UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

35GL-20-1427
Speaker Tina Rose Muña Barnes

JAN 21 2020
Time 5:00 (X)AM ( )PM
Received By:

HAND-DELIVERED

January 21, 2020

HONORABLE TINA ROSE MUÑA BARNES
Speaker
I Mina'trentai Singko Na Liheslaturan Guåhan
35th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

2020 JAN 21 PM 5:08

Re: Veto of Bill 259-35 (COR), "An Act to *Amend* § 13106 and *Add* a New § 13106.1 to Chapter 13 of Title 3, Guam Code Annotated, Relative to Permanent and Temporary Vacancies in the Municipal Offices of Mayor and Vice Mayor; And to *Amend* §§ 40110, 40124, and 40127 of Article 1, Chapter 40, Division 4, Title 5, Guam Code Annotated, Relative to Filling Vacancies of Mayors, the Establishment of a Municipal Planning Council (MPC) Within Each District of Guam, and Filling Vacancies in the MPC"

Dear Madame Speaker:

I agree with your legislative counsel and I am therefore exercising my executive responsibility to veto Bill 259-35. There are provisions of this bill that encroach upon the core functions of the Executive branch. And I am unwilling to sign any legislation into law that compromises the delicate balance between the three branches of government.

For nearly four months now, the village of Yona has been able to address the needs of its people with the help of the Mayors' Council of Guam. And although it has done so without the physical presence of a mayor, this is a unique issue that can be addressed. Bill 259-35 is the Legislature's attempt to address this issue. While I understand the desire to do the right thing, the right thing must also be done the right way. That is the central reason for this veto.

In fact, prior to 2013, Guam's laws provided a sound and organic process towards filling vacancies in the municipal offices of Mayor and Vice Mayor. This process was used several times and

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provided Guam's villages with strong and reputable leaders in the interim. With this letter, I am transmitting a bill which proposes that we utilize the process that has so effectively served our villages in the past. I hope that the Legislature will agree with this view and consider my proposal in its next session.

Senseremente,

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

Enclosure(s): Proposed Bill

cc via email: *Sigundo Maga'låhen Guåhan*

2020 - 0100

RCVD AT CENTRAL FILES
JAN 21 '20 AM9:11
Lillian Kosaka

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
Thirty-Fifth Guam Legislature

January 18, 2020

The Honorable Lourdes A. Leon Guerrero
I Maga'hågan Guåhan
Ufisinan I Maga'håga
Hagåtña, Guam 96910

Dear *Maga'håga* Leon Guerrero:

Transmitted herewith is **Bill No. 259-35 (COR)**, which was passed by *I Mina'trentai Singko Na Liheslaturan Guåhan* on January 18, 2020.

Sincerely,

AMANDA L. SHELTON
Legislative Secretary

Enclosure (1)

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

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

This is to certify that **Bill No. 259-35 (COR), "AN ACT TO *AMEND* § 13106 AND *ADD* A NEW § 13106.1 TO CHAPTER 13 OF TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO PERMANENT AND TEMPORARY VACANCIES IN THE MUNICIPAL OFFICES OF MAYOR AND VICE MAYOR; AND TO *AMEND* §§ 40110, 40124, AND 40127 OF ARTICLE 1, CHAPTER 40, DIVISION 4, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO FILLING VACANCIES OF MAYORS, THE ESTABLISHMENT OF A MUNICIPAL PLANNING COUNCIL (MPC) WITHIN EACH DISTRICT OF GUAM, AND FILLING VACANCIES IN THE MPC,"** was on the 18th day of January 2020, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 18th day of JAN, 2020, at 6 o'clock P.M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

VETO

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date:

Public Law No.

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 259-35 (COR)
As amended by the Committee on General Government Operations, Appropriations, and Housing; and further amended in the Committee of the Whole.

Introduced by:

Telena Cruz Nelson
Jose "Pedo" Terlaje
William M. Castro
Régine Biscoe Lee
Kelly Marsh (Taitano), PhD
James C. Moylan
Louise B. Muña
Tina Rose Muña Barnes
Sabina Flores Perez
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *AMEND* § 13106 AND *ADD* A NEW § 13106.1 TO CHAPTER 13 OF TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO PERMANENT AND TEMPORARY VACANCIES IN THE MUNICIPAL OFFICES OF MAYOR AND VICE MAYOR; AND TO *AMEND* §§ 40110, 40124, AND 40127 OF ARTICLE 1, CHAPTER 40, DIVISION 4, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO FILLING VACANCIES OF MAYORS, THE ESTABLISHMENT OF A MUNICIPAL PLANNING COUNCIL (MPC) WITHIN EACH DISTRICT OF GUAM, AND FILLING VACANCIES IN THE MPC.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § 13106 of Chapter 13, Title 3, Guam Code Annotated, is *amended* to read:

"§ 13106. Events Causing a Permanent Vacancy in the Municipal Offices of Mayor and Vice Mayor.

The municipal offices of Mayor and Vice Mayor become vacant on the happening of any of the following events:

(a) death of the incumbent;

(b) declaration of mental incompetence by a final judgment or final order of a court of competent jurisdiction;

(c) resignation from office;

(d) refusal or failure to assume office;

(e) the decision of a competent tribunal declaring void his or her election;

(f) conviction of a felony, or of a crime involving moral turpitude;

(g) his or her change of residence from the municipality in which he or she was elected;

(h) when an incumbent is incapacitated because of illness and unable to continue for the remainder of the term to which he or she was elected;

(i) when an incumbent has sought and won election to another office and assumed the new office, constituting voluntary relinquishment of the original office; or

(j) if the results of a recall election, in accordance with § 1121 of Chapter 1, Title 3, Guam Code Annotated, are in favor of the removal of the incumbent.

The occurrence of any event under Subsections (a) through (j), with respect to a person or persons elected to office, after the election but before the term of office is to commence, constitutes a vacancy on the date the term commences, *unless* the person or persons so elected is the incumbent, in which case, the vacancy occurs on the date of such event."

Section 2. A new § 13106.1 is hereby *added* to Chapter 13 of Title 3, Guam Code Annotated, to read:

"**§ 13106.1. Temporary Vacancy.**

In the absence of a Vice Mayor, if a Mayor is temporarily unable, as determined by the Municipal Planning Council of the affected municipality, to perform his or her duties under 5 GCA § 40112 for more than thirty (30) consecutive calendar days due to any circumstance not described in § 13106 of this Chapter or 5 GCA § 40110(b), the Municipal Planning Council of the affected municipality *shall* appoint an Acting Mayor with the advice and consent of *I Liheslaturan Guåhan*. Upon legislative confirmation, the Acting Mayor *shall* serve until the duly elected Mayor can return to his or her official duties, the position is declared permanently vacant, or a new Mayor is duly elected by the people of the affected municipality in an election."

Section 3. § 40110 of Article 1, Chapter 40, Division 4, Title 5, Guam Code Annotated, is *amended* to read:

"**§ 40110. Permanent Vacancies.**

(a) Vice Mayors. A vacancy in the office of the Vice Mayor *less than* two hundred forty (240) days before the date of the next general election for

Mayors and Vice Mayors *shall* be filled for the unexpired term by a majority vote of the Municipal Planning Council of the municipality in which the vacancy occurs, subject to the advice and consent of *I Liheslatura* (the Legislature).

(b) Mayors. If by reason of death, resignation, removal from office, inability or failure to perform, as determined by the Guam Election Commission, there *shall* be a vacancy in the office of the Mayor *less than* two hundred forty (240) days before the date of the next general election for Mayors and Vice Mayors:

(1) it *shall* be filled by the Vice Mayor in a municipality where there is a Vice Mayor, and there *shall* be a vacancy in the position of Vice Mayor until the end of the term; or

(2) if there is no Vice Mayor and the vacancy is *less than* two hundred forty (240) days before the date of the next general election for Mayors and Vice Mayors, the vacancy for the remaining term *shall* be filled by a majority vote of the Municipal Planning Council of the municipality in which the vacancy occurs, subject to the advice and consent of *I Liheslatura* (the Legislature); or

(3) if the Municipal Planning Council is not established within the municipality, the Executive Director of the Mayors Council of Guam *shall* be appointed to serve as the Acting Mayor of said municipality for up to ninety (90) calendar days. The Acting Mayor *shall* nominate members to establish the Municipal Planning Council of said municipality who *shall* be approved by a two-thirds (2/3) vote of the Mayors Council of Guam."

Section 4. § 40124 of Article 1, Chapter 40, Division 4, Title 5, Guam Code Annotated, is *amended* to read:

"**§ 40124. Municipal Planning Council: Establishment.**

There is established a Municipal Planning Council within each of the districts of Guam.

(a) The Mayor, upon taking office, *shall* select and appoint a Municipal Planning Council (MPC) within thirty-five (35) calendar days after taking office.

(b) If the MPC is not established by the Mayor of said municipality pursuant to Subsection (a) of this Section, the Mayor *shall* submit a memorandum to the Mayors Council of Guam (MCOG) and *I Liheslaturan Guåhan* providing the reasons for his or her failure to comply with Subsection (a) of this Section. The MCOG may, in its discretion, provide an additional thirty (30) calendar days to comply with Subsection (a) of this Section.

(c) If the MPC is not established within one hundred twenty-five (125) days of the Mayor taking office, the Executive Director of the MCOG *shall* appoint the members of the MPC who *shall* be approved by a two-thirds (2/3) vote of MCOG. The Executive Director *shall* transmit the names of the approved members of the MPC to the Speaker of *I Liheslaturan Guåhan* and *I Maga'hågan Guåhan*."

Section 5. § 40127 of Article 1, Chapter 40, Division 4, Title 5, Guam Code Annotated, is *amended* to read:

"**§ 40127. Municipal Planning Council: Vacancy.**

In case of a vacancy in the Municipal Planning Council (MPC) by reason of death, resignation or incapacity, said vacancy *shall* be filled by:

(a) appointment of the Mayor of said municipality, within ninety (90) calendar days; or

(b) if there is a vacancy in the Office of the Mayor of said municipality, the vacancy in the MPC *shall* be filled in accordance with § 40124(c) of this Chapter."

Section 6. Effective Date. This Act *shall* be effective upon enactment.

I MINA' TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

Bill No. _____

Introduced by: *

_____

AN ACT TO AMEND § 13106 AND *ADD* A NEW § 13106.1 TO CHAPTER 13 OF TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO PERMANENT AND TEMPORARY VACANCIES IN THE MUNICIPAL OFFICES OF MAYOR AND VICE MAYOR; AND TO *AMEND* §§ 40110 OF ARTICLE 1, CHAPTER 40, DIVISION 4, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE ORGANICITY OF FILLING VACANCIES IN THE MUNICIPAL OFFICES OF MAYOR AND VICE MAYOR

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § 13106 of Chapter 13, Title 3, Guam Code Annotated is amended to read:

"**§ 13106. Events Causing a Permanent Vacancy in the Municipal Offices of Mayor and Vice Mayor.**

The municipal offices of Mayor and Vice Mayor become vacant on the happening of any of the following events:

(a) death of the incumbent;

(b) declaration of mental incompetence by a final judgement or final order of a court of competent jurisdiction;

(c) resignation from office;

(d) refusal or failure to assume office;

(e) the decision of a competent tribunal declaring void his or her election;

(f) conviction of a felony, or of a crime involving moral turpitude;

(g) his or her change of residence from the municipality in which he or she was elected;

(h) when an incumbent is incapacitated because of illness and unable to continue for the remainder of the term to which he or she was elected;

(i) when an incumbent has sought and won election to another office and assumed the new office, constituting voluntary relinquishment of the original office; or

(j) if the results of a recall election, in accordance with §1121 of Chapter 1, Title 3, Guam Code Annotated, are in favor of the removal of the incumbent.

The occurrence of any event under (a) through ~~(i)~~ (j), with respect to a person or persons elected to office, after the election but before the term of office is to commence, constitutes a vacancy on the date the term commences, unless the person or persons so elected is the incumbent, in which case, the vacancy occurs on the date of such event."

Section 2. A new § 13106.1 is hereby *added* to Chapter 13 of Title 3, Guam Code Annotated, to read:

"**§ 13106.1 Temporary Vacancy.**

If there is a temporary vacancy greater than (30) days in the office of Mayor, caused by other than official business, and there is no Vice Mayor, the vacancy shall be filled by the Governor by appointment after soliciting the non-binding recommendations of the Municipal Planning Council of the municipality."

Section 3. §40110 of Article 1, Chapter 40, Division 4, Title 5, Guam Code Annotated, is *amended* to read:

"**§ 40110. Permanent Vacancies.**

(a) Vice Mayors. A vacancy in the office of the Vice Mayor ~~*less than* two hundred forty (240) days before the date of the next general election for Mayors and Vice Mayors~~ *shall* be filled for the unexpired term by *I Maga'hågan Guåhan* (The Governor) by appointment after soliciting the non-binding recommendations of ~~a majority vote of~~ the municipal planning council of the municipality in which the vacancy occurs, subject to the advice and consent of *I Liheslatura* (the Legislature).

(b) Mayors. *If* by reason of death, resignation, removal from office, inability or failure to perform, there shall be a vacancy in the office of the Mayor, it shall be filled for the unexpired term. ~~*less than* two hundred forty (240) days before the date of the next general election for Mayors and Vice Mayors, it *shall* be filled by the Vice Mayor in a municipality where there is a Vice Mayor, and there shall be a vacancy in the position of Vice Mayor until the end of the term. In a municipality where there is no Vice Mayor and the vacancy is *less than* 240 days before the date of the next general election for Mayors and Vice Mayors, the vacancy shall be filled by a majority vote of the Municipal Planning Council of the~~

~~municipality in which the vacancy occurs, subject to the advice and consent of *I Liheslatura* (The Legislature).~~" The vacancy shall be filled by *I Maga'hågan Guåhan* (the Governor) by appointment after soliciting the non-binding recommendations of the Municipal Planning Council of the municipality in which the vacancy occurred, subject to the advice and consent of *I Liheslatura* (the Legislature), provided, however, that in a municipality where there is a Vice -Mayor, the Vice-Mayor shall automatically assume the position of Mayor and there shall be a vacancy in the position of Vice-Mayor.

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