

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

Regular Session, 2023

H. B. 23-28

A BILL FOR AN ACT

To clarify the process for appropriation of administrative expenses of the Department of Public Lands and timely transfer of funds to Marianas Public Land Trust.

**BE IT ENACTED BY THE 23RD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings.**

2 The Legislature finds that there are ambiguities in the relationship between
3 the responsibilities of the Department of Public Lands (DPL) regarding collection
4 and expense of money related to public lands and the duty of the Marianas Public
5 Land Trust (MPLT) to receive and invest public land money. In addition, there are
6 unresolved legal issues regarding the proper method for establishing a DPL budget.

7 The CNMI Constitution established MPLT to invest money collected from
8 public lands by what was then called the Marianas Public Land Corporation
9 (MPLC). CNMI Const. art. XI, sections 3-6. The Constitution expressly authorized
10 MPLC to budget its operations by retaining reasonable expenses from the collected

1 money before transferring the remainder to MPLT. CNMI Const. art. XI, section
2 5(g).

3 The Constitution also authorized the eventual transfer of MPLC duties to
4 the executive branch. CNMI Const. art. XI, section 4(f). Through this transfer
5 authority, MPLC later became the Marianas Public Land Authority (MPLA) and
6 then, in its current form, as DPL. See 1 CMC, Division 2, Chapter 14. The transfer
7 of those functions to the executive branch made Article XI, section 5, which
8 includes subsection (g) (the provision allowing DPL to budget its operations by
9 retaining reasonable DPL expenses from collected public land money)
10 “inoperative”, thereby creating an ambiguity in how DPL be funded, reimburse
11 expenses or establish a budget. *Dept. of Public Lands v. CNMI*, 2010 MP 14 (CNMI
12 Sup. Ct. 2010).

13 In order to resolve this ambiguity, this bill expressly places DPL into the
14 normal budgeting process for an executive branch agency. DPL must submit a
15 proposed budget to the Governor, subject to approval by the Legislature. The
16 funding for that budget is from funds retained by DPL public land money
17 collections, unless the Supreme Court decides otherwise. However, any funds not
18 approved by the Legislature for DPL expenditures must promptly be transferred to
19 MPLT for investment, as required by the CNMI Constitution. MPLT remains as

1 the investing authority and continues to release to general revenue the interest
2 earned on such investments.

3 **Section 2. Amendment.** Title 1 (Government), Division 2, Chapter 14,
4 section 2803, of the Commonwealth Code is amended to read as follows:

5 **§ 2803. Powers and Duties of Department of Public Lands.**

6 (a) The Department shall be responsible for the administration, use, leasing,
7 development, and disposition of all those lands defined as public lands
8 by N.M.I. Const. art. XI, § 1 or any other provision of law, subject to
9 the provisions of this chapter and except as limited by transfers of
10 freehold interests to individuals, entities, or other government agencies.
11 The Department's authority does not extend to the issuance of land use
12 permits and licenses, except as specifically provided for in this Act, and
13 does not limit in any respect the authority of other Commonwealth
14 agencies to issue permits and licenses pursuant to their respective
15 enabling legislation.

16 (b) The Department shall submit to the Governor for approval by the
17 Legislature each year a proposed annual budget for the next fiscal year in
18 accord with the budgeting and planning procedures applicable to all
19 departments of the Executive Branch. Within its proposed budget, the
20 Department shall itemize all personnel, travel, and other expenses for the
21 fiscal year in question; the sums required to be expended during the year

1 with respect to its leasing responsibilities and the homestead program; sums
 2 required to be held in reserve for approved homesteads or other Department
 3 programs in the next two fiscal years; a detailed statement of all other
 4 Department assets, liabilities, revenues and expenditures; and the estimated
 5 sum to be transferred at the end of the fiscal year to the Marianas Public
 6 Land Trust.

7 (c) There is hereby established a fund to be known as the “DPL
 8 Operations Fund” which shall be maintained by the Department of Finance.
 9 The bank account(s) for the DPL Operations Fund shall be separate and
 10 apart from the General Fund Bank Account(s) and other funds of the
 11 Commonwealth Government. All records and accounts shall be maintained
 12 in connection herewith.

13 (1) All revenues received by the Department, from whatever
 14 source shall be deposited in the DPL Operations Fund bank
 15 account(s) in banks located in the Commonwealth that are insured
 16 by the FDIC. Every year, within 30 days after the proposed budget
 17 of the Department has been approved by the Legislature, the
 18 Department shall transfer to the Marianas Public Land Trust all
 19 remaining revenue not included in the approved Department budget.

1 The Attorney General shall seek a court order requiring such transfer
2 should the Department fail to make a timely transfer of funds.

3 (2) All appropriations by the Commonwealth shall be
4 allotted for authorized disbursement of expenditures as approved in
5 the budget.

6 (3) All debts, liabilities, obligations and operational
7 expenses of the Department, including land compensation
8 judgments and homestead program development expenses, shall be
9 paid from the DPL Operations Fund bank account(s) but only within
10 a budget approved by the Legislature. If the Commonwealth
11 Supreme Court decides that all or any of Department expenses may
12 not be paid through the DPL Operations Fund bank account(s), the
13 Department shall submit through the Governor to the Legislature a
14 budget requesting appropriation of Department funds from general
15 revenue.

16 (4) The Department shall not incur or create any
17 expenditures, debt, obligation or liability beyond the amounts
18 specified and approved in a ~~No expenditures not included in the~~
19 legislatively approved budget, and ~~no debt, obligation, or liability~~

1 ~~shall be incurred or created in any fiscal year, in excess of the~~
2 ~~amounts specified therein for each purpose.~~

3 (5) The expenditure authority of all funds ~~collected by the~~
4 ~~Department or appropriated by the Legislature~~ to the Department by
5 ~~the Commonwealth~~ shall be the Secretary of the Department, or
6 designee.

7 (d) The DPL shall assess, manage and collect all mining permit fees
8 for the use of CNMI public lands. If the DPL or any of its predecessors
9 issued a Commercial Mining Permit, and received and accepted payment
10 pursuant to said permit, such permit shall be held valid and enforceable for
11 the period covered by said payment(s), and shall not be terminated or voided
12 during said period except by the written consent of both the permittee and
13 the DPL.

14 (e) If the DPL delays or prevents the permit holder from performing
15 any act required by the permit without the fault and beyond the reasonable
16 control of the permit holder, the time to perform such act under said perm

1 it shall be excused, and the permit holder shall be given reasonable time
2 necessary to perform such act.

3 ~~(f) The effective date of this Act shall be retroactive to February 22,~~
4 ~~2006.~~

5 **Section 3. Severability.** If any provisions of this Act or the application of
6 any such provision to any person or circumstance should be held invalid by a court
7 of competent jurisdiction, the remainder of this Act or the application of its
8 provisions to persons or circumstances other than those to which it is held invalid
9 shall not be affected thereby.

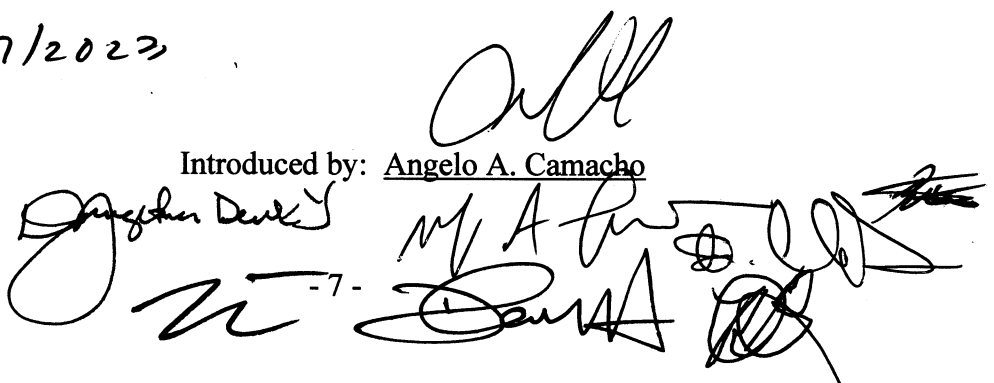
10 **Section 4. Savings Clause.** This Act and any repealer contained herein
11 shall not be construed as affecting any existing right acquired under contract or
12 acquired under statutes repealed or under any rule, regulation, or order adopted
13 under the statutes. Repealers contained in this Act shall not affect any proceeding
14 instituted under or pursuant to prior law. The enactment of the Act shall not have
15 the effect of terminating, or in any way modifying, any liability, civil or criminal,
16 which shall already be in existence on the date this Act becomes effective.

17 **Section 5. Effective Date.** This Act shall take effect upon its approval by
18 the Governor, or it becoming law without such approval.

Prefiled: 3/17/2023

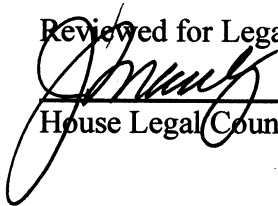
Date:

Introduced by: Angelo A. Camacho

A collection of handwritten signatures and initials in black ink, including a large signature at the top right, a signature that appears to be 'Joseph De...' on the left, and several other initials and signatures at the bottom.



Reviewed for Legal Sufficiency by:

 3-7-23
House Legal Counsel