I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN

2018 (SECOND) Regular Session

LEGISLATIVE SESSION VOTING RECORD

Bill No. 273-34 (COR)
As corrected by Prime Sponsor.

Speaker Antonio R. Unpingco Legislative Session Hall
July 6, 2018

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Thomas C. **ADA**	✓					
Senator FRANK B. **AGUON, JR.**	✓					
Senator William M. **CASTRO**	✓					
Speaker Benjamin J.F. **CRUZ**	✓					
Senator James V. **ESPALDON**	✓					
Senator Fernando Barcinas **ESTEVES**	✓					
Senator Régine Biscoe **LEE**	✓					
Senator Tommy **MORRISON**	✓					
Senator Louise B. **MUÑA**	✓					
Senator Telena Cruz **NELSON**	✓					
Senator Dennis G. **RODRIGUEZ, JR.**	✓					
Senator Joe S. **SAN AGUSTIN**	✓					
Senator Michael F.Q. **SAN NICOLAS**		III ✓				
Vice Speaker Therese M. **TERLAJE**	✓					
Senator Mary Camacho **TORRES**	✓					

TOTAL:	14	1				
	Aye	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**	**Excused**

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

I = Pass

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2018 (SECOND) Regular Session

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Introduced by: Telena Cruz Nelson

AN ACT TO *REPEAL* AND *REENACT* CHAPTER 2 OF TITLE 29, GUAM ADMINISTRATIVE RULES AND REGULATIONS, UNDER A NEW CHAPTER 5 OF TITLE 28, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO ADOPTING THE GUAM SOLID WASTE AUTHORITY'S RULES AND REGULATIONS FOR SOLID WASTE MANAGEMENT AND OPERATIONS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Guam Solid Waste Authority (GSWA) was created under Chapter 51A of Title 10, Guam Code Annotated, in 2011. The GSWA has statutory authority to adopt rules and regulations necessary to its operations.

I Liheslatura finds that prior to the creation of the GSWA, its predecessor, the Division of Solid Waste, Department of Public Works (DPW) was placed under federal receivership pursuant to a Court Order of the U.S. District Court of Guam dated March 17, 2008. Pursuant to the District Court March 17, 2008 Order, the Court appointed "a receiver to manage, supervise and oversee the Solid Waste Management Division (SWM) of DPW."

I Liheslatura finds that in an order dated September 2, 2011, the Court gave the receiver full control over GSWA to the same extent as it had over the original DPW Solid Waste Division.

I Liheslatura finds that during the nine (9) years the receiver operated the GSWA it implemented operational rules. In an Order dated December 1, 2017, the Court ordered "the Board, its legal counsel and the new general manager to begin drafting and updating the operational rules and regulations."

I Liheslatura finds that at the GSWA Board of Directors Meeting on November 29, 2017, the Board adopted all policies, rules, and regulations put in place by the receiver since the receivership commenced regarding commercial haulers, residential customers, banned materials, the collection of bulky items and metallic goods, and penalties imposed for late payments. The Board instructed GSWA's General Manager to work with staff and the Board's legal counsel to put these policies, rules, and regulations in a format acceptable to the Legislative Secretary of *I Liheslaturan Guåhan* pursuant to 5 GCA § 9305.

I Liheslatura finds that the adoption of the rules and regulations contained in this Act and the repeal of Chapter 2, Title 29, Guam Administrative Rules and Regulations, is necessary to comply with the U.S. District Court of Guam's Order dated December 1, 2017, and that "the Board, its legal counsel and the new general manager begin drafting and updating the operational rules and regulations."

I Liheslatura finds that at a duly noticed Board meeting held on February 7, 2018 at the GSWA Conference Room in Upper *Tumon*, Guam, the Board discussed and approved the adoption of the proposed rules.

I Liheslatura finds that at a duly noticed public hearing held on April 18, 2018 at *I Liheslaturan Guåhan*, the "Guam Solid Waste Authority Board of Directors Proposed New Rules Regarding the Agency's Solid Waste Management and

Operations" (*Doc. No. 34GL-18-1694*) was publically heard before the Legislative Committee on Housing, Utilities, Public Safety, and Homeland Security.

I Liheslatura finds that the implementation of the rules and regulations herein is necessary to ensure the operations of the GSWA remains status quo. Status quo in the operations of the GSWA is necessary to the successful and seamless transition out of receivership, and the proposed rules and regulations are necessary to said success.

Section 2. Chapter 2 of Title 29, Guam Administrative Rules and Regulations, is hereby *repealed* and *reenacted* under a new Chapter 5 of Title 28, Guam Administrative Rules and Regulations, as follows:

"**TITLE 28**

PUBLIC UTILITIES

CHAPTER 5

SOLID WASTE MANAGEMENT

GUAM SOLID WASTE AUTHORITY

ARTICLE 1

Preliminary Statements

§ 5101. Authority.

10 GCA § 51A104 (c) authorizes the Guam Solid Waste Authority to establish and adopt rules for the administration of its operations.

§ 5102. Repeal of Chapter 2 of Title 29, Guam Administrative Rules and Regulations.

The rules promulgated under Chapter 2 of Title 29, Guam Administrative Rules and Regulations, are hereby repealed.

§ 5103. Purpose.

The purpose of these rules and regulations are:

(a) to protect public health, safety, and welfare by reducing or eliminating health hazards, fire hazards, offensive odors and unsightly litter attributable to accumulations of solid wastes;

(b) to ensure proper, cost effective, and environmentally sound disposal of solid waste; and

(c) to lessen the demand for landfill sites and conserve land resources by providing maximum recovery of useable materials of solid waste within limits of economic feasibility.

§ 5104. Responsibility.

All municipal solid waste shall be finally disposed of at the Layon Landfill which is a Sub-Title D Landfill, with its operations and management outsourced to a private operator. The private operator shall be responsible for obtaining all permits and monitoring of the Landfill site. The Layon Landfill shall not be open to the general public. Only waste deemed acceptable waste under the Layon Landfill's operating permit shall be disposed of at the Landfill.

§ 5105. Schedule of Rates and Charges.

All rates and charges are available free of charge at the Guam Solid Waste Authority ("GSWA") on a "Schedule of Rates and Charges" form. A Schedule of Rates and Charges shall be publicized on the GSWA website.

§ 5106. Collection of Solid Wastes.

(a) GSWA provides for the collection of solid waste from single or multi-family residences with four (4) or less units.

(b) Collection and Transport Assignments. GSWA services all nineteen (19) villages on Guam. Service includes trash and recyclables collection as well as bulky waste collection for residential contracted customers. GSWA does not collect from commercial or industrial businesses.

(c) Right to Transport Own Residential Waste. Any person may transport residential solid waste acceptable for disposal to any of GSWA's residential trash transfer stations.

(d) Collection Intervals. All single and multi-family residential solid wastes, other than bulky rubbish and recyclables, shall be collected at least once weekly.

(e) Point of Collection - Single/Multi-Family. GSWA designates the point of collection at the time the customer signs up for service.

(f) Cart Placement on Curb. Carts should be placed at point of collection the night before their service day.

(g) Grading, Demolition and Construction Wastes. GSWA will not accept such waste at the Layon Landfill. Generators of such waste will be referred to properly permitted private commercial haulers.

§ 5107. Definitions.

(a) *Bulky waste* means appliances, mattresses, hot water heaters, and other bulky and metallic waste furniture and appliances.

(b) *Cart* means a container provided by GSWA designed for storage of waste and/or recyclable material.

(c) *Collection service* means the removal of solid waste from residential facilities with four (4) or less units.

(d) *Dwelling* means a building or portion thereof designed exclusively for residential occupancy.

(e) *Government* means the government of Guam, all of its agencies, whether line or autonomous, and all public corporations.

(f) *Grading, demolition and construction waste* means waste materials generated from the grading of land or the construction, remodeling, or destruction of structures.

(g) *Green waste* means grass clippings, leaves, weeds, and pruned branches.

(h) *GSWA* means the Guam Solid Waste Authority.

(i) *Hauler-only transfer stations* means the facility where permitted commercial haulers and government agencies are allowed to bring their waste after they have established an account with GSWA.

(j) *Household hazardous waste* means products used in the home, garden, garage, and hobby shops with hazardous characteristics such as poisonous, combustible, flammable, or corrosive.

(k) *Manager* means the General Manager of Guam Solid Waste Authority or his/her designated representative.

(l) *Multi-family dwelling* means a building, or portion thereof, used and/or designed as a residence for no more than four (4) independent dwelling units.

(m) *Occupant* means any person whom, alone or jointly or severally with others, shall be in actual possession of any dwelling unit, or of any other improved real property, either as owner or as a tenant.

(n) *Residential transfer station* means the facilities where only residents can bring their waste.

(o) *Single family residence* means a detached building designed for and/or occupied exclusively by one (1) family.

(p) *Solid waste* means garbage, unwanted or discarded waste materials in a solid or semi-solid state.

(q) *Solid waste management* means the purposeful, systematic control of the generation, storage, collection, transportation, separation, processing, and disposal of solid waste.

(r) *Special solid waste* or *special collection* means solid waste, including but not limited to tires, grading, demolition and construction waste, batteries, air

conditioners, cars, treated infectious waste, dead animals and offal, sewage sludge, asbestos waste and medical waste that requires special handling and separate fees as designated by the GSWA Manager and in compliance with all local permit requirements, state, and Federal laws and regulations.

ARTICLE 2

Residential Trash Collection and Recycling

§ 5201. Registration and Carts.

(a) Registration. Residents residing in single family residences or multi-family dwellings as defined herein may register for collection service with GSWA by submitting a completed GSWA registration form, paying in full any balance from a previous account and providing proof of residency (rental lease, title or deed, power/water bills) and a valid identification (driver's license, passport, or government of Guam issued identification card). Customers are required to draw as detailed a map as possible to the location of their residence. Each new or returning customer will be provided written information as to how to properly participate in GSWA's collection service. Customers will also be provided a large colored paper with a number on it to guide the collection crew to the location at which the carts will be delivered. Upon delivering the carts, the location will be recorded using the Global Position Satellite (GPS) coordinates. Customers may obtain a second cart for an additional cost.

(b) Carts. GSWA shall provide carts to customers occupying single-family residences and multi-family dwellings, as defined herein, upon setting up an account with GSWA. GSWA will only collect solid waste placed in the carts provided by GSWA. Green waste will not be collected, it must be taken to a properly permitted facility. Customers must place carts at the designated collection location twelve (12) hours before the day of collection. Customers are responsible for cleaning carts.

(c) Waste in Excess of Cart Capacity. If customers have trash exceeding cart capacity, it must be placed in trash bags and tagged with a GSWA excess trash tag. Upon registering for service with GSWA, customers will receive four (4) excess trash tags. Additional tags may be purchased from GSWA. Bagged trash without a tag will not be collected.

(d) Bulky Waste. Residential customers with accounts in good standing may receive up to two (2) free bulky waste collections each calendar year. Bulky waste collection shall be made by appointment only by calling the GSWA Customer Call Center. Bulky waste scheduled for collection shall be placed at the curb in the same general vicinity where they put their carts out for collection. Customers are allowed to place up to five (5) bulky items at the curb for each scheduled collection. Any additional collections in excess of the two (2) allowed herein shall be made for an additional cost as assessed by GSWA. Non-GSWA customers may also make an appointment for bulky waste collection as long as they are located in a residential unit and pay the assessed collection fee.

(e) Grading, Demolition and Construction Waste. Construction and demolition waste are not permitted at the Layon Landfill. GSWA will refer generators of this type of waste to permitted facilities.

(f) Recyclables. If requested a separate recycling cart will be delivered at no additional cost which will be collected twice per month and transported to a permitted recycling processor. These carts will be collected on the same day as the customers' trash carts are collected.

(g) Responsibilities at Point of Collection. Collection crew shall be responsible for the collection of solid waste from the point of collection to the transportation vehicle; provided, the solid waste was stored in compliance with these rules and regulations. Any spillage or displaced solid waste occurring prior to the arrival of the solid waste collectors at the point of collection shall be the

responsibility of the customer. Any spillage or displaced litter caused as a result of the duties of the solid waste collectors shall be collected and placed in the transportation vehicle by the solid waste collectors. Any solid waste collected shall, upon being loaded into transportation equipment, become the property of the collector. Solid waste collectors shall not be required to reach into solid waste containers to remove contents. Authorized containers emptied by solid waste collectors shall be returned to the point of collection.

§ 5202. Household Hazardous Waste Program.

(a) Disposal of household hazardous waste as defined herein require special handling by properly trained and permitted personnel.

(b) Residential customers may use this program at no charge but are limited to fifteen (15) gallons or one hundred (100) pounds of household hazardous waste items per day.

(c) Only residential customers may utilize this program. Commercial or other entities wishing to dispose of such products will be referred to properly permitted private facilities which provide such services.

(d) Acceptable household hazardous waste can be found on the GSWA website.

§ 5203. Residential Tipping Fees and Delinquent Accounts.

(a) Tipping fees shall be set pursuant to 10 GCA §§ 51A104(d) and 51A301.

(b) During the first week of each month, GSWA bills for the most recent previous month of service.

(c) All bills are due and payable upon presentation. Payment should be made at financial institutions designated by the GSWA, to authorized representatives or agents.

(d) After thirty (30) days from the billing date, any unpaid balance shall be considered late and shall result in a reminder call to the customer.

(e) Accounts with any unpaid balance after sixty (60) days from the billing date shall be provided written notice notifying customers that service shall be discontinued unless the accounts are brought current within thirty (30) days of the date of said written notice. If accounts are not brought current within the thirty days' written notice, the carts shall be removed from the customer's location.

(f) Restoration of service following collection of the account. Whenever any delinquent customer, whose service has been discontinued pays the sum due plus pre-payment of an additional month of service and a reinstatement fee, service shall be restored and collection will occur at the next regularly scheduled pick up date. Delinquent customers shall be responsible for any reasonable collection costs incurred by GSWA.

(g) Restoration of service following collection of the account by a collection agency. In the event GSWA refers a delinquent account to a collection agency, service shall be restored upon payment of the total sum due, one month's tipping fee and a reinstatement fee.

(h) Unrecovered or unrepairable carts. Customers shall be responsible for the cost of a new cart to replace any unrecovered or unrepairable carts issued to them before service may be restored.

(i) Under certain circumstances customers may seek a reduction in the amount of tipping fees owed. Customers who can show that they have had their service missed substantially during any given month, may request a meeting with the GSWA Manager or designated representative to seek a reduction in charges.

(j) Nonprofit 501(c) organizations, as defined by the U.S. Internal Revenue Code, seeking to perform community-wide cleanups on public property on a non-regular basis may seek from the GSWA Manager or designated representative,

a reduction or elimination of the tipping fees for specified containers or hauling vehicles.

(k) Insufficient funds (NSF) checks. GSWA shall be allowed to recover a fee as set forth in the Schedule of Rates and Charges for each instance where a customer tenders payment for GSWA service with an insufficient funds check.

(1) When the GSWA is notified by the customer's bank that there are insufficient funds to cover the check tendered for GSWA service, GSWA shall make a diligent effort to contact the customer, either in person or by telephone, to inform the customer of the inadequate payment. GSWA may, at its discretion, require the customer to make payment in cash, money order, certified check, or other means which guarantees the customer's payment to GSWA.

(2) A customer who tenders an insufficient check shall in no way be relieved of the obligation to render payment to GSWA under the original terms of the bill nor defer GSWA's provision for termination of service for nonpayment of bills.

(3) When a customer tenders an insufficient check and does not clear the check after being notified by GSWA, GSWA shall debit the account for the written amount plus a service charge as set forth in the Schedule of Rates and Charges.

(l) Residential customers may pay their bills with credit cards but may be assessed the fee charged by credit card companies.

(m) Non-permissible reason to deny or terminate service. GSWA may not deny or terminate service for delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except if it can be determined that there is intent between the parties to circumvent the provisions of these rules and regulations, and where the prior customer continues to reside on the

premises. The account holder shall be held responsible for all fees associated with the service.

(n) The customer shall be responsible to keep GSWA informed of the customer's most recent billing address. Any bill which is not paid on or before the specified due date after presentation or deposit in the United States Mail shall be deemed delinquent and collection service shall be subject to the provisions of GSWA's discontinuation of service as set forth herein. Failure to receive bills or notices which have been properly placed in the United States Mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein. Charges for service commence when the customer signs up for collection service, whether used or not.

ARTICLE 3

Commercial Accounts

§ 5301. Registration and Collection.

(a) All commercial trash collection and recycling for commercial entities, including all Government Agencies, will be handled by properly permitted private commercial haulers.

(b) Private commercial or other non-governmental entities. An individual commercial entity may open an account for its own waste but must be properly permitted by the Guam Environmental Protection Agency (GEPA). GSWA does not provide any curbside solid waste collection or recycling services for commercial entities. Commercial entities must arrange for waste collection services with a private commercial hauler.

(c) Government Agencies. Government agencies are prohibited from disposing of waste at the Residential Transfer Stations or from utilizing the Household Hazardous Waste Program. Wastes from said agencies shall only be accepted at the Hauler-Only Transfer Station or with prior approval from GSWA, be

delivered directly to the Layon Landfill. Government of Guam customers will be issued invoices. In accordance with 5 GCA § 40113(d), mayors shall be allowed to dispose of village waste at GSWA facilities. Additional loads are charged in accordance with this Chapter.

(d) Registration. Commercial entities may register for collection service with GSWA by submitting a completed GSWA registration form. Commercial accounts must be approved by the GSWA Manager.

(e) Commercial entities are prohibited from disposing solid waste at the Residential Transfer Stations or hazardous material at the Household Waste Facility.

(f) Unless approved by GSWA management to deliver waste to the Layon Landfill, commercial entities are required to use GSWA's Hauler-Only Transfer Station.

(g) Direct deliveries to Layon Landfill by commercial entities are by appointment only approved by GSWA management. If the commercial entity goes directly to the Layon Landfill without a pre-approved appointment, it will be directed to the Hauler-Only Transfer Station and will not be allowed to deposit its material at the Layon Landfill.

(h) Waste generated by the United States military installations located in Guam will be disposed of and assessed fees under this Chapter as said waste is delivered to the Layon Landfill or transfer stations via a private commercial hauler. The cost of service will be billed to Guam Naval Facilities (NavFac).

§ 5302. Commercial Tipping Fees and Delinquent Accounts.

(a) Tipping fees shall be set pursuant to 10 GCA §§ 51A104(d) and 51A301.

(b) During the first week of each month, GSWA bills for the most recent previous month of service.

(c) All bills are due and payable upon presentation. Payment should be made at financial institutions designated by the GSWA, to an authorized representative or agent. Designated financial institutions and authorized representatives or agents shall be listed on customer billings and the GSWA website.

(d) After thirty (30) days from the billing date, any unpaid balance shall be considered late and shall result in a reminder call to the customer.

(e) Accounts with any unpaid balance after sixty (60) days from the billing date shall be provided written notice notifying customers that service shall be discontinued unless the accounts are brought current within thirty (30) days of the date of said written notice. If accounts are not brought current within the thirty days' written notice, the account will enter a thirty (30) day termination period. At the beginning of the thirty (30) day period, a public announcement will be made of the pending termination to allow the customers of the pending termination of their contracted haulers to make other arrangements for the proper disposal of their trash. Termination shall be accomplished by barring the delinquent commercial hauler from using the disposal facilities.

(f) Restoration of service following collection of delinquent accounts. Upon payment of all outstanding account balances, along with a bond (or security deposit) equivalent to the twelve (12) months' tipping fees incurred by the delinquent commercial customer and a reinstatement fee, service shall be restored.

(g) Liability of commercial haulers for payment of unpaid bills remains the responsibility of the haulers even if services are not restored. Delinquent commercial haulers shall also be responsible for any reasonable collection costs incurred.

ARTICLE 4

Hauler-Only Transfer Station

§ 5401. Commercial haulers and large generators who self-haul must contact GSWA to register for commercial accounts prior to entering the Hauler-Only Transfer Station.

§ 5402. Customers who visit the Hauler-Only Transfer Station, will drive onto the scales, a GSWA employee will retrieve the customer's account, weigh the vehicle, and provide the customer with a dump ticket.

§ 5403. An initial tare weight shall be obtained on each vehicle disposing of acceptable waste at the Hauler-Only Transfer Station for the first time.

§ 5404. Tare weight of hauler vehicle.

Tare weights will be specific to each vehicle used to deposit trash at the Hauler-Only Transfer Station and will be provided to the customers. These tare weights will be used to determine the weight of each load. The GSWA retains the right to determine a new tare weight for each vehicle at the GSWA's discretion.

§ 5405. Scales.

In the event scales are inoperable, haulers shall accept reasonable estimated weight based on historical data.

§ 5406. After obtaining a dump ticket, the hauler vehicle shall be moved to the transfer station where the hauler shall present the dump ticket to the Station operator then proceed to a designated unloading bay and unload the waste onto the tip floor. The Station operator shall sift through the waste for unauthorized material. If any unauthorized material is found in the waste, said material will be returned to the hauler's vehicle. After dumping the waste onto the tip floor, the hauler shall proceed back to the scale to be weighed a second time as to accurately quantify the amount of waste dumped into the Station for disposal.

§ 5407. Acceptable Material.

The only waste accepted at the Hauler-Only Transfer Station are non-hazardous solid wastes. Specifically excluded waste are special waste which include:

treated infectious waste, dead animals and offal, sewage sludge, asbestos waste (prior written approval of GEPA is required) and treated medical waste.

ARTICLE 5

Radioactive Waste

§ 5501. The Hauler-Only Transfer Stations and the Layon Landfill are equipped with radiation detection sensors. Each load delivered to these facilities shall be screened.

§ 5502. In the event radioactive waste is detected in a load, that load will not be accepted.

§ 5503. If the radioactive waste is brought to the facilities by a GSWA vehicle, said waste shall be placed in a secure container until the radiation subsides, as determined by properly trained and permitted personnel, and material can be properly disposed.

§ 5504. If the radioactive material is brought to the facilities in a private or non-GSWA government vehicle, the waste will not be accepted and the hauler can either:

(a) have GSWA place the material placed in a secure container until the radiation subsides and the material can be properly disposed for a fee (which is charged by properly permitted private entities that accept such waste); or

(b) leave the facilities and have matter handled separately by properly trained and permitted personnel selected by the hauler owning the vehicle in which the radioactive material is detected."

Section 3. Severability. If any of the provisions of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Act that can be

given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Section 4. Effective Date. This Act *shall* become effective upon enactment.