

Office of the Speaker
ANTONIO R UNPINGCO
Date: 8/17/98
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Rec'd by: Gure
Print Name: Lawrice

Refer to Legislative Secretary AUG 1 4 1998

The Honorable Antonio R. Unpingco Speaker Mina'Bente Kuåttro na Liheslaturan Guåhan Twenty-Fourth Guam Legislature Guam Legislature Temporary Building 155 Hesler Street Hagåtña, Guam 96910

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Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 379 (COR), "AN ACT RELATIVE TO REQUIRING THE DEPARTMENT OF COMMERCE TO CONDUCT A FEASIBILITY STUDY FOR THE PRIVATIZATION, PARTNERSHIP OR TRANSFER OF THE GUAM AQUACULTURE DEVELOPMENT AND TRAINING CENTER, AND MANDATING THAT THE FUTURE USE OF THE FACILITY PROMOTE THE GROWTH AND DEVELOPMENT OF THE AQUACULTURE INDUSTRY THROUGH PROVIDING SUPPORT TO THE ISLAND'S AQUACULTURE FARMERS", which I have signed into law today as Public Law No. 24-250.

This legislation provides for a study to be made within 90 days regarding the feasibility of privatizing the Guam Aquaculture Development and Training Center. There is no funding provided for this study, and the end of the fiscal year has committed existing funds of the government. Privatization, or a public-private partnership, for this facility may be very beneficial to the industry and to the government. All efforts to explore these options will be taken.

Very truly yours,

Carl T. C. Gutierrez

I Maga'lahen Guahan Governor of Guam 04966

Attachment:

copy attached for signed bill original attached for vetoed bill

cc:

The Honorable Joanne M. S. Brown

Legislative Secretary

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN 1998 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 379 (COR), "AN ACT RELATIVE TO REQUIRING THE DEPARTMENT OF COMMERCE TO CONDUCT A FEASIBILITY STUDY FOR THE PRIVATIZATION, PARTNERSHIP OR TRANSFER OF THE GUAM AQUACULTURE DEVELOPMENT AND TRAINING CENTER, AND MANDATING THAT THE FUTURE USE OF THE FACILITY PROMOTE THE GROWTH AND DEVELOPMENT OF THE AQUACULTURE INDUSTRY THROUGH PROVIDING SUPPORT TO THE ISLAND'S AQUACULTURE FARMERS," was on the 29TH day of July, 1998, duly and regularly passed.

| Attested: January JOANNE M.S. BROWN Senator and Legislative Secretary | ANTONIO R. UNPINGCO Speaker | |
|---|--|------|
| This Act was received by I Maga'lahen Guahan this _ato'clocko.M. APPROVED: | 3rd day of August Thurst Cerle Assistant Staff Officer Maga'lahi's Office | 1998 |
| CARL T. C. GUTIERREZ I Maga'lahen Guahan Date: 8-14-98 Public Law No. 24-250 | | |

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN 1998 (SECOND) Regular Session

Bill No. 379 (COR)

As substituted by the Author and amended on the Floor.

Introduced by:

F. B. Aguon, Jr. T. C. Ada A. C. Blaz J. M.S. Brown Felix P. Camacho Francisco P. Camacho M. C. Charfauros E. J. Cruz W. B.S.M. Flores Mark Forbes L. F. Kasperbauer A. C. Lamorena, V C. A. Leon Guerrero L. A. Leon Guerrero V. C. Pangelinan J. C. Salas A. L.G. Santos F. E. Santos A. R. Unpingco J. Won Pat-Borja

AN ACT RELATIVE TO REQUIRING THE DEPARTMENT OF COMMERCE TO CONDUCT A FEASIBILITY STUDY FOR THE PRIVATIZATION, PARTNERSHIP OR TRANSFER OF THE GUAM AQUACULTURE DEVELOPMENT AND TRAINING CENTER, AND MANDATING THAT THE FUTURE USE OF THE FACILITY PROMOTE THE GROWTH AND DEVELOPMENT OF THE

AQUACULTURE INDUSTRY THROUGH **PROVIDING** SUPPORT TO THE ISLAND'S AQUACULTURE FARMERS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

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2 Section 1. Legislative Findings and Intent. I Liheslaturan Guahan finds that in recent years the government of Guam has been providing limited 3 and diminishing financial support to the Guam Aquaculture Development 4and Training Center ("GADTC") of the Department of Commerce. As a result 5 of this situation, in the past year alone, GADTC has been experiencing serious 6 difficulties in the operation and management of the facility. 7 **GADTC** presently is equipped with four (4) individuals who are directly responsible 8 for the arduous task of maintaining the facility and conducting necessary 9 research for the expansion of the industry. This number of personnel is far 10 below the minimum number of eleven (11) personnel required to effectively run the facility with basic services to the aquaculture industry farmers, both 12 13 The main purpose of GADTC is to provide backyard and commercial. support in the provision of aquaculture seedlings and livestock to the local 14 farmers for the advancement and expansion of the Island's aquaculture industry, in addition to conducting necessary research and studies that will 16 address specific issues and concerns affecting the aquaculture industry on Guam.

Although the responsibilities and services of GADTC are integral in the promotion of this unique industry for economic diversification and expansion, due to limited funds available for the provision of such services, the facility at this time, may be more effectively utilized by a private business
enterprise, the University of Guam or a partnership.

all government facilities for the benefit of the Island community. Therefore, it is the intent of *I Liheslaturan Guahan* to obtain a feasibility analysis from the Department of Commerce in exploring all possible alternatives, such as privatization, partnership and transfer of the Guam Aquaculture Development and Training Center to insure the continuation of direct services that will benefit the Island aquaculture farmers.

Section 2. Feasibility Study for Privatization, Transfer or Partnership of GADTC. A study of the feasibility associated with the possible privatization and lease, partnership with the private sector or transfer to the University of Guam, in regard to the properties and facilities of the Guam Aquaculture Development and Training Center ("GADTC"), shall hereby be conducted by the Department of Commerce. In addition, an economic cost analysis of the existing facility and an industry evaluation on the need for such an operation shall be included.

For the feasibility study of the privatization or lease of the GADTC facilities and property, the Department shall take into consideration the following items:

- (a) any sale of the land asset shall be prohibited;
- 22 (b) lease of existing building facilities, property and operational equipment (may include the sale of operational equipment);

(c) lease of the facility and property at a rate not to exceed seventy-five percent (75%) of the prevailing market rate of adjacent properties;

- (d) the lessee agree to provide support, through the provision of livestock products at a cost of no more than fifty percent (50%) of the market rate and other specified services (specific livestock species and services shall be enumerated and identified by the Department);
- (e) provide consideration in the possible employment of any of the employees of GADTC for a period of no less than six (6) months; and
- (f) other provisions deemed necessary by the Department of Commerce.
- Section 4. Timeline. Such assessment shall be completed no later than ninety (90) days from the enactment of this provision. Upon the conclusion of such analysis, the findings, recommendations and related time frames for implementation by the Department shall be prepared in a written report, of which copies shall immediately be transmitted to *I Maga'lahen Guahan* and *I Liheslaturan Guahan* no later than one hundred twenty (120) days following the enactment of this Act.

PL24260



24th Guam Legislature Committee on Rules, Government Reform and Federal Affairs

Senator Mark Forbes, Chairman

MAY 1 8 1998

Speaker Antonio R. Unpingco I Mina' Bente Kuåttro Na Liheslaturan Guahan 155 Hesler Street Hagåtña, Guam 96910

Dear Mr. Speaker:

The Committee on Rules, Government Reform and Federal Affairs, to which Bill No. 379 was referred, wishes to report its findings and recommendations TO DO PASS BILL NO. 379, "An act relative to authorizing the Department of Commerce to privatize the operation and management of the Guam Aquaculture Development and Training Center, and requiring that the future utilization of the facility further promote the growth and development of the aquaculture industry through providing support to the island's aquaculture farmers."

The voting record is as follows:

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

Thank you and si Yu'os ma'ase for your attention to this matter.

MARK FORBES

Attachments

24th Guam Legislature Committee on Rules, Government Reform and Federal Affairs



Senator Mark Forbes, Chairman

MEMORANDUM

TO:

Committee Members

FR:

Chairman

SUBJECT:

Committee Report – Bill No. 379, "An act relative to authorizing the Department of Commerce to privatize the operation and management of the Guam Aquaculture Development and Training Center, and requiring that the future utilization of the facility further promote the growth and development of the aquaculture industry through providing support to the island's aquaculture farmers."

Transmitted herewith for your information and action is the report on Bill No. 379 from the Committee on Rules, Government Reform and Federal Affairs.

This memorandum is accompanied by the following:

- 1. Committee Voting Sheet
- 2. Committee Report
- 3. Bill No. 379
- 4. Public Hearing Sign-in Sheet
- 5. Written Testimony
- 6. Fiscal Note/Fiscal Note Waiver
- 7. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

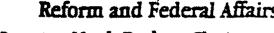
Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

MARK FORBES

Attachments

24th Guam Legislature Committee on Rules, Government Reform and Federal Affairs





Senator Mark Forbes, Chairman

SEP 2 3 1997 **MEMORANDUM**

TO:

Chairman

Committee on Rules, Government Reform and Federal Affairs

FROM:

Chairman /

Committee on Rules, Government Reform and Federal Affairs

SUBJECT: Referral-Bill No. 379

The above Bill is referred to your Committee as the principal committee. It is recommended you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment

Committee on Rules, Government Reform and Federal Affairs I Mina' Bente Kuåttro Na Liheslaturan Guahan

Voting Record

BILL NO.379 -"An act relative to authorizing the Department of Commerce to privatize the operation and management of the Guam Aquaculture Development and Training Center, and requiring that the future utilization of the facility further promote the growth and development of the aquaculture industry through providing support to the island's aquaculture farmers."

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| ANTHONY C. BLAZ, Vice-Chairman | | *************************************** | | |
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I Mina' Bente Kuåttro Na Liheslaturan Guahan

Committee On Rules, Government Reform & Federal Affairs Senator Mark Forbes, Chairman

Committee Report on BILL NO. 379

"An act relative to authorizing the Department of Commerce to privatize the operation and management of the Guam Aquaculture Development and Training Center, and requiring that the future utilization of the facility further promote the growth and development of the aquaculture industry through providing support to the island's aquaculture farmers."

I. OVERVIEW

The Committee on Rules, Government Reform and Federal Affairs held a public hearing on Thursday, May 7, 1998 at 9:30 a.m. in the Conference Room of Senator Mark Forbes, I Liheslaturan Guahan. Public Notice of the hearing was announced in the May 1st, 3rd, 4th, 5th, and 7th, 1998 issues of the Pacific Daily News.

Senators in attendance were:

Senator Mark Forbes, Chairman Senator Frank B. Aguon Senator Ben Pangelinan

Appearing before the Committee to present testimony were:

Mr. Joseph Cruz, Director, Department of Commerce

Mr. John G. Taitano, fisherman

Mr. Jeff Tellock, Department of Commerce/Guam Aquaculture Development and Training Center

Mr. Jeff Barcinas, University of Guam (CALS)

II. SUMMARY OF TESTIMONY

Mr. Joseph Cruz, Director of the Department of Commerce submitted written testimony in favor of Bill 379 (attached). He also presented oral testimony in favor of Bill 379 with modifications to the measure. In his testimony, Mr. Cruz indicated the Department's support of the measure's proposal to privatize the operations and management of the Guam Aquaculture Development and Training Center. However, he recommended that the language in the bill that requires that the review of the feasibility of privatizing GADTC be conducted within sixty days be modified. Rather than mandate a two month timeline, Mr. Cruz suggested that the Department of Commerce be given discretionary judgement on this particular matter. Mr. Cruz also submitted proposed language to address the Department's concern with the privatization timeline.

Mr. John G. Taitano, a fisherman, presented oral testimony on Bill 379. In his testimony, Mr. Taitano indicated that he is neither for or against the measure. However, he would support the bill it included a provision that would give a portion of the facility to higher learning and thus benefit the local people. Mr. Taitano emphasized the importance of ensuring that the local people are an integral part of the industry.

Mr. Jeff Tellock of the Guam Aquaculture Development and Training Center presented oral testimony in favor of Bill 379 with modifications. Mr. Tellock discussed the shortage of operational staff which the center suffers from. He also stated that although privatization is an option that should be examined, there are other possibilities and options to generate funds that should be explored.

Mr. Jeff Barcinas of the University of Guam CALS, presented oral testimony on Bill 379. Mr. Barcinas indicated that he is neither for or against the measure. Mr. Barcinas stated that we need to continue to increase our funding sources for this region. Mr. Barcinas further stated that one positive provision of the bill is that it invites the private sector into the industry. He asserted that it is necessary we seek alternative funding sources to sustain the industry. However, he cautioned that if

privatization solely, is pursued, most of the efforts will be for the purpose of profit. Yet, if a partnership between the government and private sector were pursued, the efforts would have the interests of the people of Guam. Moreover, a partnership of this type would aim to sustain the economy of Guam in the long term, unlike a purely private venture whose aim would be short term, immediate profit. Mr. Barcinas further stated that the industry has been so private that whatever product is produced is used and there is no surplus. He emphasized that there are local producers interested in the industry and that is where the support is needed.

III. FINDINGS AND RECOMMENDATION

The Committee on Rules, Government Reform and Federal Affairs finds that the purpose of Bill No. 379 is to give the Department of Commerce the opportunity to review and direct the privatization of the Guam Aquaculture Development and Training Center (GADTC). The measure proposes that an initial feasibility study be conducted, inclusive of the possible privatization and lease of GADTC. The study shall include a cost analysis and an industry evaluation of the need for the privatization of the operation. Should the study conclude that the Department pursue the privatization of GADTC, the Department shall then move to implement the privatization of the operation and management of GADTC.

The Committee further finds that Bill 379 also includes measures to prohibit the sale of the land asset in the event of privatization of GADTC. Rather the bill provides for the lease of the existing building, property and operational equipment. All proceeds generated from the privatization and lease of GADTC shall go to the General Fund. In addition, the measure also provides for the relocation within the Department of Commerce or within the government of Guam, of those classified employees of GADTC.

Accordingly, the Committee on Rules, Government Reform and Federal Affairs, to which Bill No. 379 was referred does hereby submit its findings and recommendations to I Mina' Bente Kuåttro Na Liheslaturan Guahan TO DO PASS BILL NO. 379, "An act relative to authorizing the Department of Commerce to privatize the operation and management of the Guam Aquaculture Development and Training Center, and requiring that the future utilization of the facility further promote the growth and development of the aquaculture industry through providing support to the island's aquaculture farmers."

Committee on Rules, Government Reform and Federal Affairs Senator Mark Forbes, Chairman

Public Hearing Thursday, May 7, 1998 11:00 a.m. I Liheslaturan Guahan, Hagâtña

Aquaculture and Development and Training Center, and requiring that the future utilization of the facility further promote the growth and development of the aquaculture industry through providing support to the island's aquaculture farmers." Bill No. 379 "An act relative to authorizing the Department of Commerce to privatize the operation and management of the Guam

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DIPÅTTAMENTON KUMETSIO DEPARTMENT OF COMMERCE

GOBETNON GUAHĀN



Cari T. C. Gutierrez Magdishi Governor Madeleine Z. Bordallo Tifiente Gubetnadora Lt. Governor

Til: (671) 475-0321/2

Gumá 192, Chaisn M 102 M Street Tiyan, Guáhan Tiyan, Guam 96913

Faks: (671) 477-9031

Jeseph C. Cruz Direktot Director Edward I. Cruz Sigundo Direktot Deputy Director

Testimony of Joseph C. Cruz, Director, Department of Commerce, on

Bill No. 379: An act relative to authorizing the Department of Commerce to privatize the operation and management of the Guam Aquaculture Development and Training Center, and requiring that the future utilization of the facility further promote the growth and development of the aquaculture industry through providing support of the Island's aquaculture farmers, before the Committee on Rules,

Government Reform and Federal Affairs

May 7, 1998

Buenas yan Saluda Mr. Chairman and members of the Committee on Rules, Government Reform and Federal Affairs. I am here this morning to present testimony on Bill No. 379, relative to authorizing the Department of Commerce to privatize the operation and management of the Guam Aquaculture Development and Training Center, and requiring that future utilization of the facility further promote the growth and development of the aquaculture industry through providing support to the Island's aquaculture farmers.

Mr. Chairman and committee members, during times of scarce fiscal resources and when projection in our revenues are not coming out the way they were initially projected, privatization would seem as the most logical solution and answer to this predicament. The Department of Commerce and the Administration cautions against moving in that direction and taking the easy path. In this regard, rather than mandating that "... a review of the feasibility associated with the possible privatization and lease of the Guarn Aquaculture Development and Training Center facility and property of the Department of Commerce ... be conducted no later than sixty (60) days following the enactment of this Act, and shall include economic cost analysis of the existing facility in addition to an industry evaluation for such an operation", we recommend that this option be left up to the discretion of Department of Commerce if, in its judgment, it is warranted in the same manner that this option was left up to the Department of Commerce in the Charnorro Village Rules and Regulations, Chapter VIII, Contractual Services (Attachment 1). The



Department of Commerce and the Administration is recommending that this approach be pursued for the following reasons.

- Our "Partnership" with both the University of Guam and the Department of Agriculture to conduct joint research studies and to conduct extension services to current and potential aquaculture farmers with federal funds from their respective agencies is continuing.
- 2. Our "Partnership" with the University of Guam would expand and provide the Department of Commerce and the Guam Aquaculture Development and Training Center with more funds that will be directed toward additional staff positions, upgrade of facilities and equipment and expanded services to the farmers, which would include the availability of additional aquaculture species.
- The Department of Commerce and the Administration are actively looking for additional federal funds that can be tapped that would provide additional staff positions, upgrade our facilities and equipment and expand services that would increase our revenue base.
- 4. Other than what is reflected in 5 GCA, Division 7, Chapter 70, Section 70101 (h), which provides that "the Department of Commerce is hereby designated as the lead agency for the development of the aquaculture industry on Guam and as such, the Department of Commerce shall have purview over all matters related to the development of aquaculture industry on Guam", there is nothing else is the statute relative to the aquaculture program. The Department of Commerce is in the process of putting together a comprehensive Aquaculture Development Act which delineates the organization, functions and responsibilities of the aquaculture program on the island.
- 5. Incorporated in this Aquaculture Development Act will be the Master Aquaculture Permit Application Program that will provide guidance and direction relative to the permitting of an aquaculture farm. The Department of Commerce submitted this during the second half of the Twenty-Third Guam Legislature but no action was taken by that legislature. This is going to be revived and resubmitted along with the proposed Aquaculture Development Act.

In closing, the Department of Commerce and the Administration support the passage of Bill No. 379 with a slight modification by amending Section 2 to provide that privatization shall not be mandated within a stipulated period of time after the passage of Bill No. 379, but be left optional at the discretion of the Department of Commerce if, in its judgment, it is warranted as per the attached suggested language (Attachment 2).

Thank you and Si Yu'os Ma'ase.

JOSEPH C. CRID

Attachments (2)

| 1 | (E) | Should | any | business | operating | within | the | Chamorro | Village | desire | to |
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- 2 expand its products or services, a written request must initially be submitted to the
- 3 Chamorro Village Manager for approval. Approval of such requests must be contingent
- 4 on the similarity of the product line with items presently being marketed by the
- 5 business. This requirement is due to the business plan originally submitted with the
- 6 original application.
- 7 (F) Individuals operating a business within the Chamorro Village, shall be
- 8 permitted to operate only One (1) shop at any particular point in time.
- 9 (G) Business Plan. All applications must be accompanied by a business plan.
- 10 Section 7.3 Rating Criteria.
- 11 Each business application or proposal shall be rated by the Business Selection
- 12 Committee according to the factors provided for in Appendix J of Chapter X of these Rules
- 13 and Regulations. Such Criteria Rating Forms may be reviewed and modified periodically
- 14 by the Business Selection Committee to reflect changing market conditions. Should any
- 15 changes be made by the Committee, such changes shall be consistent with the rules and
- 16 regulations set forth herein.
- 17 Section 7.4 Business Proposal.
- 18 Each prospective business applying for a shop within the Chamorro Village shall
- 19 be required to present a business plan as part of the application process. Such business
- 20 plans may be guided by the Business Proposal Outline as provided for in Appendix K of
- 21 Chapter X of these Rules and Regulations.
- 22 CHAPTER VIII
- 23 CONTRACTUAL SERVICES
- 24 Section 8.1 Contractual Services.
- 25 (A) The Department of Commerces may contract for the following services in
- 26 the management and operation of the Chargerro Village:

| 4 | å. | Security |
|-----|----------------------|---|
| 2 | 2. | Landscaping |
| 3 | 3. | Night Janitorial |
| 4 | 4. | Garbage Collection |
| 5 | 5. | L.P. Gas |
| 6 | 6. | Special Featured Local Exhibits |
| 7 | 7. | Management |
| 8 | 8. | Marketing |
| 9 | (B) Cham | orro Village Management. |
| 10 | The Depart | ment of Commerce may contract with any individual, firm, or |
| 11 | organization for the | management of the Chamorro Village facility, if it deems necessary |
| 12 | Requirements for s | uch arrangements shall include, but is not limited to, the following: |
| 13 | (a) | A minimum of Three (3) years of successful managerial experience, |
| 14 | (b) | Familiarity with the requirements for effectively operating a |
| 15 | facility simil | ar to the Chamorro Village, |
| 16 | (c) | Sensitivity to the mission and goals of the Chamorro Village, and |
| 17 | (d) | Extensive knowledge and experience in the marketing field. |
| 18 | Section 8.2 | General Rules for Contractual Services. |
| 19 | All contracts | entered into by the Chamorro Village and another party shall be in |
| 20 | accordance with th | e established contractual services guidelines of the government of |
| 2 1 | Guam and shall be | approved by the Director of Commerce, the Attorney General, and the |
| 22 | Governor. | |

Governor.

Section 2. Authorization for the Privatization of the Guam Aquaculture Development and Training Center of the Department of Commerce.

The Department of Commerce (hereinafter the "Department") is hereby authorized to privatize the operation and management of the Guam Aquaculture Development and Training Center. Such efforts shall initially include a review of the feasibility associated with the possible privatization and lease of the Aquaculture Development and Training Center facility and property of the Department of Commerce. Such assessment shall be conducted no later than sixty (60) days following the enactment of this Act, when in the opinion of the Department of Commerce it is warranted, and shall include an economic cost analysis of the existing facility in addition to an industry evaluation on the need for such an operation. NOTE: The language of the remainder of this section shall remain the same.

technical data.

FISCAL NUTE BUREAU OF BUDGET AND MANAGEMENT RESEARCH

| Bill No. 379 (COR) | Ì | | | Dute Receive | d - <u>Sept</u> s | inber 26. | 1997 |
|---------------------------|-------------------|-------------------------|--|---|----------------------|----------------------|------------------|
| Amendatory Bill: | | NOX | | Date Review | ed - Octo | xber 6, 19 | 97 |
| Department/Agency | Affected: | Department of | Commerce | | | | |
| Department/Agency | | J. Cruz. Direc | | | | | |
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