



REPRESENTATIVE JOSEPH LEE T. GUERRERO

Chairman

House Standing Committee on Commerce and Tourism
Nineteenth Northern Marianas Commonwealth Legislature

Rep. Angel A. Demapan, Vice-Chairman
Rep. Ralph Demapan, Member
Rep. George Camacho, Member
Ralph N. Yumul, Member

Rep. Edwin K. Propst, Member
Rep. Vinson F. Sablan, Member
Rep. Glenn L. Maratita, Member

STANDING COMMITTEE REPORT NO. 19-66
DATE: NOVEMBER 30, 2015
RE: S.B. NO. 19-29, SD1

The Honorable Joseph P. Deleon Guerrero
Speaker of the House of Representatives
Nineteenth Northern Marianas
Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

Dear Mr. Speaker:

Your Committee on Commerce and Tourism, to which Senate Bill No. 19-29, SD1 was referred, entitled:

"To mandate the cooperation and collaboration between the Mayor of the Northern Islands, the Department of Public Works, the Department of Public Lands, the Department of Lands and Natural Resources, the Bureau of Environmental and Coastal Quality and the Commonwealth Ports Authority in identifying the Free Trade Zone areas in the Northern Islands; and for other purposes."

begs leave to report as follows:

I. RECOMMENDATION:

After reasonable discussion and deliberation on the bill, the Committee recommends that the House file Senate Bill No. 19-29, SD1.

HOUSE CLERK'S OFFICE
RECEIVED BY 
DATE 12/15/17 TIME 10:30am

II. ANALYSIS:

A. Purpose:

The purpose of Senate Bill No. 19-29, SD1 is to stimulate the long needed economic growth in the Northern Islands by expediting the identification of the Free Trade Zone areas in the Northern Islands as established in P.L. 18-16 through mandating the cooperation and collaboration between the Mayor of the Northern Islands, the Department of Public Works, the Department of Public Lands, the Department of Lands and Natural Resources, the Bureau of Environmental and Coastal Quality and the Commonwealth Ports Authority.

B. Committee Findings:

Your Committee finds that the Department of Public Lands (DPL), the current successor of the Marianas Public Land Corporation, is constitutionally mandated by Section 3 of Article XI of the NMI Constitution for the “management and disposition of public land”. The intent of the proposed legislation is to allow for the CNMI Legislature to designate public lands as free trade zones. However, the designation of free trade zones falls within the realm of “management and disposition of public lands”, which falls under the authority of DPL. According to the NMI Constitution, the legislature does not have the power to designate public lands for usage, which includes designating free trade zones. The power to designate such areas falls within DPL.

Your Committee does agree with the intent of the proposed legislation of designating free trade zones; however, the NMI Constitution does state that the authority to designate public lands lies within DPL and not with the CNMI Legislature. Therefore, your Committee recommends filing Senate Bill No. 19-29, SD1.

C. Public Comments:

Comment(s) were received from:

- Pedro A. Tenorio, Secretary, Department of Public Lands
- Honorable Jerome K. Aldan, Mayor, Northern Islands
- James A. Ada, Secretary, Department of Public Works
- Honorable Edward Manibusan, Attorney General, Office of the Attorney General

The Mayor of the Northern Islands and the Secretary of the Department of Public Works both are in full support of the intent of this legislation. The Attorney General and the Secretary of the Department of Public Lands both do not support the proposed legislation.


E. Legislative History:

Senate Bill No. 19-29 was introduced by Senator Sixto K. Igisomar on March 13, 2015 and was subsequently referred to the Senate Standing Committee on Resources, Economic Development and Programs for deliberation. The Senate passed Senate Bill No. 19-29 on October 9, 2015 in the form of Senate Draft 1. Senate Bill No. 19-29, SD1 was then transmitted to the House of Representatives on October 13, 2015 and subsequently referred to the House Standing Committee on Commerce and Tourism.

III. CONCLUSION:

The Committee recommends filing of Senate Bill No. 19-29, SD1.

Respectfully submitted,



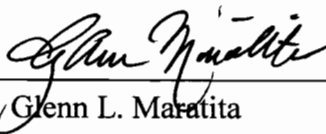
Rep. Joseph Lee Pan T. Guerrero
Chairman

Rep. Angel A. Demapan
Vice Chairman

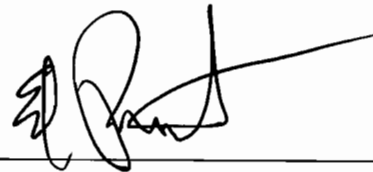


Rep. Rafael S. Demapan
Member

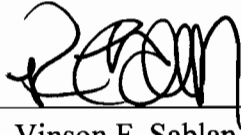
Rep. George N. Camacho
Member



Rep. Glenn L. Maratita
Member



Rep. Edwin K. Propst
Member

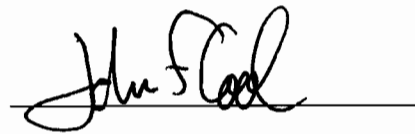


Rep. Vinson F. Sablan
Member



Rep. Ralph N. Yumul
Member

Reviewed By:



House Legal Counsel

Attachment:

Letter dated May 22, 2015 from the Mayor of the Northern Islands Municipality;
Letter dated May 26, 2015 from the Secretary of the Department of Public Works;
Letter dated May 29, 2015 from the Secretary of the Department of Public Lands;
Letter dated November 10, 2015 from the Secretary of the Department of Public Lands; and
Letter dated November 19, 2015 from the Attorney General of the Office of the Attorney General.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Office of the Mayor

The Northern Islands Municipality

Caller Box 10007 Capitol Hill Ascencion Ct.

Saipan, MP 96950

Telephone No. 664-6466, 68, 69, 70 & 71

Facsimile No. 664-6467



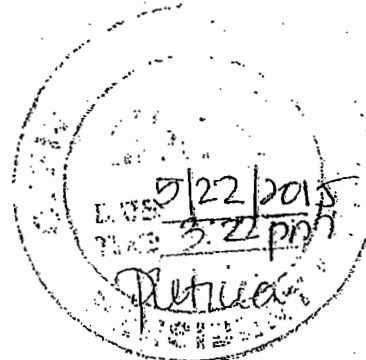
May 22, 2015

NIMO15-102

Honorable Victor B. Hocog
President of Senate
19th CNMI Legislature
Capitol Hill
Saipan, MP 96950

and

Honorable Sixto K. Igisomar
Author, SB 19-29
19th CNMI Legislature
Capitol Hill
Saipan, MP 96950



Re: Senate Bill (SB) 19-29

Dear Hon. Senate President Hocog & Hon. Senator Igisomar:

The Northern Islands Mayor's Office ("NIMO") appreciates the opportunity to comment on Senate Bill 19-29 (the "bill") in an attempt to implement the Free Trade Zone in the Third Senatorial District of GANI Islands commonly known as Northern Islands.

The present language in Public Law 18-16 is sufficient insofar as the implementation of the Free Trade Zone in the Northern Islands without the Department of Public Lands (DPL). The overriding problem is the DPL heretofore has not performed its ministerial duty in compliance with the mandates of the law.

To demonstrate the laxity in which DPL takes its responsibility or duty, please avail of the attached letter, dated September 24, 2013 from then Rep. Richard Seman now Secretary of the Department of Lands and Natural Resources.

During the hearing, issues were discussed which centered on the resettlement and redevelopment of the Northern Islands as outlined in my notes and copies of the media coverage of the event.

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5/26/15 9am

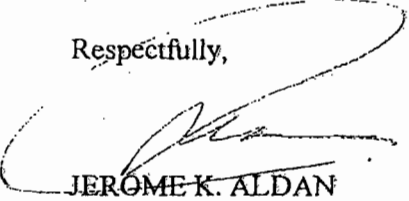
What is needed is for the Senate to demand accountability from DPL relative to the implementation of PL 18-16 in its present form. Demand for answers as to the luxury in refusing to comply with said law. I am willing to appear before the appropriate Senate Committee in the presence of DPL to inform the body on what was discussed during the forum with DPL in 2013, that until the present time, nothing concrete has been carried forward by DPL, except the upcoming SNILD consultation meeting organized by the SNILD Leadership and NIMO.

To this end, the Bill in its present form will further delay implementation of PL 18-16, as what is intended in SB 19-29 is addressed in PL 18-16 except a new feature in the Bill that expressly provides for rulemaking authority to the Mayor in the implementation of PL 18-16, which adds value to PL 12-20 as amended in PL 18-16. Other than this specific issue, NIMO respectfully recommends deletion of all other mandatory provisions in their entirety in the present SB 19-29. What is critical is the authority over rulemaking, which this bill includes.

NIMO will soon submit to the senate a proposed revenue generating legislation relative to issuance of permit and assessment of fees that would provide a revenue base for the implementation of PL 18-16.

In closing, NIMO supports the above legislation in vesting the Mayor with rulemaking authority in furtherance of PL 18-16.

Respectfully,



JEROME K. ALDAN
MAYOR
Gani Islands
CNMI's Last Frontier

cc: Chairwoman Antonia M. Tudela, Saipan & Northern Islands Municipal Council
Secretary of Dept. of Commerce, Mark Rabauliman
CDA Executive Director, Manny Sablan



Commonwealth of the Northern Mariana Islands
 Office of the Secretary of Public Works
 2nd Floor- Toeten Commercial Building, Pleat
 Saipan, MP 96950



RECEIVED
 R/ale/KS/eam
 - June 8

May 26, 2015
 Serial No. PW10435

The Honorable Sixto K. Igisomar
 Chairman
 Public Utilities Transportation & Communications
 19th Northern Marianas Commonwealth Legislature
 The Senate
 P.O. Box 500129 CK
 Saipan, MP 96950

Subject: Comments on Senate Bill No. 19-29

Dear Honorable Senator Igisomar:

The Department of Public Works supports the intent and mandates of Senate Bill No. 19-29 to collaborate with agencies involved in spearheading the identification of the Free Trade Zone as established in Public Law 18-16.

Furthermore, our department can assist and provide the needed technical expertise required upon identification of such area. DPW understands that the Department of Public Lands reserves the authority over matters of land identification, therefore, it would be prudent that DPL takes lead in this undertaking.

Thank you for giving the Department of Public Works the opportunity to comment on this Senate Bill.

Sincerely,

JAMES A. ADA
 Secretary of Public Works



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS

FAXED

May 29, 2015

AD15-0270

Honorable Sixto K. Igisomar
The Senate
Nineteenth Northern Marianas Commonwealth Legislature
P.O. Box 500129
Saipan, MP 96950

Re: Comments on Senate Bill No. 19-29

Dear Senator Igisomar:

Thank you for giving us the opportunity to comment on Senate Bill No. 19-29 ("S.B. 19-29").

S.B. 19-29 proposes "[t]o **mandate** the cooperation and collaboration between the Mayor of the Northern Islands. . . **the Department of Public Lands . . .**" and other government agencies and departments, ". . . in **identifying the Free Trade Zone areas in the Northern Islands . . .**" (Emphasis added).

The pivotal issue that the Department of Public Lands ("DPL") is confronted with, is whether S.B. 19-29 (if enacted into law), along with Public Law 12-20 ("P.L. 12-20") and Public Law 18-16 ("P.L. 18-16") all infringe on DPL's constitutional and statutory mandate as the fiduciary of all NMI descent owned land. We believe that they all do infringe.

P.L. 12-20 designated twenty (20) hectares of Saipan property belonging to the Commonwealth Ports Authority ("CPA") as FTZ, and is situated at Saipan International Airport. DPL has no problem with such property since it belongs to CPA. However, P.L. 12-20 designated thirty (30) hectares of public land on Rota, and thirty (30) hectares of public land on Tinian as FTZ, to be administered by their respective mayors.¹ The designation of FTZ property was supposed to have taken place within the sunset provision of 180 days from the date P.L. 12-20 became effective. We believe the designation never took place within the 180-day period allotted period.

¹Section 4 (e) of P.L. 12-20 provides that, "[w]ithin 180 days of the effective date of this Act, the Board of Public Lands, in consultation with the mayors and legislative delegations of the Tinian and Rota, shall designate thirty (30) hectares of public land on Rota, and thirty (30) hectares of public land on Tinian, to be administered by the respective mayors . . ."

P.L. 18-16 was enacted, not only to include the Northern Islands as an FTZ, like Tinian and Rota with the same designated thirty (30) hectares of public land to be administered by the Mayor of the Northern Islands. It was also enacted to get rid of the 180-day sunset provision of P.L. 12-20, which already set--fifteen years after the fact. P.L. 12-20 became effective on September 22, 2000, the date the governor signed it into law.

For the record, DPL fully supports economic development in the Commonwealth. The numerous public land leases issued to owners of hotels, golf courses, and other business investments in the CNMI speak loud. DPL has no problem cooperating and collaborating with other agencies and departments of the the CNMI as long as its constitutional and statutory mandates are not infringed.


I recommend that the Legislature take a second look at P.L. 12-20 and P.L. 18-16 in light of Article XI of the NMI Constitution and the subsequent passage of P.L. 15-02. Article XI, Section 3 ("Surface Lands") of the NMI Constitution provides that "[t]he **management and disposition of public lands . . . shall be the responsibility of the Marianas Public Land Corporation.** (Emphasis added). The Department of Public Lands ("DPL") is the current successor to the Marianas Public Land Corporation.

S.B. 19-29 (if enacted into law), along with P.L. 12-20 and P.L. 18-16 unconstitutionally infringe upon DPL's authority to manage and dispose of public lands by transferring such authority to the mayors of Tinian, Rota, and the Northern Islands. At the same time DPL has the fiduciary to maximize the U.S. dollar return on all leases of public lands. P.L. 12-20 does not follow such concept of prudent investment in the best interest of all NMI descents, as the three respective mayors will be allowed to manage the subject public lands at their own discretion.

Therefore, DPL does not support S.B. 19-29.

Thank you again for allowing us to present our comments.

Sincerely,



PEDRO A. TENORIO
Secretary



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS

November 10, 2015

AD15-0559

Honorable Joseph Lee Pan T. Guerrero
Chairman, Committee on Commerce and Tourism
House of Representatives
Nineteenth Northern Marianas Legislature
P.O. Box 500586
Saipan, MP 96950

Re:- Comments on S.B. No. 19-29

Dear Chairman Guerrero:

Thank you for giving us the opportunity to comment on S.B. No.19-29.

The Department of Public Lands ("DPL") has previously submitted its written comments on the above proposed legislation to Senator Sixto Igisomar. Enclosed please find our comment letter dated May 29, 2015. We have also testified before Chairman John Paul Sablan and the Saipan and Northern Islands Delegation on the matter.

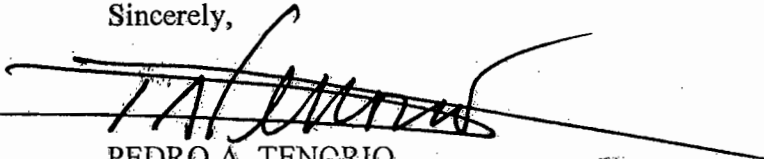
DPL has no objection cooperating and collaborating with the Mayor of the Northern Islands and the other designated government departments and agencies in identifying Free Trade Zone areas in the Northern Islands. In fact, DPL recommends that the entire island of Pagan be designated as a Free Trade Zone area.

However, the designation of a Free Trade Zone area has nothing to do whatsoever with the ownership or leasing of public lands. DPL remains steadfast that its constitutional functions to manage and dispose of public lands shall neither be impaired nor shared with the mayors of the Northern Islands, Tinian, and Rota.

Therefore, DPL does not support S.B. No. 19-29.

Thank you again for allowing us to present our comments.

Sincerely,


PEDRO A. TENCERIO
Secretary

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D pm

Enclosure: As stated above



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Capitol Hill
Saipan, MP 96950
www.oagenmi.net

EDWARD MANIBUSAN
Attorney General

LILLIAN A. TENORIO
Deputy Attorney General

November 19, 2015

OAGHOR: 2015-71

Hon. Joseph Lee Pan T. Guerrero
Chairman
House Standing Committee on Commerce and Tourism
Nineteenth Northern Mariana Islands Commonwealth Legislature
PO Box 500586
Saipan, MP 96950

Re: S.B. 19-29, SD1 and H.B. 19-104

Dear Chairman Guerrero:

Thank you for the opportunity to comment on the following legislation:

1. Senate Bill No. 19-29, SD 1: to mandate cooperation and collaboration between the Mayor of the Northern Islands, the Department of Public Works, the Department of Public Lands, the Department of Lands & Natural Resources, the Bureau of Environmental and Coastal Quality and the Commonwealth Ports Authority in identifying the free trade zone areas in the Northern Islands; and for other purposes.
2. House Bill No. 19-104: to amend 4 CMC § 5565 to prohibit any person under the age of 18 years of age to handle and serve any alcoholic beverages at any on-sale establishment; and for other purposes.

We have reviewed the versions of the bills that were attached to your letter of November 3, 2015, and offer the following comments for your consideration.

SB No. 19-29, SD1:

Far from what the title states, this bill would create a bypass of DPL's authority over the management and disposition of public land on the designation of public land as free trade zones. The bill proposes that in the even DPL fails to act within 180 days (presumably after the effective date of the bill) the legislature will make such designation. This provision is unconstitutional. It violates the separation of powers doctrine. Under Article XI of the Commonwealth Constitution and pursuant to PL 15-2, the authority over the management and disposition of public land is vested with DPL. The designation of free trade zones fall within the ambit of "management and disposition of public land" which is the province and authority of DPL, not the Legislature.

Civil Division
Telephone: (670) 237-7500
Facsimile: (670) 664-2349

Criminal Division
Telephone: (670) 237-7600
Facsimile: (670) 234-7016

Attorney General's Investigative
Telephone: (670) 237-7625
Facsimile: (670) 234-7016

Division Domestic Violence Intervention Center
Telephone: (670) 664-4583
Facsimile: (670) 664-4589

SB 19-29, SD1 does not pass legal muster. It is unconstitutional and should not be sent to the floor of the House of Representatives for approval.

HB No. 19-104:

This bill would permit only those persons who are 18 years or older to serve alcoholic beverages in any on-sale establishment by amending the proper provision in the Commonwealth Code. The bill is legally sufficient.

Please let me know if you or any of the Committee members wish to discuss the recommendations and comments in this letter.

Sincerely,



EDWARD MANIBUSAN
Attorney General

cc: Governor
Lt. Governor
Deputy Attorney General
Secretary of Public Lands
AAG Chris Timmons

NINETEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2015

S. B. NO. 19-29, SD1

A BILL FOR AN ACT

To mandate the cooperation and collaboration between the Mayor of the Northern Islands, the Department of Public Works, the Department of Public Lands, the Department of Lands and Natural Resources, the Bureau of Environmental and Coastal Quality and the Commonwealth Ports Authority in identifying the Free Trade Zone areas in the Northern Islands; and for other purposes.

**BE IT ENACTED BY THE NINETEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and Purpose.** The Commonwealth Legislature finds that
2 P.L. 18-16 established the designation of thirty hectares on any island in the Northern
3 Islands not otherwise designated for a public purpose to be identified as a designated Free
4 Trade Zone. Although P.L. 18-16 established this provision, the Commonwealth
5 Legislature finds that no action has been taken in identifying these Free Trade Zones in
6 the Northern Islands which has continued to delay economic growth for the Northern
7 Islands. In addition, the resettlement of the residents of the Northern Islands was also
8 hampered due to the lack of economic resources or any economic activity as a result of
9 inaction. The Commonwealth Legislature further finds that the Northern Islands contain
10 many resources available for free trade zone activities which in turn may benefit the
11 Northern Islands in bringing about economic growth.

12 Therefore, the purpose of this Act is to stimulate the long needed economic
13 growth in the Northern Islands by expediting the identification of the Free Trade Zone
14 areas in the Northern Islands as established in P.L. 18-16 through mandating the
15 cooperation and collaboration between the Mayor of the Northern Islands, the
16 Department of Public Works, the Department of Public Lands, the Department of Lands

1 and Natural Resources, the Bureau of Environmental and Coastal Quality and the
2 Commonwealth Ports Authority.

3 **Section 2. Northern Islands Free Trade Zone.** The Department of Public
4 Works, the Department of Public Lands, the Department of Lands and Natural Resources,
5 the Bureau of Environmental and Coastal Quality and the Commonwealth Ports
6 Authority shall work expeditiously with the Mayor of the Northern Islands to identify the
7 Free Trade Zone areas in the Northern islands.

8 **Section 3. Amendment.** 4 CMC § 51102(e) is amended to read as follows :

9 “(e) Pursuant to the mandate of Section 4(f) of Article XI of the Commonwealth
10 Constitution (requiring transfer of public lands management functions to the executive
11 branch of government) and the legislative power vested in it by Article II, Section 1 of
12 the Commonwealth Constitution, the Legislature hereby makes the following provisions
13 for the administration of public lands designed to stimulate and facilitate economic
14 growth on Tinian, Rota, and the Northern Islands and complement the establishment of
15 Free Trade Zones in furtherance of the purposes of this Chapter. The Department of
16 Public Lands, in consultation with mayors and legislative delegations of Tinian, Rota,
17 and the Northern Islands shall designate thirty hectares of public land on Rota, thirty
18 hectares of public land on Tinian, and thirty hectares on any island in the Northern
19 Islands not otherwise designated for public purpose, to be administered by the respective
20 mayors in accordance with this subsection, notwithstanding 1 CMC §§ 2653 (c), 2672,
21 2673, and 2676, and notwithstanding whether such land is designated a Free Trade Zone
22 or not.

23 Notwithstanding any law to the contrary, in the event that the Department of
24 Public Lands does not designate land within a senatorial district within 180 days pursuant
25 to this section 51102, then the respective mayor may petition the legislature to make the
26 public land designation with consultation of the mayor via house or senate bill.

27 (1) [Unchanged.].

28 (2) [Unchanged.].

- 1 (3) [Unchanged.].
- 2 (4) [Unchanged.].
- 3 (5) [Unchanged.]”

4 **Section 4. Rules and Regulations.** The Mayor of the Northern Islands in
5 consultation with the CNMI Governor shall promulgate the rules and regulations to
6 effectuate the intention of this Act.

7 **Section 5. Severability.** If any provision of this Act or the application of any
8 such provision to any person or circumstance should be held invalid by a court of
9 competent jurisdiction, the remainder of this Act or the application of its provisions to
10 persons or circumstances other than those to which it is held invalid shall not be affected
11 thereby.

12 **Section 6. Savings Clause.** This Act and any repealer contained herein shall not
13 be construed as affecting any existing right acquired under contract or acquired under
14 statutes repealed or under any rule, regulation, or order adopted under the statutes.
15 Repealers contained in this Act shall not affect any proceeding instituted under or
16 pursuant to prior law. The enactment of the Act shall not have the effect of terminating,
17 or in any way modifying, any liability, civil or criminal, which shall already be in
18 existence on the date this Act becomes effective.

19 **Section 7. Effective Date.** This Act shall take effect upon its approval by the
20 Governor or becoming law without such approval.

Date: 03/13/15

Introduced By: /s/ _____
Sen. Sixto K. Igisomar

Reviewed for Legal sufficiency by :

/s/ Jose A. Bermudes _____
Senate Legal Counsel