page 2 of Bill 420, lines 9-11.

On page 2, lines 5 and 6, of Bill 420, it states that when negotiations are completed satisfactorily, the Governor shall submit a report to the legislature. Then in Section 3 of Bill 420, lines 12-14, it states that the complete report of the bid, negotiations, and recommendations shall be submitted to the legislature within 180 days of the date of enactment of this Act with a request for approval. The practicality of this timeframe is discussed below.

It is not clear whether the legislation requires legislative approval on the lowest responsible bidder and the resulting purchase order. The terminology that defines invitation for Bids and Request for Proposals are separate and distinct. Bids do not have negotiations, the award goes to the lowest responsible bidder. Request for Proposals (RFP) have negotiations for a fair and reasonable fee. The result of a bid is a purchase order, which, although a contract, is not usually approved by the Attorney General or signed by the Governor. The result of an RFP is a formal contract. Bill 420 confuses these two processes. The bill should reflect the procurement process desired and maintain consistent terminology appropriate to that process.

Assuming it is the RFP process that is desired, there is a separation of powers violation in Bill 420 with the Legislature approving the contract, prior to the Governor. The Governor is the leader of the executive branch and he approves all contracts that will bind the territory.

Letter to the Honorable Mark C. Charfauros
Senator, Twenty-Third Guam Legislature
December 15, 1995
Page 6

Whether the RFP process or the bid process is utilized, the 180-day time frame required, as a practical matter, will be difficult to meet. Writing the scope of work can easily take 2-3 months, then the notice requirements and selection can take another 2 months, and finally BBMR approval is required. We suggest that a more practical requirement would be to require a status report rather than a complete report in 180 days.

The intent of Bill 420 is an excellent concept; however, it has some flaws in its execution and its apparent purpose seems to have been already addressed in P.L. 23-64.

My only comment to Resolution No. 340 is that, to the extent a resolution could adversely impact Guam's inspection service charges in the view of the FAA, I believe the resolution is ill-advised.

The above comments and recommendations are submitted for your consideration. Thank you for the opportunity to do so.

Dangkolo Na Agradesimento - Thank You Very Much!



GUS F. DIAZ
Attorney General, Acting

cc: Bill Review File



**CARL T.C.
GUTIERREZ**
Governor of Guam

**MADELEINE Z.
BORDALLO**
Lieutenant Governor

Guam Police Department

Government of Guam

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**JACK S.
SHIMIZU**
Chief of Police

**COL. B.A.
LEON GUERRERO**
Deputy Chief of Police

Hon. Mark C. Chamorro
Senator and Chairman of the
Committee on Judiciary, Criminal Justice
and Environmental Affairs
Twenty-Third Legislature
Ada's Commercial and Professional Center
138 Marine Drive, Suite 101C-Annex
Agana, Guam 96913

Subject: Proposed Legislative Bills Numbers 274, 302, 310, 394 and 398.

Dear Mr. Chairman,

This is to provide input regarding the aforementioned legislative bills received by GPD on December 11, 1995 and scheduled for public hearing on December 15, 1995.

Bill No. 274

GPD supports the intent of the proposed bill to create a " police ready reserve," especially in light of uniformed personnel shortages experienced by the Department as a result of budgetary constraints, annual off-island military training, vacations, normal attrition or any combination thereof.

GPD would however respectfully request more time to study the bill because it raises a number of financial, operational and personnel issues. For example, Section 66204 mandates GPD to "identify funds within [its] departmental appropriations to satisfy the intent" of compensating members of this reserve activated for duty which requires careful examination of our current budget. Another concern is that the bill contemplates GPD retirees as comprising a substantial part of the police ready reserve and the intent of Section 66204 to make such reserve members equivalent to regular uniformed personnel when activated requires clarification on what impact compensation in that status will have on their retirement or whether GPD should contract with them as unclassified

full-time employees or as independent consultants. GPD also needs to determine whether its current civilian police reserve force will be negatively impacted by this bill. Despite these concerns and others that may arise, GPD remains supportive of the bill as an alternative remedy for addressing GPD's uniformed personnel shortages.

Bill No. 302

GPD has no objection to amending Section 70.25 by including "Pago Bay" as another area where jet ski operation is prohibited. GPD also has no strong objection to increasing the liability for violating this section from a petty misdemeanor to a full misdemeanor.

Bill No. 310

GPD Strongly supports the intent of Bill 310. GPD specifically welcomes the amending of Section 60110 of Title 10 GCA which proposes to require that firearms be registered triennially or every three years rather than the current one-time permanent registration of a firearm. This is especially needed when faced with the presence of large numbers of firearms in our community and the difficulty in keeping track of them.

GPD also appreciates that section of Bill 310 which provides for the generation of funds to assist the Department in addressing the financial costs of training future police academy cycles of recruits.

GPD would like to additionally recommend that Chapter 60 of Title 10 GCA which governs firearms as a whole be examined for any other necessary amendments as a "Firearms Safety Act."

Bill No. 394

The goal of Bill 394 to help decrease violence in divorces or marital dissolution proceedings and other related matters has GPD's full support.

Although sections of the bill adds a new subsection(s) to Section 60108(b)(4) of Title 10 GCA, GPD would however respectfully recommend that the following additional language or something similar to it be added on to Section 7 of the bill which creates a new Section 8418 of Title 19 GCA. It should read:

" §8414. Order to be served or Guam Police Department.
Whenever the Courts orders firearms to be deposited with the court pursuant to 19 GCA §8416, the executed order shall be served on the Guam Police Department, and make known that the Guam Police Department shall not renew nor issue any new firearms identification cards or registration

cards to those parties subject to the provision or restrictions of Section 8416(b)(4) of Title 19 GCA and for the duration specified therein."

Bill No. 398

GPD respectfully directs your attention to the fact that Section 31.60 of Title 9 GCA was repealed in 1994 by the Family Violence Act and therefore the instant bill to amend Section 31.60 ought to be directed toward the new Chapter 30 of Title 9 GCA.



J.S. Shimizu
Chief of Police
Guam Police Department

cc: Governor's Legal Counsel
Deputy Chief of Police
GPD Legal Advisor

Notice of Public Hearing



Senator
Mark C. Charfauros

Chairman, Committee on Judiciary,
Criminal Justice and Environmental Affairs
Twenty-Third Guam Legislature

9:30 a.m.

Agenda

Resolution No. 340, RELATIVE TO REQUESTING THE FEDERAL GOVERNMENT TO GRANT THE COMMONWEALTH OF THE NORTHERN MARIANAS EXEMPTION FROM THE CUSTOMS, AGRICULTURE, AND QUARANTINE INSPECTION SERVICES CHARGE.

Bill No. 274, AN ACT TO CREATE A POLICE READY RESERVE AND FIREFIGHTER READY RESERVE BY ADDING A NEW CHAPTER 66-B AND A NEW CHAPTER 72-A TO TITLE 10 OF THE GOVERNMENT CODE OF GUAM.

Bill No. 302, AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI OPERATION.

Bill No. 310, AN ACT TO AMEND SECTION 60110 OF TITLE 10 OF THE GCA TO REQUIRE THAT FIREARMS BE REGISTERED TRIENNIALLY, RATHER THAN PERMANENTLY, AND IN AN EFFORT TO ENCOURAGE THE REGISTRATION OF ALL FIREARMS, TO GRANT AN AMNESTY TO PERSONS WHO HAVE FAILED TO REGISTER THEIR FIREARMS, AND TO CREATE A GUAM POLICE ACADEMY CYCLE TRAINING REVOLVING FUND WITHIN THE GUAM POLICE DEPARTMENT.

Bill No. 371, AN ACT TO REPEAL GUAM'S EXISTING UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT AND REPLACE IT WITH THE UNIFORM INTERSTATE FAMILY SUPPORT ACT TO BE CHAPTER THIRTY-SIX OF TITLE FIVE OF GCA.

Bill No. 381, AN ACT TO CREATE THE UNIFORM DURABLE POWER OF ATTORNEY ACT TO GUAM.

Bill No. 394, AN ACT TO HELP DECREASE VIOLENCE IN MARITAL DISSOLUTION PROCEEDINGS BY AMENDING TITLE 19 OF THE GCA AND OTHER RELATED MATTERS.

Bill No. 398, AN ACT TO AMEND TITLE 9 GCA §31.60 (c) TO INCREASE THE PENALTY FOR CRIMINAL SPOUSE ABUSE.

Bill No. 420, AN ACT TO AUTHORIZE THE GOVERNOR TO SOLICIT BIDS FOR THE PRIVATE OPERATION OF THE NEW LAND FILL AND TO SUBMIT A REPORT TO THE LEGISLATURE FOR APPROVAL TO IMPLEMENT SUCH PRIVATIZATION.

Date: Friday, December 15, 1995

Time: 9:30 a.m.

Place: Public Hearing Room, Guam Legislature
155 Hesler St., Agana

The Public is invited to attend

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Run date 12/13/95

Rec'd 12/11/95
Krasjacek



BUREAU OF BUDGET & MANAGEMENT RESEARCH
OFFICE OF THE GOVERNOR, Post Office Box 2950, Agaña, Guam 96910



JOSEPH E. RIVERA
Director

JUL 19 1995

The Bureau requests that Bill No(s). 302 be
granted a waiver pursuant to Public Law 12-229 for the following
reasons:

The Bill is administrative in nature and does not pose
a fiscal impact on the General Fund.

Jul 7/18
JER
7/18
Joseph E. Rivera
Joseph E. Rivera,
Acting



TWENTY-THIRD GUAM LEGISLATURE
1995 (First) Regular Session

AUG 03 1995

Bill No.: 302(LS)

Introduced by:

J.M.S. Brown *JMB*

AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI
OPERATION

1 BE IT RESOLVED BY THE PEOPLE OF THE TERRITORY OF
2 GUAM:

3
4 Section 1. Title 9 Guam Code Annotated Section 70.25 is hereby
5 amended to read:

6
7 Section 70.25. **Jet Ski Operation, Tumon Bay and Pago Bay.**
8 No person shall operate a jet ski or water ski within the reef along Tumon Bay
9 and Pago Bay except that a jet ski may be operated in the channel to enter or
10 exit Tumon Bay and Pago Bay. This prohibition shall not apply to the use of jet
11 ski for emergency rescue or for law enforcement purposes. Any person who
12 violates this Section is guilty of a ~~petty~~ misdemeanor.