

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

_____ Session, 2023

H. B. 23- **54**

A BILL FOR AN ACT

To amend certain provisions of the CNMI Recycling Act of 1999 to establish the Department of Public Works as its proper authority; and for other purposes.

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

1 **Section 1. Findings and Purpose.** The Legislature finds that CNMI Public
2 Law 11-122, entitled, “Commonwealth Recycling Act of 1999”, was enacted to
3 establish a long-term disposal capacity for the Commonwealth. The specified
4 public law also established the Advance Disposal Fee Program for specific
5 materials deemed viable for diversion and the promulgation authority for such
6 program. Furthermore, the specified public law was codified under Title 2 (Natural
7 Resources), Division 3 (the Environment), Chapter 5 (Solid Waste Management)
8 of the Commonwealth Code. Cognizant of Solid Waste Management being under
9 the Department of Public Works (DPW), the Legislature finds that it would be
10 appropriate to amend certain sections of the Commonwealth Recycling Act to grant
11 DPW with the promulgation authority to carry out the Advanced Disposal Fee
12 Program. As the agency whose purview includes Solid Waste Management, they

1 have a better understanding of the management and operation of the pertinent
2 facilities. Hence, it would be appropriate to allow the DPW to manage the Advance
3 Disposal Fee program.

4 Therefore, the purpose of this Act is to amend certain provisions of the
5 CNMI Recycling Act of 1999 to establish the Department of Public Works as its
6 proper authority and for other purposes.

7 **Section 2. Amendment.** 2 CMC §3532 of the Commonwealth Code is
8 hereby amended to read as follows:

9 **“§3532. Advance Disposal Fees.**

10 There is hereby established, within the ~~Division of Environmental~~
11 ~~Quality~~ Department of Public Works (DPW), the authority to develop
12 Advance Disposal Fees (ADFs) for specific materials deemed viable for
13 diversion. Those items taxed under 4 CMC § 1405 shall be exempt from
14 any advance disposal fee under this chapter. The division is hereby
15 authorized to evaluate those specific materials and develop a fee structure
16 through regulation which will provide the proper economic support for
17 diversion programs.

18 In evaluating the benefits of diverting various materials from disposal,
19 the ~~DEQ~~ DPW should consider the environmental and economic benefits of
20 diversion, the existing and potential markets for the material, and the
21 existing collection and processing infrastructure.

- 1 The evaluation should be based on the following:
- 2 (a) The environmental impacts of the material, both from disposal and
- 3 from improper management;
- 4 (b) The toxicity of the material within the waste stream;
- 5 (c) The quantities of the material within the waste stream;
- 6 (d) The strength and stability of markets for the material;
- 7 (e) The ease of separation and collection of the material using existing
- 8 equipment and technology; and
- 9 (f) The local benefits, both environmental and economic of on-island
- 10 uses for products produced from the material.”

11 **Section 3. Amendment.** 2 CMC §3533 of the Commonwealth Code is

12 hereby amended to read as follows:

13 **“§3533. Promulgation of Regulations.**

14 The ~~DEQ~~ Department of Public Works (DPW) shall promulgate rules and

15 regulations establishing a specific Advance Disposal Fee program for each

16 material. In developing these regulations and procedures, it is the

17 legislature’s intent that, whenever possible, the product importer or

18 wholesaler shall have a role in the collection and redemption process, either

19 through directly developing redemption agreements with the product

20 retailers, or by contracting out for buy back services with permitted

21 recyclers. The ADF program shall include (where appropriate):

- 1 (a) The amount of the fee necessary to create a self sufficient diversion
2 program, including collection, processing and shipping costs; provide
3 adequate incentive to the public to return the material, administer the
4 program, and provide for public education. The development of the fee
5 should include an assessment of both the total costs of diversion and
6 any revenue from the sale of the material.
- 7 (b) The method of collection of the fees, the establishment of
8 accounting procedures for the moneys collected and a process for
9 auditing payment by importers.
- 10 (c) Administrative sanctions pursuant to 1 CMC §§ 9101 et seq. for
11 failure to comply with rules and regulations promulgated in support of
12 this legislation.
- 13 (d) Details of the specific use of the funds, including the establishment
14 of various methods of disbursement (grants, contracts, avoided cost
15 payments, etc.)
- 16 (e) A program for market development, public education and outreach.
- 17 (f) The establishment of the specific responsibilities of retailers and
18 wholesalers in the collection of the materials, payment of rebates, and
19 education of consumers.

1 (g) The establishment of specific responsibilities of retailers and
2 wholesalers who import or sell materials subject to the provisions of
3 this chapter.

4 When developing a fee and diversion program, each specific material
5 should be considered separately, except when collection, processing or
6 marketing issues indicate a benefit for co-management. The rules and
7 regulations shall be developed according to the material diversion
8 priorities established by ~~DEQ~~ DPW and shall be material specific.”

9 **Section 4. Amendment.** 2 CMC §3534 of the Commonwealth Code is
10 hereby amended to read as follows:

11 **“§3534. Funding of Diversion Activities.**

12 There is hereby created within the Commonwealth Treasury an
13 Environmental Management Fund. All funds collected through the
14 imposition of Advance Disposal Fees shall be deposited in this fund,
15 specifically established for the diversion of the specific materials through:

16 (a) Internal operations and shared agency costs such as the operation of
17 collection and transfer facilities for recyclable materials;

18 (b) Contracting for the private sector operation of collection and
19 processing activities;

20 (c) Payment of Avoided Costs Payments to permitted recyclers, buy
21 back centers or others authorized under this chapter.

- 1 (d) The construction of facilities or purchase of containers or equipment
2 necessary to collect, process and re-manufacture the material, including
3 their repair and maintenance.
- 4 (e) Payments offsetting shipping costs to off-island markets; and
- 5 (f) To fund CNMI or private sector market development activities, with
6 a prime focus on the development of local uses, including research and
7 demonstration projects, start up grants for local manufacturers; and
- 8 (g) To fund CNMI or private sector education and outreach activities,
9 including personal service contracts, media and publication costs and
10 other related items;
- 11 (h) To partially cover the costs of funding for the position of recycling
12 coordinator or other staff whose duties include the promotion of
13 diversion activities, oversight of diversion grants or contracts or the
14 accounting requirement of the fund;
- 15 (i) Administration of the program including the collection of the fees
16 and oversight of payments to other agencies or the private sector;
- 17 (j) Travel and training pertinent to the improvement of diversion
18 activities for the targeted materials.
- 19 The Secretary of the Department of Public Works, in consultation with the
20 Director of Solid Waste Management, shall be the expenditure authority of
21 such funds.”

1 **Section 5. Amendment.** 2 CMC §3535 of the Commonwealth Code is
2 hereby amended to read as follows:

3 **“§3535. Inspection of Records and Premises.**

4 The DEQ and/or DPW or its their agents shall have the authority to inspect
5 the records of any business or individual that may be engaged in import of
6 materials covered by this chapter, and to promulgate regulations concerning
7 record keeping.”

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

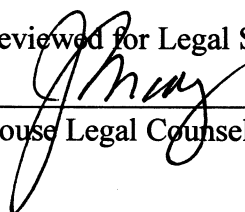
13 **Section 7. Savings Clause.** This Act and any repealer contained herein
14 shall not be construed as affecting any existing right acquired under contract or
15 acquired under statutes repealed or under any rule, regulation, or order adopted
16 under the statutes. Repealers contained in this Act shall not affect any proceeding
17 instituted under or pursuant to prior law. The enactment of the Act shall not have
18 the effect of terminating, or in any way modifying, any liability, civil or criminal,
19 which shall already be in existence on the date this Act becomes effective.

20 **Section 8. Effective Date.** This Act shall take effect upon its approval by
21 the Governor, or it becoming law without such approval.

Prefiled: 6/8/2023

Date: 6/16/23

Introduced by: 
Rep. Manny G. T. Castro

Reviewed for Legal Sufficiency by:
 6-8-23
House Legal Counsel

