

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
298-36 (LS)	Telena Cruz Nelson Jose "Pedro" Terlaje	AN ACT TO AMEND SECTION 4(a) OF PUBLIC LAWS 34-70 AND 35-44, RELATIVE TO THE FINANCING OR REFINANCING IMPROVEMENTS AND CAPITAL IMPROVEMENTS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT (PORT), AND OTHER RELATED FACILITIES AND OPERATIONS OF THE PORT, THROUGH REVENUE BOND PROCEEDS.	4/25/22 4:12 p.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

Bill No. 298-36 (LS)

Introduced by:

Telena Cruz Nelson
Jose "Pedo" Terlaje 

AN ACT TO AMEND SECTION 4(a) OF PUBLIC LAWS 34-70 AND 35-44, RELATIVE TO THE FINANCING OR REFINANCING IMPROVEMENTS AND CAPITAL IMPROVEMENTS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT (PORT), AND OTHER RELATED FACILITIES AND OPERATIONS OF THE PORT, THROUGH REVENUE BOND PROCEEDS.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the Jose D. Leon Guerrero Commercial Port's modernization program is
4 designed to meet the island's growth including the expansion of the U.S. military
5 and growing tourism market, with the key project initiatives as justified to the bond
6 market investors, as follows:

7 (a) Expansion of wharf space to accommodate larger vessel and increase
8 vessel handling capacity;

9 (b) Upgrade terminal operating system to allow for automated invoicing cargo
10 and container tracking, financial management and maintenance
11 management;

12 (c) Expansion of the existing facilities to support fishing and cruise line
13 industries; and

1 (d) Replacement of gantry cranes at the end of the useful life to maintain
2 uninterrupted cargo movement.

3 As part of the modernization program, the Port through Public Law 43-70
4 obtained seventy-one million four hundred forty-five thousand dollars
5 (\$71,445,000) in revenue bonds to finance certain capital improvements and to
6 refinance all or a portion of outstanding loans of the Port Authority.

7 *I Liheslaturan Guåhan* finds that on July 20, 2018, Pro Marine Technology
8 submitted its findings in an Underwater Assessment and Inspection Services of F-1,
9 F-3, F-4, F-5, and F-6 and based on their assessment found that the waterfront
10 facilities were in dire need of repair and provided recommendations for such repair.

11 Moreover, *I Liheslaturan Guåhan* finds that to ensure the uninterrupted flow
12 in the deployment of fuel products which could be obtained in F-1 Fuel Pier or Golf
13 Fuel Pier, a connectivity line would need to be installed at F-1 to allow discharged
14 or loaded fuel to be routed to and from other petroleum fuel companies' storage
15 tanks.

16 To enhance the Port's invoicing to ensure 100% cost recovery per the
17 established tariffs, the Terminal Operating and Financial Management systems must
18 be integrated, along with an upgrade of the Ports' current information technology
19 system for accurate financial data on the expenses rendered to vessels and related
20 services versus revenues.

21 The 2010 Master Plan included a recommendation for the current Port
22 Administration Building to be extended with an annex and a bridge connecting the
23 building to the existing building for compliance with the American Disabilities Act
24 (ADA), but such project was changed in the 2013 Master Plan Update which
25 endorsed that a large new building be constructed, and the current administration
26 building be demolished.

1 In 2019, the Port presented to Governor Lourdes A. Leon Guerrero and
2 members of the 35th Guam Legislature that if the Port pursues the 2010 Master Plan
3 recommendation to construct an annex with a bridge connecting to the existing
4 administration building, a portion of the funding originally earmarked for the
5 construction of the new administration building could otherwise be used to address
6 the deficiencies of the Port’s revenue-generating waterfront facilities, a connectivity
7 fuel line between Golf Pier and F-1 Pier, and improvements needed for the Port’s
8 information technology systems.

9 The 35th Guam Legislature unanimously agreed that an amendment to Public
10 law 34-70 would allow for the reprogramming of such bond proceeds needed to
11 address the deficiencies of the Port’s revenue-generating facilities, the connectivity
12 fuel line between Golf Pier and F-1 and improvements needed for the Port’s
13 information systems, and all remaining balances, if any, shall be allocated to provide
14 for supplemental funding for the procurement of a new gantry crane.

15 On October 16, 2019, Governor Leon Guerrero signed Public Law 35-44
16 which authorized the reprogramming of the Port Authority revenue bond proceeds
17 and amending the capital improvement projects in Section 4(a) of Public Law 34-
18 70.

19 The Port issued procurement on the architectural and engineering (A&E)
20 designs for the Port revenue bond projects, and in the A&E designs the construction
21 cost associated with the repairs exceeded those outlined in Public Laws 34-70 and
22 35-44. The engineering cost estimates outlined in the revenue bond mandates
23 obtained back in 2014 are now severely underfunded. Because the mandates
24 specifically identified the revenue bond project costs to be funded by the revenue
25 bond, it did not allow the Port to reallocate revenue bond proceeds to address the
26 anticipated shortfalls of the construction costs for which has specific costs associated
27 in the mandates.

1 To address these shortfalls, Port management actively submitted federal
2 grants to fund some of the revenue bond projects, which they were awarded from
3 U.S. Economic Authority two-point-four million (\$2.4 million) for the fuel
4 connectivity line, freeing up a portion of the revenue bond proceeds for that project.
5 The board of Directors also authorized the General Manager to use other funding
6 sources for the payment of the cost of construction or improvement or any part
7 thereof or any available money or funds of the Port Authority made available by a
8 federal grant to be expended. The Port held procurement solicitation openings for
9 several of the revenue bond projects resulting in either no offers being submitted, or
10 procurement construction bid submittal costs exceeded between ten percent (10%)
11 to one hundred fifty-six percent (156%) of the legislative funding cap of the
12 respective project.

13 A review of other revenue bond mandates for other autonomous agencies was
14 made and it is noted the Port's revenue bond legislation is the only legislation which
15 specifically states the proceeds is to "finance certain Authority capital
16 improvements, including, but not limited to..." and each project has an associated
17 funding cap versus other autonomous agencies' revenue bond legislations which
18 simply stated the project(s) and total amount authorized to borrow. Although the
19 Board of Directors authorized management to use other funding sources, it appears
20 the revenue bond legislations may disallow the Port from exceeding the cost
21 associated with the project as outlined in Public Laws 34-70 and 35-44.

22 *I Liheslaturan Guåhan* finds that an amendment to Public Laws 34-70 and 35-
23 44 to remove the legislative funding caps strictly tied to the 2018 Revenue Bond
24 funds is necessary for the Port to accomplish its commitment of ensuring the
25 modernization program is neither further delayed nor jeopardized.

26 It is therefore the intent of *I Liheslaturan Guåhan* to amend Public Laws 34-
27 70 and 35-44 by removing the legislative funding caps associated with the capital

1 improvement projects to be funded by the revenue bonds and authorize the
2 reprogramming of the Port Authority of Guam revenue bond proceeds to fund the
3 shortfalls.

4 **Section 2.** Section 4(a) of Public Laws 34-70 and 35-44 is hereby amended to
5 read:

6 “(a) to finance Authority capital improvements, including, but not
7 limited to:

8 (1) local match for the Transportation Investment Generating
9 Economic Recovery (TIGER) grant program funding for rehabilitation
10 of “H” Wharf and access road ~~in the approximate amount of Thirteen~~
11 ~~Million Seven Hundred Seventy four Thousand Two Hundred Fifty~~
12 ~~five Dollars (\$13,774,255);~~

13 (2) construction of an annex building with the construction of
14 a bridge attached to the current Administration Building and upgrade
15 of infrastructure ~~in the approximate amount of Ten Million Four~~
16 ~~Hundred Forty five Thousand Dollars (\$10,445,000).~~

17 ~~The remaining balance of approximately Seven Million Four~~
18 ~~Hundred Twenty five Thousand Seven Hundred Forty five Dollars~~
19 ~~(\$7,425,745) Resulting from this reset to the Port Modernization Plan~~
20 *shall* be prioritized by the Port’s Board of Directors in order to shore
21 up the Port’s current related revenue-generating facilities and financial
22 management systems, specifically for repair of F-1 Fuel Pier; repairs
23 of F-3, F-4, F-5, and F-6 of the waterfront facilities; installation of a
24 connectivity fuel line connecting Golf Pier and F-1 Fuel Pier; and an
25 upgrade to the Port’s information technology system and integration
26 of the Terminal Operating System and Financial Management System;

1 (3) replacement and relocation of waterline(s) ~~in the~~
2 ~~approximate amount of \$6,000,000;~~

3 (4) repair and expansion of the Equipment Maintenance &
4 Repair Building (EQMR) ~~in the approximate amount of \$3,628,800;~~

5 (5) repair of Warehouse 1 ~~in the approximate amount of~~
6 ~~\$2,000,000;~~

7 (6) repair of Golf Pier ~~in the approximate amount of~~
8 ~~\$2,000,000;~~ and

9 (7) all remaining balances, if any, *shall* be allocated to provide
10 for supplemental funding for the procurement of a new gantry crane.”

11 **Section 3. Effective Date.** This Act *shall* become effective immediately upon
12 enactment.

13 **Section 4. Severability.** If any provision of this Act or its application to any
14 person or circumstance is found to be invalid or contrary to law, such invalidity *shall*
15 *not* affect other provisions or applications of this Act that can be given effect without
16 the invalid provision or application, and to this end the provisions of this Act are
17 severable.