



Commonwealth of the Northern Mariana Islands  
**Office of the Attorney General**

2<sup>nd</sup> Floor Hon. Juan A. Sablan Memorial Bldg.  
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Saipan, MP 96950

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OAGHB: 2018-16

Hon. Alice S. Igitol  
Chairperson  
Committee on Natural Resources  
20<sup>th</sup> Northern Marianas Commonwealth Legislature  
Saipan, MP 96950

**Re: HB 20-137 (Commonwealth parks and HPO) and HB 20-139 (DPL Secretary)**

Dear Chairperson Igitol:

Thank you for the opportunity to comment on HB 20-137 (to designate commonwealth parks and establish a CNMI Park System and to redesignate the Division of Historic Preservation Office within the Department of Lands and Natural Resources); and HB 20-139 (to grant the Department of Public Land Secretary the authority to negotiate public land leases pursuant to his/her fiduciary duties, constitutional and statutory duties).

I have reviewed the versions of the bills that were attached to your February 26, 2018 letter and offer the following comments for your Committee's consideration.

**HB 20-137:**

The bill proposes to transfer the Historic Preservation Office to the Department of Lands and Natural Resources and does so by repealing 1 CMC §§ 2381-2382. However, HPO's powers and duties are also discussed and provided for in 2 CMC §§ 4811-51. The Committee should review those provisions in Title 2 to ensure that they are consistent with the proposed transfer of HPO.

**HB 20-139:**

There are serious implications with proposed bill. As written, the bill proposes to give extraordinary authority to the Secretary of the Department of Public Lands to waive DPL regulations. This extraordinary authority also gives the Secretary the authority to waive any and all regulations of the entire Commonwealth Government in transactions involving the leasing of public lands. The unusual grant of extraordinary power

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would extend to environmental and other land use regulations from the regulations of BECQ to the Zoning Board. The DPL Secretary would have unprecedented power to set aside the application of regulations that would affect development of public land leases. The broad authority would render the term "fiduciary" meaningless because the only condition placed on the exercise of such power is for the Secretary to post a public notice explaining the reasons for sidestepping any such regulations. It does not require that the Secretary hold public meetings with government agencies whose regulations would be affected prior to making decisions; it does not require public meetings with interested developers of public lands to discuss the waiving of regulations. The current enabling statute for DPL provides the minimal standards of fiduciary care and a checks and balance system to ensure consistent application of land use and other land management laws on public and private land. The proposed bill would permit DPL to encroach on the authority of other regulatory government agencies and would create confusion over the enforcement of regulations intended to protect the health, safety and welfare of the public. Your Committee should proceed with caution and carefully weigh the consequences of approving this bill.

If you have any questions regarding this matter, please do not hesitate to let me know.

Sincerely,



EDWARD MANIBUSAN  
Attorney General

cc: Deputy Attorney General  
All Members, House of Representatives