I Mina'Trentai Dos Na Liheslaturan Guahan

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
9-32 (COR)	V.C. Pangelinan	AN ACT TO ADD NEW §§ 58148, 58148.1, 58148.2, 58148.3, AND 58149 TO CHAPTER 58 OF TITLE 12, GUAM CODE ANNOTATED, AND AMEND SECTIONS OF CHAPTER 58 OF TITLE 12 GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE QUALIFYING CERTIFICATE REVIEW BOARD, THE QUALIFYING CERTIFICATE ACCOUNTABILITY AND TRANSPARENCY WEBSITE, AND FOR OTHER PURPOSES.	1/8/2013 2:49 p.m.	1/10/13	Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land;	02/01/2013 9:00am	02/15/13 4:10 P.M.	**Fiscal Note Requested 2/13/13**
	DATE PASSED	**TITLE**	**TRANSMITTED**		**DUE DATE**	**DATE SIGNED BY I MAGA'LAHEN GUAHAN**	**PUBLIC LAW NO.**	**NOTES**
			2/22/13	4:00pm	3/4/13			**3/6/13-Vetoed 4/1/13-Voted, Override failed. 4/30/13-Voted, Override failed.**

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

32-13-175

Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 3/6/13
Time 3:55 pm
Received by

March 6, 2013

Honorable Judith T. Won Pat, Ed.D
Speaker
I Mina'trentai Unu Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Madame Speaker:

Attached is Bill No. 9-32 (COR), entitled, ***"An act to* add *new §§ 58148, 58148.1, 58148.2, 58148.3, and 58149 to Chapter 58 of Title 12, Guam Code Annotated, and* amend *Sections of Chapter 58 of Title 12 Guam Code Annotated, relative to establishing the Qualifying Certificate Review Board, the Qualifying Certificate Accountability and Transparency website, and for other purposes,"*** which I have **vetoed**.

I am vetoing Bill 9-32 because it does nothing to improve the already exhaustive multi-step Qualifying Certificate (QC) application review process. It only introduces duplicative, redundant processes which could slow economic growth and very well spawn excessive regulatory litigation.

Under Bill 9-32, the Review Board is charged with scrutinizing QC applications, providing public notification of board meetings to review and discuss the applications, and holding a public hearing prior to decision on any application or extension. It even utilizes GEDA staff to carry out some of the Review Board's responsibilities. The Review Board then provides a report of its recommendations to GEDA.

This process is almost identical to the significant QC review procedures that are already undertaken by GEDA. Currently, and even after receipt of the Review Board's report under Bill 9032, there would be an application review by a GEDA underwriter, a public notice and public hearing, a review by GEDA's internal Credit Review Committee, GEDA's management and its Board of Directors, a review by the Attorney General, and finally, a review by the Governor of Guam. The Credit Review Committee, which is comprised of its executive management, division managers and two members of the GEDA Board, is already charged with analyzing and providing substantiated recommendations on all requests for GEDA programs, including the QC program; thus it already conducts the same economic analysis contemplated under Bill 9-32.

0175

In short, Bill 9-32 does little else besides adding an extra layer of bureaucracy, that potentially hampers economic growth through unnecessary delay and expense.

Bill 9-32 is also technically and legally flawed in that it requires GEDA to publically post on a website the monthly reports that are filed by a QC beneficiary, contrary to current law, namely 12 G.C.A. Section 58123, that explicitly requires that, "*All such monthly reports shall be treated as confidential by [GEDA]*."

Finally, Bill 9-32 fails to make any appropriation or identify the funding source for the new mandates being implanted by the bill.

If the Legislature feels that the current QC process lacks adequate public review or processes, my recommendation is to refine existing statutes to expand or contract the GEDA review process, not increase the layers of regulatory oversight and bureaucracy by adding another board, commission or agency to the process. The government needs to focus on outcomes that will attract investors who can provide critically needed jobs and economic growth and opportunities our island and its people. My Administration looks forward to working with *Liheslaturan Guåhan* in achieving these goals.

Senseramente,

EDDIE BAZA CALVO

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Bill No. 9-32 (COR), "AN ACT TO *ADD* NEW §§ 58148, 58148.1, 58148.2, 58148.3 AND 58149; AND TO *AMEND* §§ 58126 AND 58115(c), ALL OF CHAPTER 58 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE QUALIFYING CERTIFICATE REVIEW BOARD, AND THE QUALIFYING CERTIFICATE ACCOUNTABILITY AND TRANSPARENCY WEBSITE; AND AMENDING CONFLICTS OF INTEREST PROVISIONS",** was on the 22nd day of February, 2013, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 2nd day of Feb., 2013, at 4:50 o'clock P .M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:
VETO

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: MARCH 06, 2013

Public Law No. _____

FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

February 22, 2013

The Honorable Edward J.B. Calvo
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

OFFICE OF THE GOVERNOR
CENTRAL FILES
RECEIVED BY
TIME 4:00 DATE 2/22/13

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Nos. 8-32(COR), 9-32(COR), 13-32(COR), 14-32(COR), 22-32(COR), 24-32(COR), 33-32(COR) and 40-32(COR) which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on February 22, 2013.

Sincerely,

Tina Rose Muña Barnes
Senator and Legislative Secretary

Enclosures (8)

FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Bill No. 9-32 (COR), "AN ACT TO *ADD* NEW §§ 58148, 58148.1, 58148.2, 58148.3 AND 58149; AND TO *AMEND* §§ 58126 AND 58115(c), ALL OF CHAPTER 58 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE QUALIFYING CERTIFICATE REVIEW BOARD, AND THE QUALIFYING CERTIFICATE ACCOUNTABILITY AND TRANSPARENCY WEBSITE; AND AMENDING CONFLICTS OF INTEREST PROVISIONS",** was on the 22nd day of February, 2013, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 22nd day of Feb., 2013, at 4:00 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 9-32 (COR)
As amended on the Floor.

Introduced by: Vicente (ben) C. Pangelinan
B. J.F. Cruz
Dennis G. Rodriguez, Jr.
T. C. Ada
V. Anthony Ada
Frank B. Aguon, Jr.
Chris M. Dueñas
M. T. Limtiaco
Brant T. McCreadie
Tommy Morrison
T. R. M. Barnes
R. J. Respicio
M. F.Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* NEW §§ 58148, 58148.1, 58148.2, 58148.3 AND 58149; AND TO *AMEND* §§ 58126 AND 58115(c), ALL OF CHAPTER 58 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE QUALIFYING CERTIFICATE REVIEW BOARD, AND THE QUALIFYING CERTIFICATE ACCOUNTABILITY AND TRANSPARENCY WEBSITE; AND AMENDING CONFLICTS OF INTEREST PROVISIONS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. Pursuant to and in conformance with the practice of the open government laws of Guam, this Act is

prescribed by *I Liheslaturan Guåhan* for the benefit of Guam resident taxpayers and local businesses operating without the benefits of a Qualifying Certificate, who bear the cost of tax revenues rebated and abated resulting from the granting who bear the loss of tax revenues resulting from the granting of Qualifying Certificates (QCs) by the Guam Economic Development Authority (GEDA).

I Liheslatura finds that certain companies are granted amendments to the terms and conditions of specific QC requirements without maximum opportunity for proper internal government and public scrutiny. The reasons for such actions vary; the most common reason being the company's inability to fulfill contractually binding obligations due to financial or economic hardship.

I Liheslaturan Guåhan further finds that for whatever reason amendments to the terms and conditions of the QCs are granted, and there are concerns about the government's due diligence during this process, and public disclosure and administrative transparency is needed when granting these amendments.

I Liheslaturan Guåhan further finds that the importance of fulfilling QC obligations, which are binding contractual agreements between the recipient and the people of Guam, is paramount; and stricter administrative and enforcement initiatives adopted and performed by the GEDA, is necessary. Improvement of current monitoring and enforcement practices while enhancing the government's ability to responsibly manage QC entitlements, and to prevent any effort to minimize or circumvent the full force and effect of the tax policies of Guam, are essential for maximum positive impact of the QC program.

Therefore, it is the intent of *I Liheslaturan Guåhan* to establish a Qualifying Certificate Review Board, to review all new applications for Qualifying Certificates, all applications requesting to amend original or amended QCs, and/or all extensions of QCs, and to ensure transparency in the discussions, recommendations, and approval of those applications. Furthermore, it is also the

intent of *I Liheslaturan Guåhan* to create the Qualifying Certificate Accountability and Transparency Website for the sole purpose of increasing accountability and transparency within the Qualifying Certificate Program.

Section 2. Establishment of the Qualifying Certificate Review Board. New §§ 58148, 58148.1, 58148.2, and 58148.3 are hereby *added* to Chapter 58 of Title 12, Guam Code Annotated, to read as follows:

"§ 58148. The Qualifying Certificate Review Board. The Qualifying Certificate Review Board (Review Board) is hereby established, whose members *shall* consist of the Administrator of the Guam Economic Development Authority (GEDA), the Director of Revenue and Taxation, the Attorney General of Guam or his/her designee, the Chief Economist of the Department of Labor, and the Chief Economist of the Bureau of Statistics and Plans. The members *shall* convene and elect a Chairperson, and thereafter when called upon by the Chairperson *shall* review all new Qualifying Certificate applications, all applications to amend original or amended Qualifying Certificates, and all applications for extension of the term of all existing Qualifying Certificates' terms and conditions.

§58148.1. Applications for New Qualifying Certificates. After careful review and scrutiny of the applications for new Qualifying Certificates, it *shall* be the duty of the Review Board to provide a detailed report to include, but *not* be limited to, those specific findings as required in § 58109, Chapter 58, Title 12 GCA, to the GEDA Board of Directors.

§58148.2. Applications Requesting Amendments or Extensions of Existing Qualifying Certificates.

(a) **Reporting Requirements.** After careful review and scrutiny of an application or notification to amend an original or amended Qualifying Certificate, or for the extension of the term of an existing Qualifying

Certificate or any of its terms and conditions, it *shall* be the duty of the Review Board to provide a detailed report prior to the GEDA Board's disposition of any application or prior to an extension. This report *shall* be provided to the GEDA Board of Directors, and *shall* include:

(1) an analysis of the direct impact of the amendment on additional or lost revenue to the government of Guam.

(2) an analysis of the direct impact of the amendment on Net Profit Margin presented in gross dollars and a percentage taken or calculated in the audit report required in Subsection (c).

(3) the Net Profit Margin percentage used in Subsection a(2) *shall* be compared against a published reasonable industry standard, such as Standard and Poors Key Industry Ratios.

(4) when amendments reduce requirement thresholds of the recipient, the Review Board *shall* assume the maximum impact.

(5) recommendations on the disposition of the application or notification.

(6) the Review Board *shall* submit its report with recommendations and findings to *I Maga'låhen Guåhan, I Liheslaturan Guåhan,* and the Board of Directors of the GEDA.

(b) Upon receipt of an application or notification to amend or extend an original or amended Qualifying Certificate, the Chairperson of the Review Board *shall* represent the government of Guam in any subsequent discussion, meetings or any other administrative matter(s) or affair(s) that pertain specifically to the amendments or any binding obligation or agreements to an existing Qualifying Certificate prior to action by the GEDA Board on the application or notification.

(c) The Administrator of the GEDA *shall* within seven (7) days of its receipt forward to the Chairperson of the Review Board all applications or notifications to amend or extend an original or amended Qualifying Certificate. The Review Board in processing all applications may recommend approving, disapproving, amending, reconsidering, suspending or revising all applications or notifications to amend or extend an original or amended Qualifying Certificates. The Review Board *shall* be provided with the applicant's audited financial statement by an independent auditor within eighteen (18) months of the date of the application, the terms and conditions of the current Qualifying Certificate, and other documents necessary for the preparation of its report and recommendation. GEDA *shall* further provide the Review Board with complete administrative data, information, records, exhibits and correspondence of the applicant, which are essential or relevant to the applicant's Qualifying Certificate amendment request.

(d) GEDA *shall* advise all Qualifying Certificate recipients of the provisions contained in this Section and *shall* perform its prescribed administrative obligations accordingly. The provisions of this Section *shall* affect *only* those applicants whose application or notification for amendment, revision, or extension is received after April 30, 2013.

(e) Notwithstanding any other laws, procedures or rules and regulations of the government of Guam applicable to the Qualifying Certificate program established pursuant to Chapter 58 of Title 12 GCA, the provisions of this Section *shall* serve to lawfully augment the existing policies of Guam which relate to the amendment of original and amended terms and conditions of Guam's Qualifying Certificate Program.

§ 58148.3. Review Board Meetings. The Review Board *shall* provide public notification pursuant to the Open Government Law, Chapter 8, Title 5 GCA,

of all meetings scheduled to review and discuss the applications submitted. Review Board meetings *shall* include a public hearing component prior to decision on any application or extension pursuant to the Administration Adjudication Law and the Open Government Law.

(a) For applications for new Qualifying Certificates, the Review Board *shall* cause to be performed all required publication of applications and public notices to be at the expense of the applicant, pursuant to Chapter 58, Title 12 GCA. The GEDA's staff may be utilized to perform the duties required in this Subsection (a).

(b) The individual, corporation, business or entity requesting amendments or extensions to a Qualifying Certificate *shall* pay for the cost of the public notification and any audits, if necessary, at such amounts as determined by the Review Board."

Section 3. Creation of the Qualifying Certificate Accountability and Transparency Website. A new § 58149 is hereby *added* to Chapter 58 of Title 12, Guam Code Annotated, to read as follows:

"**§58149. The Qualifying Certificate Accountability and Transparency Website.** The GEDA *shall* create, or cause to be created, the Qualifying Certificate Accountability and Transparency Website (Q-CAT Website) for the sole purpose of increasing accountability and transparency in the Qualifying Certificate Program. Funding for the Q-CAT Website is hereby continuously appropriated from the annual Qualifying Certificate Program fees charged and collected by the GEDA. The Q-CAT Website *shall* include, but *not* be limited to, the following:

(a) Electronic copies of all new applications for Qualifying Certificates within fifteen (15) days of receipt of said application(s).

(b) Electronic copies of all applications to amend original or amended Qualifying Certificates and/or for the extension of the term of existing Qualifying Certificates' terms and conditions within fifteen (15) days of receipt of said application(s).

(c) Electronic copies of the monthly reports required to be submitted pursuant to § 58123, Chapter 58, Title 12 GCA within fifteen (15) days of receipt of said report.

(d) All notices of hearings required in § 58125, Chapter 58, Title 12 GCA.

(e) All recommendations made by the GEDA Board of Directors to the Governor, pursuant to § 58126, within five (5) days of making such recommendation.

The GEDA is required to create, or cause to be created, the Q-CAT Website within ninety (90) days of the enactment of this Act."

Section 4. § 58126 of Chapter 58 of Title 12, Guam Code Annotated, is hereby *amended* to read as follows:

"**§58126. Recommendations.**

The GEDA Board of Directors *shall not* provide any recommendations to the Governor of Guam without receipt and review of the Review Board's detailed report as required in §§ 58148.1 and 58148.2. All recommendations of the Authority for the issuance, modification, renovation and suspension of Qualifying Certificates *shall* be forwarded to the Governor of Guam, together with a memorandum of the Authority's findings in support of its recommendations. Any recommendation of the Authority *not* approved by the Governor within sixty (60) calendar days from his receipt thereof *shall* be deemed disapproved on the sixty-first (61st) day following such receipt."

Section 5. § 58115(c) of Chapter 58 of Title 12, Guam Code Annotated, is hereby *amended* to read as follows:

"(c) The Governor of Guam, the Lieutenant Governor of Guam, and their spouses; and person or spouse of such person related by consanguinity of the third degree, which for the purposes of this Section *shall* include spouses, all children, parents, grandchildren, siblings, grandparents, great-grandchildren, nieces, nephews, uncles, aunts, and great-grandparents, to the Governor and the Lieutenant Governor of Guam;"

Section 6. Severability. *If* any provision of this Act or its application to any person or circumstance is held invalid, the invalidity *shall not* affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act is severable.

COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • *www.guamlegislature.com*
E-mail: *roryforguam@gmail.com* • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
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Vice-Speaker
Benjamin J.F. Cruz
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Legislative Secretary
Tina Rose Muña Barnes
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Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

February 13, 2013

VIA FACSIMILE
(671) 472-2825

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note – Bill Nos. 01-32 through 6-32 (LS) and Bill Nos. 7-32 through 17-32 (COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bill. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bill.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson, Committee on Rules

Attachments

Cc: Clerk of the Legislature

2013 FEB 11 AM 9:09

Bill No. 1-32(LS) – J. T. Won Pat, Ed. D. / T.R. Muna Barnes

An act relative to authorizing the Guam Economic Development Authority to procure the installation and maintenance of electronic security systems throughout Guam public schools also known as the Secure Our Schools Act of 2013, and for other purposes.

Bill No. 2-32 (LS) – A. A. Yamashita

An act to repeal and reenact Section 1105 of Chapter1, Title2, Guam Code Annotated, relative to term limits for senators of the Guam Legislature.

Bill No. 3-32 (LS) – B.J.F. Cruz./ T.R. Muna-Barnes / V.A. Ada

AN ACT TO ADD A NEW CHAPTER 82 TO TITLE 12 OF THE GUAM CODE ANNOTATED; RELATIVE TO AUTHORIZING CERTAIN CONTRACTUAL ARRANGEMENTS FOR PUBLIC PRIVATE PARTNERSHIPS IN ORDER TO MOBILIZE PRIVATE RESOURCES FOR THE PURPOSE OF FINANCING THE CONSTRUCTION, OPERATION AND MAINTENANCE OF INFRASTRUCTURE AND DEVELOPMENT PROJECTS NORMALLY FINANCED AND UNDERTAKEN BY THE GOVERNMENT.

Bill No. 4-32 (LS) – T.A. Morrison / B.J.F. Cruz / V.A. Ada

AN ACT TO REPEAL AND RE-ENACT ARTICLE 2 OF CHAPTER 20 OF TITLE 5, GUAM CODE ANNOTATED RELATIVE TO ESTABLISHING THE OFFICE OF TECHNOLOGY.

Bill No. 5-32 (LS) – T.A. Morrison

AN ACT TO ADD A NEW §40128 CHAPTER 40 OF 5GCA RELATIVE TO PLACING THE FORMER FQ SANCHEZ ELEMENTARY SCHOOL FACILITY UNDER THE JURIDICTION OF THE UMATAC MAYOR'S OFFICE.

Bill No. 6-32 (LS) – B.T. McCreadie, D.G. Rodriguez, Jr

AN ACT TO AMEND §25.15 AND §25.20 OF CHAPTER 25, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO STRENGTHENING PENALTIES FOR CRIMES INVOLVING CRIMINAL SEXUAL CONDUCT, WHICH MAY BE CITED AS THE "PREDATOR PREVENTION ACT"

Bill No. 7-32 (COR) – J.T. Won Pat, Ed.D.

AN ACT TO ADD A NEW §80105 (i) TO CHAPTER 80 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE TRANSFER OF PROPERTY UNDER THE JURISDICTIONOF PROPERTY UNDER THE JURISDICTION OF THE PORT AUTHORITY OF GUAM TO THE JURISDICTION OF THE GUAM ANCESTRAL LANDS COMMISSION.

Bill No. 8-32 (COR) – R.J. Respicio

AN ACT TO APPROPRIATE TO THE DEPARTMENT OF EDUCATION ALL ADDITIONAL REVENUE DERIVED FROM THE EXPIRATION OF ANY PART OF THE BUSH TAX CUTS.

Bill No. 9-32 (COR) – V.C. Pangelinan

AN ACT TO ADD NEW §§ 58148, 58148.1, 58148.2, 58148.3, AND 58149 TO CHAPTER 58 OF TITLE 12, GUAM CODE ANNOTATED, AND AMEND SECTIONS OF CHAPTER 58 OF TITLE 12 GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE QUALIFYING CERTIFICATE REVIEW BOARD, THE QUALIFYING CERTIFICATE ACCOUNTABILITY AND TRANSPARENCY WEBSITE, AND FOR OTHER PURPOSES.

Bill No. 10-32 (COR) – B.J.F. Cruz

AN ACT TO ADD A NEW CHAPTER 39A TO TITLE 7 OF THE GUAM CODE ANNOTATED RELATIVE TO CREATING THE UNIFORM CHILD ABDUCTION PREVENTION ACT.

Bill No. 11-32 (COR) - B.J.F. Cruz

AN ACT TO ADD A NEW ARTICLE 9, TO CHAPTER 63, AND TO AMEND §5215 OF CHAPTER 5; AND TO AMEND § 63101, TO ADD A NEW (c) AND (d) TO § 63116, AND TO AMEND § 63129 OF CHAPTER 63 OF TITLE 5, GUAM CODE ANNOTATED RELATIVE TO CREATING THE GUAM CORAL AND MARINE LIFE PROTECTION ACT.

Bill No. 12-32 (COR) - B.J.F. Cruz

AN ACT TO AMEND §90A101 AND §90A102 OF CHAPTER 90A OF TITLE 10 OF THE GUAM CODE ANNOTATED RELATIVE TO THE PROHIBITION AND SALE OF CANDY CIGARETTES.

Bill No. 13-32 (COR) - B.J.F. Cruz

AN ACT TO ADD A NEW § 3123 TO ARTICLE 1 AND TO ADD A NEW § 3436 AND § 3437 TO ARTICLE 4 OF CHAPTER 3 OF TITLE 11 GUAM CODE ANNOTATED RELATIVE TO INTOXICATION OF PERSONS UNDER AGE TWENTY-ONE.

Bill NO. 14-32 (COR) – C.M. Duenas / V.A. Ada

AN ACT TO ADD A NEW §(e) TO §5123 OF CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO MANDATING THE PURCHASE OR LEASE OF VEHICLES BY THE GOVERNMENT OF GUAM SHALL MEET OR EXCEED A MINIMUM AVERAGE COMBINED CITY AND HIGHWAY MILES PER GALLON (MPG) OF TWENTY-FIVE MILES PER GALLON (25 MPG); TO ADD A NEW §(f) TO §5123 OF CHAPTER 5, TITLE 5, GUAM CODE ANNOTATAED, TO ALLOW CERTAIN SPECIALTY VEHICLES TO BE EXCLUDED FROM THE PROVISION OF THIS ACT.

Bill NO. 15-32 (COR) – T.R. Muna Barnes

AN ACT TO REZONE LOT NO. 3, TRACT 1942, IN THE MUNICIPALITY OF BARRIGADA FROM SINGLE-FAMILY DWELLING (R-1) TO MULTIPLE FAMILY DWELLING (R-2)

Bill No. 16-32 (COR) – R.J. Respicio / C.M. Duenas

AN ACT TO REZONE LOT 2181-4NEWR1NEW-R2, LOT 2181-4NEW-R1NEW-2, LOT 2181-4NEW-1-1,LOT 2181-4NEW-1-2, LOT 2181-4NEW-1-3, LOT 2181-4NEW-1-4, LOT PARCEL 4) IN THE MUNICIPALITY OF2181-4NEW-1-R4 AND LOT NAVAL AIR STATION AGANA-21-R1 (AIRPORT PARCEL 4) IN THE MUNICIPALITY OF TIYAN, bARRIGADA FROM AGRICULTURAL ZONE (A) TO LICHT INDUSTRIAL ZONE (M-1); AND TO CHANGE THE REFERENCE OF LIMITED INDUSTRIAL TO LIGHT INDUSTRIAL.

Bill No. 17-32 (COR) – R.J. Respicio / T.C. Ada

AN ACT TO ALLOW FOR CONDITIONAL USE OF PROPERTY SITUATED IN THE MUNICIPALITY OF DEDEDO FOR MEETINGS AND CULTURAL PURPOSES, SPECIFICALLY LOTS 15-3 AND 15-R3, BOTH OF TRACT 1413, WHICH ARE CURRENTLY ZONED "A" (AGRICULTURAL), CONTAINING AN AREA OF 4,208.7± SQUARE METERS, AND TIYAN, BARRIGADA FROMBORDERED BY ALAGETA ROAD.

MESSAGE CONFIRMATION

FEB-13-2013 05:22 PM WED

FAX NUMBER : 4772240
NAME : GNF

NAME/NUMBER : 4722825
PAGE : 3
START TIME : FEB-13-2013 05:21PM WED
ELAPSED TIME : 01'00"
MODE : STD ECM
RESULTS : [O.K]

COMMITTEE ON RULES
I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • *www.guamlegislature.com*
E-mail: *rorjrguam1@gmail.com* • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

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Senator
V. Anthony Ada
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MINORITY LEADER

Senator
Aline Yamashita
Member

February 13, 2013

VIA FACSIMILE
(671) 472-2825

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note – Bill Nos. 01-32 through 6-32 (LS) and Bill Nos. 7-32 through 17-32 (COR)

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Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson, Committee on Rules

Attachments

Cc: Clerk of the Legislature

Rcvd by: Analyn Estagnio
2/14/13
Confirmed via phone w/ Joe 9:03am 2/14/13

I Mina'trentai Dos na Liheslaturan Guåhan
32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

FEB 15 2013

2013 FEB 15 PM 4:10

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Unu Na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules

RE: Committee Report on Bill No. 9-32 (LS), As Introduced

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 9-32 (LS), as introduced, "An Act To *Add* New §§58148, 58148.1, 58148.2, 58148.3, and 58149 to Chapter 58 of Title12, Guam Code Annotated, and *Amend* Sections of Chapter 58 OF Title 12 Guam Code Annotated, Relative to Establishing the Qualifying Certificate Review Board, The Qualifying Certificate Accountability and Transparency Website, and for Other Purposes" which was referred to by the Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land.

Committee votes are as follows:

3 TO PASS

____ TO NOT PASS

2 TO REPORT OUT ONLY

____ TO ABSTAIN

____ TO PLACE IN INACTIVE FILE

Si Yu'os Ma'åse',

Vicente (Ben) Cabrera Pangelinan
Chairman

324 West Soledad Avenue
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COMMITTEE REPORT
ON

Bill No. 9-32 (LS), As Introduced

Sponsored by Senator Vicente (ben) C. Pangelinan

"An Act To Add New §§58148, 58148.1, 58148.2, 58148.3, and 58149 to Chapter 58 of Title12, Guam Code Annotated, and Amend Sections of Chapter 58 OF Title 12 Guam Code Annotated, Relative to Establishing the Qualifying Certificate Review Board, The Qualifying Certificate Accountability and Transparency Website, and for Other Purposes"

I Mina'trentai Dos na Liheslaturan Guåhan
32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

FEB 15 2013

MEMORANDUM

To: **All Members**
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land

From: Senator Vicente (Ben) Cabrera Pangelinan
Chairman

Subject: **Committee Report on Bill No. 9-32 (LS), As Introduced**

Transmitted herewith for your consideration is the Committee Report on Bill No. 9-32 (LS), as introduced, "An Act To *Add* New §§58148, 58148.1, 58148.2, 58148.3, and 58149 to Chapter 58 of Title12, Guam Code Annotated, and *Amend* Sections of Chapter 58 OF Title 12 Guam Code Annotated, Relative to Establishing the Qualifying Certificate Review Board, The Qualifying Certificate Accountability and Transparency Website, and for Other Purposes" sponsored by Senator Vicente (ben) C. Pangelinan.
This report includes the following:

1. Committee Voting Sheet
2. Committee Report Narrative
3. Copy of Bill No. 9-32 (LS), As Introduced
4. Public Hearing Sign-in Sheet
5. Copies of Written Testimonies
6. Copy of Fiscal Note
7. Copy of COR referral
8. Notices of Public Hearing
9. Copy of the Public Hearing Agenda

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact my office.

Si Yu'os Ma'åse',

Vicente (Ben) Cabrera Pangelinan
Chairman

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I MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN

Committee Voting Sheet

Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land

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Bill 9-32 (LS): An Act To *Add* New §§58148, 58148.1, 58148.2, 58148.3, and 58149 to Chapter 58 of Title12, Guam Code Annotated, and *Amend* Sections of Chapter 58 OF Title 12 Guam Code Annotated, Relative to Establishing the Qualifying Certificate Review Board, The Qualifying Certificate Accountability and Transparency Website, and for Other Purposes.

Committee Members	To Pass	Not To Pass	Report Out Only	Abstain	Inactive File
Senator Vicente (ben) Cabrera Pangelinan **Chairman**	✓				
Vice Speaker Benjamin J. F. Cruz **Vice Chairperson**	✓				
Speaker Judith T. Won Pat, Ed.D **Member**	✓				
Senator Tina Rose Muña-Barnes **Member**					
Senator Dennis Rodriguez, Jr. **Member**			12/15/17		
Senator Michael San Nicolas **Member**			✓		
Senator Michael Limtiaco **Member**					
Senator Tommy Morrison **Member**					

I Mina'trentai Dos na Liheslaturan Guåhan
32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

Committee Report

Bill 9-32 (LS): An Act To *Add* New §§58148, 58148.1, 58148.2, 58148.3, and 58149 to Chapter 58 of Title12, Guam Code Annotated, and *Amend* Sections of Chapter 58 OF Title 12 Guam Code Annotated, Relative to Establishing the Qualifying Certificate Review Board, The Qualifying Certificate Accountability and Transparency Website, and for Other Purposes.

I. OVERVIEW

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land convened a public hearing on February 1, 2013 at 9:00am in *I Liheslatura's* public hearing room.

Public Notice Requirements

Notices were published in the newspaper of general circulation as required by the Open Government Law and disseminated via hand-delivery and e-mail to all senators and broadcasting outlets on January 25, 2013 (5-Day Notice), and again on January 30, 2013 (48 Hour Notice).

(a) Committee Members and Senators Present

Senator Vicente (Ben) C. Pangelinan, Chairman
Vice Speaker BJ Cruz, Vice Chairman
Speaker Judith Won Pat, Member
Senator Dennis Rodriguez Jr., Member
Senator Mike San Nicolas, Member
Senator Tommy Morrison, Member
Senator Tom Ada
Senator Rory Respicio
Senator Tony Ada
Senator Chris Duenas
Senator Brant McCreadie
Senator Aline Yamashita

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(b) Appearing before the Committee

Former Senator Al Ysreal, 12th Guam Legislature
Former Vice Speaker Ted Nelson, 23rd Guam Legislature

(c) Written Testimonies Submitted

Mr. Al Ysreal
Mr. Albert Perez - Chief Economist, Bureau of Statistics and Plans

II. COMMITTEE PROCEEDINGS

Chairman Pangelinan: The next item on the agenda is Bill No. 09-32. It's an act to add new Section 58148, 58148.1, 58148.2, 58148.3, and 58149 to Chapter 58, Title 12 Guam Code Annotated and to amend Sections of Chapter 58, Title 12 Guam Code Annotated, relative to establishing the Qualifying Certificate Review Board, the Qualifying Certificate Accountability and Transparency website and for other purposes. We have [former] Senator Ysrael on the GEDA bill.

(a) Bill Sponsor Summary

Chairman Pangelinan: Thank you very much. The bill is authored by myself. Very quickly, the bill would provide a new layer of review for recommendations on the issuance of the Qualifying Certificate Program. Right now, all applications with the Qualifying Certificate Program are reviewed and analyzed by the staff of the Guam Economic Development Authority. Revenues derived from the granting of qualifying certificates goes to support the operations of GEDA. And in such, in my opinion presents an inherent conflict in that when you grant a qualifying certificate, you get more money for your operations. And therefore, there may be a built in bias in that process to grant these so we can get more money for our operations. And so what we wanted to do is present a more macro-review with regards to the government of Guam itself and its operations with regards to the revenues that may be abated or rebated with the granting of these QCs and taking a look from a government-wide perspective rather than from an agency or entity, insular perspective. And so the bill would set up a review board for recommendations to the Guam Economic Development Authority Board before making a recommendation to the Governor on whether or not these qualifying certificates and tax abatements should be granted.

That is the basic intent of the bill and I'll go ahead and begin with [former] Senator Ysrael.

(b) Testimony

1. Mr. Al Ysreal

Mr. Ysrael: My name Alfred C. Ysrael, I'm a private individual; a taxpaying private individual, a productive individual in our island community. Let's cut to the chase, regrettably my recommendation would be, is that this bill is redundant. If something is broken you throw it away if it can't be fixed. And GEDA cannot be fixed. Adding another layer of bureaucracy is redundant. In my opinion, it's a personal opinion, GEDA has become redundant and has outlived its usefulness. GEDA's main purpose right now is to act as a financing expert to GovGuam for their bond issues. The era of qualifying certificates are long gone. Why continue GEDA when they're not enforcing their own rules and regulations against or towards the QC holders? I was the recipient of a QC holder until I read the conditions and knowing the way the bureaucracy works, those conditions would be selectively enforced against me. I know that from practical experience.

To begin with, there are, starting at Section 58100, which is the legislative findings and intent for GEDA, all the way up to Sections 58118, these are the conditions that GEDA has imposed on the QC holders, none of which have been enforced or collected. And one of the provisions of GEDA QC holders is the fact that if they don't follow or enforce the conditions, their benefits are retroactively refunded. That would be quite a windfall for GovGuam to get back all the refunds that they've been receiving over the last 30 years. One in particular has had their QC renewed on three different occasions. The incentive to invest in Guam is not there anymore, it is lucrative. We don't have to give them this incentive anymore. I'm sorry, but I was just told about this 30 minutes ago at 8:30 this morning.

So therefore, if there's going to be, if anything is going to make sense, is to do two things. Require the GEDA officials to enforce the rules and conditions. Second, abolish GEDA. The one thing for example, that they're supposed to do, under Paragraph 58118 as part of their condition is that no resident employee of a beneficiary shall be paid less than the prevailing wage rate established by the Department of Labor nor shall employees be laid off nor have his or her work week reduced to less than 40 hours. That's one of the main conditions. It hasn't been enforced. I know that for a fact. Every hotel pays barely minimum wage, that's the only way they can do it. Why has not somebody been enforcing these rules of GEDA and allowing the QC holders to keep continuing receiving their many tax rebates, their real estate rebates, and sometimes even their gross receipts tax?

Another condition is the Authority shall be the sole judge whether beneficiaries' employment is management or non-management. Authority shall report to the Legislature the titles and compensation of all trainees including those placed in management positions. That has not been enforced because that's a prerogative of management. And yet this is one of the conditions.

Paragraph 58113, this is my favorite paragraph. Retroactive suspension, rescission, or revocation of a QC may be retroactive to the act or omission giving rights to the suspension. Nothing has been enforced. It was only enforced once in the entire history of GEDA - against me. When I relocated a restaurant from the roof, to the first floor, they said that was a violation and then therefore I am in violation. Local shareholders requiring the beneficiary to offer ten percent or more of its corporate equity to qualified residents of Guam on terms and conditions to be established by the GEDA authority. I can't think of any hotel that's done that who has received QCs. Public investments conditioning the tax benefits on the beneficiaries investing in or creating public improvements separate from its proposed activities. It goes on and on and these are conditions by which they received their QC.; conditions, which have not been enforced or applied or put into effect. So gentlemen, your proposed bill is redundant. If anything, it should be revoked completely and more importantly, the Department of Labor or some other enforcing bodies should go and look into possibility of a refund of all of their tax benefits in the past. Thank you gentlemen. I'm open to questions if there's any.

PANEL COMMENTS AND QUESTIONS

Chairman Pangelinan: Thank you very much [former] Senator Ysrael. Senator, the reason why we've introduced this bill is because, as you mentioned, non-enforcement. These QC recipients come in, apply to GEDA, GEDA gets fees from granting QCs for them to fund themselves for their off-island trips, their pay raises outside of the GovGuam employees. So they grant QCs then they come in and ask for modifications and modification, more fees and so forth. And we don't hear about these modifications and no one reviews them except the GEDA internally and so forth. So that's why we're adding, we're opening up those doors for that review process to the other entities that have an interest other than the interest of GEDA itself.

This would open up the doors, put a little bit of transparency and accountability and public scrutiny over it, requiring additional public hearings for these modifications, and hopefully put some of these things out in the open, rather than keeping them behind closed doors, internal to GEDA and the granting of that. While I understand the recommendation of 'let's just do away with it,' I'm sure there's somebody here that may jump on that. But if we can't do it, or we don't do it, how do we open up that process right now that stops some of these things due to the fact that we're going to provide greater public participation, public scrutiny over these qualifying certificates. So that's our intention here and it's not a perfect approach, but it certainly is better than the system that exists today.

Mr. Ysrael: Senator, if I may respond. The road to hell is paved with good intentions. Adding another layer of bureaucracy adding another board supervision.... After six years of experience with government entities and boards, you notice one thing, that the boards become polluted, become infected, and they become part of the problem. Have any of our board members really acted on behalf of, or for the benefit of the public? They eventually become part of the problem. They become infected with the

bureaucratic mentality of the permanent civil service organization because of the benefits that the board members will receive from them.

A great case is our Public Utilities Agency. They're here to protect our public and this gentleman asked to give us relief. I recall full well just about two weeks ago, a statement made by GPA to the effect is, there will be savings made by this so-called smart meters, and we may pass it on to the consumers. I'm quoting his exact words because its embedded in my mind and it may be passed on to the consumers rather than saying it will be passed on to the consumers. Have any of the benefits been passed on to the consumers?

Chairman Pangelinan: I share the same frustrations.

Mr. Ysrael: And why add another bureaucracy? Something is rotten, get rid of it, or better, still bring all those agencies back again into the realm of the control of the Legislature and the Executive. Right now, the agencies are independent and there's nothing you can do about them as you yourself know from your own experience.

Chairman Pangelinan: Thank you very much. Any comments or questions? Senator?

Vice Speaker Cruz: I just want to make one comment, Senator Ysrael I know you said you just had a short notice about this, I think you could still submit written testimony and I know that you can write, because I've seen it. Sit down and write your testimony so we can have it on record. To have everything that you believe we should have. And so I just wanted to remind you that you can. I know you can do much better than that. Go ahead and send us written testimony.

Mr. Ysrael: I can't sleep at tonight…Thank you gentlemen, and ladies.

Chairman Pangelinan: Thank you. Any other public testimony on Bill No. 09-32? Mr. [former] Vice Speaker? Yes, yes, of course. Thank you very much Mr. [former] Vice Speaker, welcome.

2. Mr. Ted Nelson

Mr. Nelson: Thank you Mr. Speaker. Senators, my name is Ted Nelson and I feel nauseated from the testimony of this man right next to me [referring to Mr. Al Ysrael. Mr. Chairman, can you please give GEDA the authority to investigate companies that are operating illegally or questionably on private property in Gogna? I think that this is something that's more serious. I think that if GEDA can do that, it will benefit this island, it will benefit Chamorros who are denied of their right for their ancestral property. I think GEDA should be the policing agency and if any one of these organizations, hotels, whatever they are, beach clubs are getting GEDA to give them the biggest properties, I think that you should amend the law to authorize them to investigate this type of activity. Thank you.

PANEL COMMENTS AND QUESTIONS

Chairman Pangelinan. Thank you very much Mr. [former] Vice Speaker. Thank you very much [former] Senator Ysrael. We'll go ahead then and conclude the receipt of oral testimony this morning. As the Vice Speaker noted, written testimony will continue to be received by the Committee on any and all of the bills that are up for a public hearing this morning. We encourage you to do so.

This concludes the testimony on Bill No. 9. There being no additional individuals to present any additional testimony, this Committee will continue to remain open for the acceptance of any additional information or public testimony on the bill discussed. You can submit those testimonies to my office directly on Soledad Avenue, as well as the Guam Legislature or through any of the electronic processes either email at senbenp@guam.net or through our website at senbenp.com

III. FINDINGS & RECOMMENDATIONS

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land, hereby reports Bill No. 9-32 (LS) with the recommendation to report out only.

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) REGULAR SESSION

2013 JAN -8 PM 2:49

Bill No. 9-32(COR)

Introduced by: **V.C. Pangelinan**

AN ACT TO *ADD* NEW §§ 58148, 58148.1, 58148.2, 58148.3, AND 58149 TO CHAPTER 58 OF TITLE 12, GUAM CODE ANNOTATED, AND *AMEND* SECTIONS OF CHAPTER 58 OF TITLE 12 GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE QUALIFYING CERTIFICATE REVIEW BOARD, THE QUALIFYING CERTIFICATE ACCOUNTABILITY AND TRANSPARENCY WEBSITE, AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

SECTION 1. Legislative Findings and Intent. Pursuant to and in conformance with the practice of the open government laws of Guam, this Act is prescribed by *I Liheslaturan Guåhan* for the benefit of Guam resident taxpayers and local businesses operating without the benefits of a Qualifying Certificate, who bear the cost of tax revenues rebated and abated resulting from the granting who bear the loss of tax revenues resulting from the granting of Qualifying Certificates (QCs) by the Guam Economic Development Authority (GEDA).

I Liheslatura finds that certain companies are granted amendments to the terms and conditions of specific QC requirements without maximum opportunity for internal government and public scrutiny proper scrutiny. The

reasons for such actions vary; the most common reason being the company's inability to fulfill contractually binding obligations due to financial or economic hardship.

I Liheslaturan Guåhan further finds that for whatever reason amendments to the terms and conditions of the QCs are granted, there are concerns about the government's due diligence during this process and public disclosure and administrative transparency when granting these amendments.

I Liheslaturan Guåhan further finds that the importance of fulfilling QC obligations, which are binding contractual agreements between the recipient and the people of Guam is paramount, however stricter administrative and enforcement initiatives adopted and performed by the GEDA, is necessary. Improvement of current monitoring and enforcement practices while enhancing the government's ability to responsibly manage QC entitlements, and to prevent any effort to minimize or circumvent the full force and effect of the tax policies of Guam, are essential for maximum positive impact of the QC program.

Therefore, it is the intent of *I Liheslaturan Guåhan* to establish a Qualifying Certificate Review Board, to review all new applications for Qualifying Certificates, all applications requesting to amend original or amended QCs, and/or all extensions of QCs, and to ensure transparency in the discussions, recommendations, and approval of those applications. Furthermore, it is also the intent of *I Liheslaturan Guåhan* to create the Qualifying Certificate Accountability and Transparency Website for the sole purpose of increasing accountability and transparency within the Qualifying Certificate Program.

SECTION 2. Establishment of the Qualifying Certificate Review Board. New §§ 58148, 58148.1, 58148.2, and 58148.3 are hereby *added* to Chapter 58 of Title 12, Guam Code Annotated, to read as follows:

"**§ 58148. The Qualifying Certificate Review Board.** The Qualifying Certificate Review Board is hereby established, herein referred to as "*Review Board*," whose members *shall* consist of the Administrator of the Guam Economic Development Authority (GEDA), the Director of Revenue and Taxation, the Attorney General of Guam or his/her designee, the Chief Economist of the Department of Labor, and the Chief Economist of the Bureau of Statistics and Plans. The members *shall* convene and elect a Chairperson, and thereafter when called upon by the Chairperson *shall* review all new Qualifying Certificate applications, all applications to amend original or amended Qualifying Certificates, and all applications for extension of the term of ~~all~~ existing Qualifying Certificates' terms and conditions.

§ 58148.1. Applications for New Qualifying Certificates. After careful review and scrutiny of the applications for new Qualifying Certificates, it *shall* be the duty of the Review Board to provide a detailed report to include, but not be limited to, those specific findings as required in § 58109, Chapter 58, Title 12 GCA, to the GEDA Board of Directors.

§ 58148.2. Applications Requesting Amendments or Extensions of Existing Qualifying Certificates.

(a) **Reporting Requirements.** After careful review and scrutiny of the applications to amend original or amended Qualifying Certificates and/or for the extension of the term of existing Qualifying Certificates' terms and conditions, it *shall* be the duty of the

Review Board to provide a detailed report to the GEDA Board of Directors, to include:

(1). an analysis of the direct impact of the amendment on additional or lost revenue to the government of Guam.

(2). an analysis of the direct impact of the amendment on Net Profit Margin presented in gross dollars and a percentage taken or calculated in the audit report required in Subsection (c).

(3). the Net Profit Margin percentage used in Subsection (2) *shall* be compared against a published reasonable industry standard, such as Standard and Poors Key Industry Ratios.

(4). when amendments reduce requirement thresholds of the recipient, the Review Board *shall* assume the maximum impact.

(5). the Review Board *shall* submit its report with recommendations and findings to *I Maga'låhen Guåhan, I Liheslaturan Guåhan,* and the Board of Directors of the GEDA.

(b) Upon receipt of an application to amend or extend an original or amended Qualifying Certificate, the Chairperson of the Review Board *shall* represent the government of Guam in any subsequent discussion, meetings or any other administrative matter(s) or affair(s) that pertain specifically to the amendments or any binding obligation or agreements to an existing Qualifying Certificate.

(c) The Administrator of the GEDA *shall* within seven (7) days of its receipt forward to the Chairperson of the Review Board all applications to amend or extend original or amended Qualifying

Certificates. The Review Board in processing all applications may recommend amending, reconsidering, suspending and revising all applications to amend original or amended Qualifying Certificate or extension of Qualifying Certificates and *shall* be provided the applicant's audited financial statement by an independent auditor within eighteen (18) months of the date of the application, the terms and conditions of the current Qualifying Certificate and other documents necessary for the preparation of its report and recommendation. The GEDA *shall* further provide the Review Board with complete administrative data, information, record(s), exhibits and correspondence of the applicant(s), which are essential or relevant to the applicant's Qualifying Certificate amendment request.

(d) The GEDA *shall* advise all Qualifying Certificate recipients of the provisions contained in this Section and *shall* perform its prescribed administrative obligations accordingly. The provisions of this Section *shall* affect *only* those applicants whose application for amendment, revision, or extension is received after April 30, 2013.

(e) Notwithstanding any other laws, procedures or rules and regulations of the government of Guam applicable to the Qualifying Certificate program established pursuant to Chapter 58 of Title 12 GCA, the provisions of this Section *shall* serve to lawfully augment the existing policies of Guam, which relate to the amendment of original and amended terms and conditions of Guam's Qualifying Certificate Program.

§ 58148.3. Review Board Meetings. The Review Board *shall* provide public notification pursuant to the Open Government Law, Chapter 8, Title 5 GCA, of all meetings scheduled to review and discuss the applications submitted. Review Board meetings *shall* include a public hearing component pursuant to the Administration Adjudication Law and the Open Government Law.

(a) For applications for new Qualifying Certificates, the Review Board *shall* cause to be performed, all required publication of applications and public notices to be at the expense of the applicant, pursuant to Chapter 58, Title 12 GCA. The GEDA's staff *may* be utilized to perform the duties required in this Subsection (a).

(b) The individual, corporation, business or entity requesting amendments or extensions to a Qualifying Certificate *shall* pay for the cost of the public notification and any audits, if necessary, at such amounts as determined by the Review Board."

SECTION 3. Creation of the Qualifying Certificate Accountability and Transparency Website. A new § 58149 is hereby *added* to Chapter 58 of Title 12, Guam Code Annotated, to read as follows:

"**§ 58149. The Qualifying Certificate Accountability and Transparency Website.** The GEDA shall create, or cause to be created, the Qualifying Certificate Accountability and Transparency Website (Q-CAT Website) for the sole purpose of increasing accountability and transparency in the Qualifying Certificate Program. Funding for the Q-CAT Website is hereby continuously appropriated from the annual Qualifying Certificate Program fees charged and collected by the GEDA. The Q-CAT Website shall include, but not be limited to, the following:

(a) Electronic copies of all new applications for Qualifying Certificates within fifteen (15) days of receipt of said application(s).

(b) Electronic copies of all applications to amend original or amended Qualifying Certificates and/or for the extension of the term of existing Qualifying Certificates' terms and conditions within fifteen (15) days of receipt of said application(s).

(c) Electronic copies of the monthly reports required to be submitted pursuant to § 58123, Chapter 58, Title 12 GCA within fifteen (15) days of receipt of said report.

(d) All notices of hearings required in § 58125, Chapter 58, Title 12 GCA.

(e) All recommendations made by the GEDA Board of Directors pursuant to § 58126 to the Governor within five (5) days of making such recommendation.

The GEDA is required to create, or cause to be created, the Q-CAT Website within ninety (90) days of the enactment of this Act."

SECTION 4. A § 58126 of Chapter 58 of Title 12, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 58126. Recommendations.**

The GEDA Board of Directors shall not provide any recommendations to the Governor of Guam without receipt and review of the Review Board's detailed report as required in §§ 58148.1 and 58148.2. All recommendations of the Authority for issuance, modification, renovation and suspension of Qualifying Certificates shall be forwarded to the Governor of Guam, together with a memorandum of the Authority's findings in support of its recommendations. Any recommendation of the Authority

not approved by the Governor within sixty (60) calendar days from his receipt thereof shall be deemed disapproved on the sixty-first (61st) day following such receipt."

SECTION 5. A § 58115(c) of Chapter 58 of Title 12, Guam Code Annotated, is hereby *amended* to read as follows:

"(c) The Governor of Guam, the Lieutenant Governor of Guam, ~~and their spouses;~~ and person or spouse of such person related by consanguinity of the third degree, which for the purposes of this Section *shall* include spouses, all children, parents, grandchildren, siblings, grandparents, great-grandchildren, nieces, nephews, uncles, aunts, and great-grandparents, to the Governor and the Lieutenant Governor of Guam;"

SECTION 6. Severability. *If* any provision of this Act or its application to any person or circumstance is held invalid, the invalidity *shall not* affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act is severable.

Mina'trentai Dos na Liheslaturan Guahan
32nd GUAM LEGISLATURE

Senator Vicente "ben" Cabrera Pangelinan

COMMITTEE ON APPROPRIATIONS, PUBLIC DEBT, LEGAL AFFAIRS, RETIREMENT, PUBLIC PARKS, RECREATION, HISTORIC PRESERVATION AND LAND

Friday, February 1, 2013

Bill No. 9-32 (COR)
SIGN UP SHEET

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT Yes No
ALFRED YSRAEL	TUMON	646-1389			✓	No

324 W. Soledad Ave. Hagatna, Guam 96910
Ph. 473-4236 Fax. 473-4238
Email: senbenp@guam.net

Subject: Unenforced GEDA Rules

1. GUAM ECONOMIC DEVELOPMENT AUTHORITY (GEDA) for their anti-business rules and regulations and written in the charter

Para 58100: LEGISLATIVE FINDINGS AND INTENT:

Para 58110: Conditions of Benefits.

(a) Percentage of Investment: Limiting the tax benefits to a percentage of the capital investment in Guam.

(b) Variable Rate: Varying the rate of tax benefits over the term of the Q.C.

(c) Limitation on Amount. Limiting the tax benefits tax fixed dollar amount

(d) Public Investments: Conditioning the tax benefits on the beneficiary's investing in or creating public improvements separate from its proposed activities.

(e) Local Shareholders: Requiring the Beneficiary to offer ten (10%) per cent or more of its corporate equity to qualified residents of Guam, on terms and conditions to be established by the GEDA Authority.

(f) Profit-Sharing: Requiring the beneficiary to establish profit-sharing and stock ownership programs and other similar benefits (health, life, medical, dental) for its employees.

(g) Training: (ii) make contributions to an independent training or scholarship fund.

(h) Local Purchase. Requiring Beneficiary to procure services or products supplied by Guam-licensed vendors if the total cost does not exceed one hundred ten (110%) percent of the cost of the same services or products available from off-island vendors.

Para 58113: Retroactive suspension: "The suspension, rescission, or revocation of a Q.C. may be retroactive to the time of the act or omission giving rise to the suspension....." (If arrived at three or four years hence, than all benefits, tax rebates received, will have to be refunded after the fact)

Para 58117: Same Work Force:

(b) Management and non-Management employees: The Authority shall be the sole judge whether a Beneficiary's employee is management or non-management..... Authority shall report to the legislature the titles and compensation of all trainees, including those placed in management levels,"

Para 58118: Same; Wages: "No resident employee of a Beneficiary shall be paid at less than the prevailing wage rate (read GovGuam wages, established by Department of labor) nor shall employee be laid off work nor have his or her workweek reduced to less than forty 40) hours in order ....."

==========

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

BUREAU OF STATISTICS & PLANS
SAGAN PLANU SIHA YAN EMFOTMASION

Government of Guam
P.O. Box 2950 Hagåtña, Guam 96932
Tel: (671) 472-4201/3
Fax: (671) 477-1812

Lorilee T. Crisostomo
Acting Director

JAN 3 0 2013

Senator Vicente (ben) Cabrera Pangelinan
Chairman, Committee on Appropriations
31st Guam Legislature
324 W. Soledad Ave. Suite 100
Hagatna, Guam 96910

Hafa Adai Senator Pangelinan and Members of the Committee on Appropriations

I am Albert M. Perez, Chief Economist at the Bureau of Statistics and Plans. I administer the Bureau's Cost of Living and External Trade Programs and serve on the Legislative Special Economic Service.

I was requested by this Committee to provide testimony on Bill No. 9-32 (COR), relative to, among other things, naming the Bureau's Chief Economist a member of the proposed "Qualifying Certificate Review Board". I welcome the invitation to appear before you.

For the record, I take *no* position on the intent of this Bill. However, "Section 58148. The Qualifying Certificate Review Board." should contain a provision to specifically disqualify any classified employee from ever serving as Chairman of said Board.

Thank you.

Albert M. Perez
Chief Economist
Bureau of Statistics and Plans

RECEIVED
JAN 3 0 2013
Office of the People
Senator ben c. pangelinan
Received by:

Cc: Lorilee T. Crisostomo
Acting Director, Bureau of Statistics and Plans

COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • 32ND Guam Legislature
www.guamlegislature.com • 155 Hesler Place, Hagåtña, Guam 96910
www.roryforguam.com • email: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

January 10, 2013

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio**
Majority Leader & Rules Chair

Subject: **Referral of Bill No. 9-32 (COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 9-32(COR).

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan.*

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

(1) Attachment

I Mina'Trentai Unu Na Liheslaturan Guahan

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	120 DAY DEADLINE	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	STATUS
9-32 (COR)	V.C. Pangelinan	AN ACT TO ADD NEW §§ 58148, 58148.1, 58148.2, 58148.3, AND 58149 TO CHAPTER 58 OF TITLE 12, GUAM CODE ANNOTATED, AND AMEND SECTIONS OF CHAPTER 58 OF TITLE 12 GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE QUALIFYING CERTIFICATE REVIEW BOARD, THE QUALIFYING CERTIFICATE ACCOUNTABILITY AND TRANSPARENCY WEBSITE, AND FOR OTHER PURPOSES.	1/8/2013, 2:49 p.m.	**1/10/13**	1/17/2013	Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land			

I Mina'trentai Dos na Liheslaturan Guåhan
32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

January 25, 2013

Memorandum

To: All Senators

From: Senator Vicente (ben) Cabrera Pangelinan

Re: Public Hearing – FIRST NOTICE

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at **9:00am,** on **Friday, February 1, 2013** at the Guam Legislature's Public Hearing Room.

The following is the agenda:

Bill No. 1-32 (LS): An Act Relative to Authorizing the Guam Economic Development Authority to Procure the Installation and Maintenance of Electronic Security Systems throughout Guam Public Schools also known as the Secure Our Schools Act of 2013, and for other purposes.

Bill No. 7-32 (COR): An Act to *Add* a new §80105(i) to Chapter 80 of Title 21, Guam Code Annotated, Relative to the transfer of property under the jurisdiction of the Port Authority of Guam to the jurisdiction of the Guam Ancestral Lands Commission.

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Bill No. 18-32 (COR): An Act to Appropriate the sum of Three Hundred Ninety-Two Thousand One Hundred Sixty-Two Dollars and Seventeen Cents ($392,162.17) from anticipated General Fund Revenues for Fiscal Year 2013 for the outstanding debt balance owed, including principal and interest, for the completion of the Guam Public Market Redevelopment Project, Phase II-Department of Commerce Project No. 320-5-1008-L-AGN, including Change Order No. 1 and Change Order No. 2.

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I Mina'trentai Dos na Liheslaturan Guåhan
32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

Bill No. 19-32 (COR): An Act to Amend Chapter 7, Title 3, Guam Administrative Rules and Regulations, relative to capturing License Fees and Taxes from Gaming Operators.

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UPDATED 2013.02.11

32GL Senators:

"Judith T. Won Pat, Ed.D." <speaker@judiwonpat.com>, "Benjamin JF Cruz" <senator@senatorbjcruz.com>, "Tina Rose Muna Barnes" <tinamunabarnes@gmail.com>, "Rory J. Respicio" <roryforguam@gmail.com>"Thomas C. Ada" <tom@senatorada.org>, "Frank Blas Aguon, Jr." aguon4guam@gmail.com, "vicente 'ben' pangelinan" <senbenp@guam.net>,"Dennis G. Rodriguez" <senatordrodriguez@gmail.com>, "Michael F. Q. San Nicolas" responsibleguam@gmail.com, "V. Anthony Ada" <tony@tonyada.com >, "Christopher M. Duenas" <duenasenator@gmail.com>, "Michael T. Limtiaco"<mike@mikelimtiaco.com>, "Brant McCreadie"<brantforguam@gmail.com>, "Thomas (Tommy) Morrison" <tommy@senatormorrison.com>, "Aline A. Yamashita, Ph.D" <aline4families@gmail.com>,

32GL Senator Staff

therese@judiwonpat.com, frank@judiwonpat.com, rob@judiwonpat.com, jason@judiwonpat.com, wil@judiwonpat.com, steve@judiwonpat.com, faith@judiwonpat.com, senator@senatorbjcruz.com,carlos.pangelinan@senatorbjcruz.com, mike.lidia@senatorbjcruz.com, chris.carillo@senatorbjcruz.com, sgflores@tinamunabarnes.com, jblas@tinamunabarnes.com, jean@tinamunabarnes.com, Vparriola1@gmail.com, etajalle@guamlegislature.org, tjtaitano@cs.com, mlwheeler2000@yahoo.com, phillipsguam@gmail.com, avon.guam@gmail.com, jennifer.lj.dulla@gmail.com, marymaravilla19@gmail.com, chechsantos@gmail.com, committee@frankaguonjr.com, admin@frankaguonjr.com, cipo@guamlegislature.org, chris.budasi@guamlegislature.org, aokada@guamlegislature.org, smendiola@guamlegislature.org, avillaverde@guamlegislature.org, ahernandez@guamlegislature.org, sonedera-salas@guamlegislature.org, berthaduenas@gmail.com, emqcho@gmail.com, karenc@guamlegislature.org , senatorsannicolas@gmail.com, alerta.jermaine@gmail.com, louise@tonyada.com, pete@tonyada.com, ed@tonyada.com, val@tonyada.com, santos.duenas@gmail.com, mcarlson@guamlegislature.org, ang.duenas@gmail.com, angela.lgrios@gmail.com, mike@mikelimtiaco.com, conedera@mikelimtiaco.com, cos@senatormorrison.com, manuela@senatormorrison.com, ryanjames@senatormorrison.com, tanya4families@gmail.com, lou4families@gmail.com, evelyn4families@gmail.com, jcamacho@senatorada.org, cyrus@senatorada.org, nsantos@senatorada.org, Juliette@senatorada.org, office@senatorada.org, coy@senatorada.org, tom@senatorada.org , carlaborja.73@gmail.com, baza.matthew@gmail.com, senatordrodriguez@gmail.com, clifton@toduguam.com,cherbert.senatordrodriguez@gmail.com, rfteehan@yahoo.com, amanda@toduguam.com, nicole@toduguam.com, joe@toduguam.com, jmesngon.senatordrodriguez@gmail.com, sitarose2@yahoo.com, meia@toduguam.com, menchu@toduguam.com

Lisa Dames <cipo@guamlegislature.org>

Public Hearing - FIRST NOTICE

1 message

Lisa Dames <cipo@guamlegislature.org> Fri, Jan 25, 2013 at 11:01 AM
To: Speaker Won Pat <speaker@judiwonpat.com>, Senator Tina Rose Muna Barnes <senator@tinamunabarnes.com>, BJ Cruz <senadotbjcruz@aol.com>, "Rory J. Respicio" <roryforguam@gmail.com>, "Dennis Rodriguez, Jr." <senatordrodriguez@gmail.com>, "Thomas C. Ada" <office@senatorada.org>, Aline Yamashita <aline4families@gmail.com>, V Anthony Ada <senatortonyada@guamlegislature.org>, "Christopher M. Duenas" <duenasenator@gmail.com>, Brant McCreadie <brantforguam@gmail.com>, "Frank B. Aguon, Jr." <aguon4guam@gmail.com>, Senator Michael San Nicolas <senatorsannicolas@gmail.com>, Michael Limtiaco <mlimtiaco671@gmail.com>, Tommy Morrison <tommy@senatormorrison.com>
Cc: Senator ben pangelinan <senbenp@guam.net>

INEKUNGOK PUPBLEKO

(*PUBLIC* HEARING)

***gi Betnes, gi diha 1 gi Fibreru*, 2013)**

Friday, February 1, 2013

Kuåtton Inekungok Pupbleko gi I Liheslaturan Guåhan

(Guam Legislature Public Hearing Room)

alas nuebi gi eggan'an

(9:00 AM)

TAREHA

(AGENDA)

Priniponi Siha:

(Bills)

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to Procure the Installation and Maintenance of Electronic Security Systems throughout Guam Public Schools also known as the Secure Our Schools Act of 2013, and for other purposes.

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Lisa Dames
Chief of Staff

Office of Senator ben c. pangelinan
(671) 473-4236
cipo@guamlegislature.org

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Lisa Dames <cipo@guamlegislature.org>

Public Hearing - FIRST NOTICE

1 message

Lisa Dames <cipo@guamlegislature.org> Fri, Jan 25, 2013 at 10:56 AM
To: phnotice@guamlegislature.org

INEKUNGOK PUPBLEKO

(*PUBLIC* HEARING)

***gi Betnes, gi diha 1 gi Fibreru*, 2013)**

Friday, February 1, 2013

Kuåtton Inekungok Pupbleko gi I Liheslaturan Guåhan

(Guam Legislature Public Hearing Room)

alas nuebi gi eggan'an

(9:00 AM)

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Lisa Dames <cipo@guamlegislature.org>

Public Hearing - FIRST NOTICE

1 message

Lisa Dames <cipo@guamlegislature.org> Fri, Jan 25, 2013 at 10:58 AM
To: news@guampdn.com, news@k57.com, Sabrina Salas <sabrina@kuam.com>, Jason Salas <jason@kuam.com>, Mindy Aguon <mindy@kuam.com>, nick@kuam.com, Krystal Paco <krystal@kuam.com>, Josh Tyquiengco <jtyquiengco@k57.com>, clynt@k57.com, Betsy Brown <betsy@k57.com>, Kevin Kerrigan <kevin@k57.com>, gerry@mvguam.com, rgibson@k57.com, ALICIA PEREZ <aliciaperez69@hotmail.com>, Alicia Perez <perezksto@gmail.com>, Gaynor Daleno <gdumat-ol@guampdn.com>, slimtiaco@guampdn.com, bmkelman@guampdn.com, Jerick Sablan <jpsablan@guampdn.com>, life@guampdn.com

INEKUNGOK PUPBLEKO

(*PUBLIC* HEARING)

***gi Betnes, gi diha 1 gi Fibreru*, 2013)**

Friday, February 1, 2013

Kuåtton Inekungok Pupbleko gi I Liheslaturan Guåhan

(Guam Legislature Public Hearing Room)

alas nuebi gi eggan'an

(9:00 AM)

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I Mina'trentai Dos na Liheslaturan Guåhan
32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

January 30, 2013

Memorandum

To: All Senators

From: Senator Vicente (ben) Cabrera Pangelinan

Re: Public Hearing – SECOND NOTICE

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at **9:00am,** on **Friday, February 1, 2013** at the Guam Legislature's Public Hearing Room.

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I Mina'trentai Dos na Liheslaturan Guåhan
32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

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Fax: (671) 473-4238
E-mail: senbenp@guam.net

Lisa Dames <cipo@guamlegislature.org>

Public Hearing - SECOND NOTICE

1 message

Lisa Dames <cipo@guamlegislature.org> Wed, Jan 30, 2013 at 10:16 AM
To: news@guampdn.com, news@k57.com, Sabrina Salas <sabrina@kuam.com>, Jason Salas <jason@kuam.com>, Mindy Aguon <mindy@kuam.com>, nick@kuam.com, Ken Quintanilla <kenq@kuam.com>, Krystal Paco <krystal@kuam.com>, Josh Tyquiengco <jtyquiengco@k57.com>, clynt@k57.com, Betsy Brown <betsy@k57.com>, Kevin Kerrigan <kevin@k57.com>, gerry@mvguam.com, rgibson@k57.com, ALICIA PEREZ <aliciaperez69@hotmail.com>, Alicia Perez <perezksto@gmail.com>, Gaynor Daleno <gdumat-ol@guampdn.com>, slimtiaco@guampdn.com, bmkelman@guampdn.com, Jerick Sablan <jpsablan@guampdn.com>, life@guampdn.com

Hafa Adai,
The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land will conduct a public hearing on Friday, February 1, 2013 beginning at 9:00am at the Guam Legislature Public Hearing Room. The following is on the agenda:

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Agenda Feb 1.pdf
107K

Lisa Dames <cipo@guamlegislature.org>

Public Hearing - SECOND NOTICE

2 messages

Lisa Dames <cipo@guamlegislature.org> Wed, Jan 30, 2013 at 10:17 AM
To: phnotice@guamlegislature.org

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cipo@guamlegislature.org

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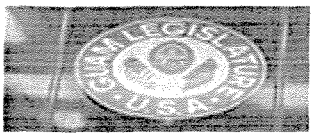
Adam Bearce <adam@guamlegislature.org> Wed, Jan 30, 2013 at 10:19 AM
To: Lisa Dames <cipo@guamlegislature.org>, Yong Pak <yong@guamlegislature.org>

Hi. confirmed posted.
[Quoted text hidden]



Lisa Dames <cipo@guamlegislature.org>

Public Hearing - SECOND NOTICE

1 message

Lisa Dames <cipo@guamlegislature.org> Wed, Jan 30, 2013 at 10:23 AM
To: Speaker Won Pat <speaker@judiwonpat.com>, Senator Tina Rose Muna Barnes <senator@tinamunabarnes.com>, BJ Cruz <senadotbjcruz@aol.com>, "Rory J. Respicio" <roryforguam@gmail.com>, "Dennis Rodriguez, Jr." <senatordrodriguez@gmail.com>, "Thomas C. Ada" <office@senatorada.org>, Aline Yamashita <aline4families@gmail.com>, V Anthony Ada <senatortonyada@guamlegislature.org>, "Christopher M. Duenas" <duenasenator@gmail.com>, Brant McCreadie <brantforguam@gmail.com>, "Frank B. Aguon, Jr." <aguon4guam@gmail.com>, Senator Michael San Nicolas <senatorsannicolas@gmail.com>, Senator Michael Limtiaco <mike@mikelimtiaco.com>, Tommy Morrison <tommy@senatormorrison.com>
Cc: Senator ben pangelinan <senbenp@guam.net>

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WEDNESDAY, JANUARY 30, 2013

I Mina'Trenta Na Liheslaturan Guåhan
THIRTY-FIRST GUAM LEGISLATURE
Senator Vicente "ben" Cabrera Pangelinan
Office of the People
Website: www.senben.com

INEKUNGOK PUPBLEKO
(PUBLIC HEARING)

gi Betnes, gi diha 1 gi Fibreru, 2013
(Friday, February 1, 2013)

Kuåttón Inekungók Pupbleko gi I Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)

Alas nuebi gi egga'an (9:00 AM)

TAREHA (AGENDA)

Priniponi Siha:
(Bills)

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I Mina'trentai Dos na Liheslaturan Guåchan
32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

INEKUNGOK PUPBLEKO
(PUBLIC HEARING)

gi Betnes, gi diha 1 gi Fibreru, 2013
(Friday, February 1, 2013)

Kuåtton Inekungok Pupbleko gi I Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)

alas nuebi gi eggan'an
(9:00 AM)

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32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

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INEKUNGOK PUPBLEKO
(*PUBLIC* HEARING)

***gi Betnes, gi diha 1 gi Fibreru*, 2013)**
Friday, February 1, 2013

Kuåtton Inekungok Pupbleko gi I Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)

alas nuebi gi eggan'an
(9:00 AM)

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COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • 32ND Guam Legislature
www.guamlegislature.com • 155 Hesler Place, Hagåtña, Guam 96910
www.roryforguam.com • email: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

January 10, 2013

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio**
Majority Leader & Rules Chair

Subject: **Referral of Bill No. 9-32 (COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 9-32(COR).

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan.*

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

(1) Attachment

2013 JAN -8 PM 2:49

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) REGULAR SESSION

Bill No. 9-32(COR)

Introduced by: **V.C. Pangelinan**

AN ACT TO *ADD* NEW §§ 58148, 58148.1, 58148.2, 58148.3, AND 58149 TO CHAPTER 58 OF TITLE 12, GUAM CODE ANNOTATED, AND *AMEND* SECTIONS OF CHAPTER 58 OF TITLE 12 GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE QUALIFYING CERTIFICATE REVIEW BOARD, THE QUALIFYING CERTIFICATE ACCOUNTABILITY AND TRANSPARENCY WEBSITE, AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

SECTION 1. Legislative Findings and Intent. Pursuant to and in conformance with the practice of the open government laws of Guam, this Act is prescribed by *I Liheslaturan Guåhan* for the benefit of Guam resident taxpayers and local businesses operating without the benefits of a Qualifying Certificate, who bear the cost of tax revenues rebated and abated resulting from the granting who bear the loss of tax revenues resulting from the granting of Qualifying Certificates (QCs) by the Guam Economic Development Authority (GEDA).

I Liheslatura finds that certain companies are granted amendments to the terms and conditions of specific QC requirements without maximum opportunity for internal government and public scrutiny proper scrutiny. The

reasons for such actions vary; the most common reason being the company's inability to fulfill contractually binding obligations due to financial or economic hardship.

I Liheslaturan Guåhan further finds that for whatever reason amendments to the terms and conditions of the QCs are granted, there are concerns about the government's due diligence during this process and public disclosure and administrative transparency when granting these amendments.

I Liheslaturan Guåhan further finds that the importance of fulfilling QC obligations, which are binding contractual agreements between the recipient and the people of Guam is paramount, however stricter administrative and enforcement initiatives adopted and performed by the GEDA, is necessary. Improvement of current monitoring and enforcement practices while enhancing the government's ability to responsibly manage QC entitlements, and to prevent any effort to minimize or circumvent the full force and effect of the tax policies of Guam, are essential for maximum positive impact of the QC program.

Therefore, it is the intent of *I Liheslaturan Guåhan* to establish a Qualifying Certificate Review Board, to review all new applications for Qualifying Certificates, all applications requesting to amend original or amended QCs, and/or all extensions of QCs, and to ensure transparency in the discussions, recommendations, and approval of those applications. Furthermore, it is also the intent of *I Liheslaturan Guåhan* to create the Qualifying Certificate Accountability and Transparency Website for the sole purpose of increasing accountability and transparency within the Qualifying Certificate Program.

SECTION 2. Establishment of the Qualifying Certificate Review Board. New §§ 58148, 58148.1, 58148.2, and 58148.3 are hereby *added* to Chapter 58 of Title 12, Guam Code Annotated, to read as follows:

"**§ 58148. The Qualifying Certificate Review Board.** The Qualifying Certificate Review Board is hereby established, herein referred to as "*Review Board*," whose members *shall* consist of the Administrator of the Guam Economic Development Authority (GEDA), the Director of Revenue and Taxation, the Attorney General of Guam or his/her designee, the Chief Economist of the Department of Labor, and the Chief Economist of the Bureau of Statistics and Plans. The members *shall* convene and elect a Chairperson, and thereafter when called upon by the Chairperson *shall* review all new Qualifying Certificate applications, all applications to amend original or amended Qualifying Certificates, and all applications for extension of the term of ~~all~~ existing Qualifying Certificates' terms and conditions.

§ 58148.1. Applications for New Qualifying Certificates. After careful review and scrutiny of the applications for new Qualifying Certificates, it *shall* be the duty of the Review Board to provide a detailed report to include, but not be limited to, those specific findings as required in § 58109, Chapter 58, Title 12 GCA, to the GEDA Board of Directors.

§ 58148.2. Applications Requesting Amendments or Extensions of Existing Qualifying Certificates.

(a) **Reporting Requirements.** After careful review and scrutiny of the applications to amend original or amended Qualifying Certificates and/or for the extension of the term of existing Qualifying Certificates' terms and conditions, it *shall* be the duty of the

Review Board to provide a detailed report to the GEDA Board of Directors, to include:

(1). an analysis of the direct impact of the amendment on additional or lost revenue to the government of Guam.

(2). an analysis of the direct impact of the amendment on Net Profit Margin presented in gross dollars and a percentage taken or calculated in the audit report required in Subsection (c).

(3). the Net Profit Margin percentage used in Subsection (2) *shall* be compared against a published reasonable industry standard, such as Standard and Poors Key Industry Ratios.

(4). when amendments reduce requirement thresholds of the recipient, the Review Board *shall* assume the maximum impact.

(5). the Review Board *shall* submit its report with recommendations and findings to *I Maga'låhen Guåhan, I Liheslaturan Guåhan,* and the Board of Directors of the GEDA.

(b) Upon receipt of an application to amend or extend an original or amended Qualifying Certificate, the Chairperson of the Review Board *shall* represent the government of Guam in any subsequent discussion, meetings or any other administrative matter(s) or affair(s) that pertain specifically to the amendments or any binding obligation or agreements to an existing Qualifying Certificate.

(c) The Administrator of the GEDA *shall* within seven (7) days of its receipt forward to the Chairperson of the Review Board all applications to amend or extend original or amended Qualifying

Certificates. The Review Board in processing all applications may recommend amending, reconsidering, suspending and revising all applications to amend original or amended Qualifying Certificate or extension of Qualifying Certificates and *shall* be provided the applicant's audited financial statement by an independent auditor within eighteen (18) months of the date of the application, the terms and conditions of the current Qualifying Certificate and other documents necessary for the preparation of its report and recommendation. The GEDA *shall* further provide the Review Board with complete administrative data, information, record(s), exhibits and correspondence of the applicant(s), which are essential or relevant to the applicant's Qualifying Certificate amendment request.

(d) The GEDA *shall* advise all Qualifying Certificate recipients of the provisions contained in this Section and *shall* perform its prescribed administrative obligations accordingly. The provisions of this Section *shall* affect *only* those applicants whose application for amendment, revision, or extension is received after April 30, 2013.

(e) Notwithstanding any other laws, procedures or rules and regulations of the government of Guam applicable to the Qualifying Certificate program established pursuant to Chapter 58 of Title 12 GCA, the provisions of this Section *shall* serve to lawfully augment the existing policies of Guam, which relate to the amendment of original and amended terms and conditions of Guam's Qualifying Certificate Program.

§ 58148.3. Review Board Meetings. The Review Board *shall* provide public notification pursuant to the Open Government Law, Chapter 8, Title 5 GCA, of all meetings scheduled to review and discuss the applications submitted. Review Board meetings *shall* include a public hearing component pursuant to the Administration Adjudication Law and the Open Government Law.

(a) For applications for new Qualifying Certificates, the Review Board *shall* cause to be performed, all required publication of applications and public notices to be at the expense of the applicant, pursuant to Chapter 58, Title 12 GCA. The GEDA's staff *may* be utilized to perform the duties required in this Subsection (a).

(b) The individual, corporation, business or entity requesting amendments or extensions to a Qualifying Certificate *shall* pay for the cost of the public notification and any audits, if necessary, at such amounts as determined by the Review Board."

SECTION 3. Creation of the Qualifying Certificate Accountability and Transparency Website. A new § 58149 is hereby *added* to Chapter 58 of Title 12, Guam Code Annotated, to read as follows:

"**§ 58149. The Qualifying Certificate Accountability and Transparency Website.** The GEDA shall create, or cause to be created, the Qualifying Certificate Accountability and Transparency Website (Q-CAT Website) for the sole purpose of increasing accountability and transparency in the Qualifying Certificate Program. Funding for the Q-CAT Website is hereby continuously appropriated from the annual Qualifying Certificate Program fees charged and collected by the GEDA. The Q-CAT Website shall include, but not be limited to, the following:

(a) Electronic copies of all new applications for Qualifying Certificates within fifteen (15) days of receipt of said application(s).

(b) Electronic copies of all applications to amend original or amended Qualifying Certificates and/or for the extension of the term of existing Qualifying Certificates' terms and conditions within fifteen (15) days of receipt of said application(s).

(c) Electronic copies of the monthly reports required to be submitted pursuant to § 58123, Chapter 58, Title 12 GCA within fifteen (15) days of receipt of said report.

(d) All notices of hearings required in § 58125, Chapter 58, Title 12 GCA.

(e) All recommendations made by the GEDA Board of Directors pursuant to § 58126 to the Governor within five (5) days of making such recommendation.

The GEDA is required to create, or cause to be created, the Q-CAT Website within ninety (90) days of the enactment of this Act."

SECTION 4. A § 58126 of Chapter 58 of Title 12, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 58126. Recommendations.**

The GEDA Board of Directors shall not provide any recommendations to the Governor of Guam without receipt and review of the Review Board's detailed report as required in §§ 58148.1 and 58148.2. All recommendations of the Authority for issuance, modification, renovation and suspension of Qualifying Certificates shall be forwarded to the Governor of Guam, together with a memorandum of the Authority's findings in support of its recommendations. Any recommendation of the Authority

not approved by the Governor within sixty (60) calendar days from his receipt thereof shall be deemed disapproved on the sixty-first (61st) day following such receipt."

SECTION 5. A § 58115(c) of Chapter 58 of Title 12, Guam Code Annotated, is hereby *amended* to read as follows:

"(c) The Governor of Guam, the Lieutenant Governor of Guam, ~~and their spouses;~~ and person or spouse of such person related by consanguinity of the third degree, which for the purposes of this Section *shall* include spouses, all children, parents, grandchildren, siblings, grandparents, great-grandchildren, nieces, nephews, uncles, aunts, and great-grandparents, to the Governor and the Lieutenant Governor of Guam;"

SECTION 6. Severability. *If* any provision of this Act or its application to any person or circumstance is held invalid, the invalidity *shall not* affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act is severable.

Guam Legislature Clerks Office

From: Guam Legislature Clerks Office [clerks@guamlegislature.org]
Sent: Thursday, January 10, 2013 10:42 AM
To: 'speaker@judiwonpat.com'; 'senator@senatorbjcruz.com'; 'tom@senatorada.org'; 'senatortonyada@guamlegislature.org'; 'duenasenator@gmail.com'; 'senator@tinamunabarnes.com'; 'senbenp@guam.net'; 'roryforguam@gmail.com'; 'senatordrodriguez@gmail.com'; 'aline4families@gmail.com'; 'mlimtiaco671@gmail.com'; 'brantforguam@gmail.com'; 'morrison671@gmail.com'; 'responsibleguam@gmail.com'; 'aguon4guam@gmail.com'
Cc: 'tmterlaje@gmail.com'; 'mis@guamlegislature.org'; 'yong@guamlegislature.org'; 'adam@guamlegislature.org'
Subject: Ref. of B9-32 (COR)
Attachments: Referral of Bill No. 9-32 (COR) vcp.pdf

Importance: High

Please see attached.

Colleen

CLERKS OFFICE, GUAM LEGISLATURE
I Mina'Trentai Unu na Liheslaturan Guåhan
671-472-3465 or 3474 •fax: 671-472-3524

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