Guam Legislature Clerks <clerks@guamlegislature.org>

Messages and Communications

1 message

Speaker's Office <speaker@guamlegislature.org> Wed, Apr 29, 202
To: Clerks Office <clerks@guamlegislature.org>
Cc: Rennae Meno <rennae@guamlegislature.org>

5:45 PM	04-28-20	Substitute Bill No. 326-35 (COR), Vetoed; and Proposed Legislation.	Office of the Governor of Guam	35GL-2
5:45 PM	04-28-20	Bill No. 333-35 (COR), Vetoed.	Office of the Governor of Guam	35GL-2
5:45 PM	04-28-20	Bill No. 336-35 (COR), Vetoed.	Office of the Governor of Guam	35GL-2

Sinseru yan Minagåhet,

Office of the Speaker • Tina Rose Muña Barnes
Committee on Public Accountability, Human Resources & the Guam Buildup

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guåhan

Guam Congress Building | 163 Chalan Santo Papa | Hagatna, GU 96910
T: (671) 477-2520/1
speaker@guamlegislature.org

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Gumai pribilehu yan konfedensia este siha na mensåhi. Solo espesiåtmente para hågu ma entensioña pat ma aturisa para unrisibi. Sen prubidu kumu ti un ma aturisa para manribisa, na'setbe, pat mandespåtcl lachi rinisibu-mu nu este na mensåhi , put fabot ago' guatu gi I numa'huyong gi as speaker@guamlegislature.org yan despues destrosa todu siha I kopian mensåhi. Si Yu'os ma'åse'.

3 attachments

Bill 326 VETO.pdf
4642K

Bill 333.pdf
2715K

Bill 336.pdf
2999K

UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

Via Email: speaker@guamlegislature.org
April 28, 2020

GUAM LEGISLATURE
CENTRAL FILES
ACKNOWLEDGEMENT RECEIPT
Received by:
Time: 4.28.2020 @5.45pm

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

Re: VETO of Substitute Bill No. 326-35 (COR) – An Act to *Add* a New § 32120.1 Chapter 32 of Title 10, Guam Code Annotated, Relative to Specifying a COVID-19 Hazardous Pay Differential in Light of the COVID-19 Pandemic

Dear Madame Speaker:

It is with great regret that I am forced to veto Substitute Bill No. 326-35 (COR). It goes without saying that any additional dollar we pay to a front-liner throughout this crisis is worth it. The same is true for essential government employees who keep critical government services running while other public sector employees are required to stay home. Yet, without the cash to make good on our promises, the desire to do good things is simply not enough.

Under the measure as drafted, front-liners and other essential employees would be entitled to both double pay and the COVID-19 differential pay initially established by Executive Order No. 2020-08. Although I anticipate being able to relax restrictions in phases, it is likely that this emergency may extend through July. Under those conditions, this measure will require an additional $36 million just for payroll.

Unfortunately, the legislature in its wisdom, chose to vote on this measure without the benefit of this information or the presence of a fiscal note. From a cash-flow standpoint alone, meeting this new multi-million liability, in the best of times, would be extremely difficult. Meeting this obligation now, when the world economy is at a standstill, would cripple us.

This burden is compounded by the fact that our long road to recovery must occur in phases. That means while some public health restrictions may be rolled back others must stay in place—requiring the likely extension of a public health emergency under the law.

Additionally, while cash management remains an Executive Branch function, this measure would obligate the government to millions more in payroll costs while proposing no appropriation from

which it should come. Should this measure become law, millions in cash must be paid in double pay and COVID-19 differential pay. This act could potentially leave debt payments, vendor payments, and payroll unfunded.

Moreover, the legislature must be aware of the many restrictions placed on emergency response funds under FEMA. The most basic of which is that qualified costs occur on a reimbursable basis. It is unclear if federal funds can be used to fund double pay as constructed in this measure.

I am also concerned that the impact to non-executive entities of government was not thoroughly considered prior to the measure's passage. I understand that similar concerns are shared by the University of Guam and other entities outside of my executive authority. In the absence of a direct appropriation for these new payroll costs, and the cash to back it up, exactly how did the legislature intend for such entities to pay for these new expenses? No one can dispute the worthiness of this bill's intent, the legislature simply provided us with no clear way to pay for it.

Given the wide support this measure garnered, the potential success of an override attempt, and my obligation to prepare for the cash needs this measure will require, I will likely be forced to begin the furlough notification process under Guam law. Surely, this consequence is not something the legislature intended, nor is it one that any of us desire.

While I hope the furlough process is unnecessary in the final analysis, my framework for COVID-19 differential pay, which is formalized and made effective in Executive Order No. 2020-08, attempted to strike a balance between the needs of our essential employees and what we could afford as a community. That differential pay was narrowly tailored, and fiscally achievable. It benefited those who were exposed to COVID-19 risk, without also risking government services as a whole.

Unfortunately, my authority for such a differential was limited in scope to implementation on a prospective basis. I asked the legislature to assist me with providing a mechanism for compensating those front-liners and other essential employees retroactively to the start of the public health emergency. I still believe this goal is achievable and I am forwarding a bill for the legislature's consideration. I believe that the legislature's unanimous passage of Substitute Bill No. 326 indicates that you have the collective will to achieve this goal and do right by our government of Guam employees.

Senseremente,

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

Enclosure(s): Vetoed Substitute Bill No. 326-35 (COR)
Bill No. _____-35
cc via email: *Sigundo Maga'låhen Guåhan*
Compiler of Laws

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

Bill No. -35 ( )

Introduced by: _____

AN ACT TO ADD A NEW § 32120.1 TO CHAPTER 32 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO CODIFYING THE GOVERNOR'S EXECUTIVE ORDER 2020-08.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new § 32120.1 is *added* to Chapter 32 of Title 10, Guam Code Annotated, to read:

"§ 32120.1. Hazardous Pay In Support of the State of Emergency in Response to the corona virus disease 2019 (COVID-19)."

(a) During a public health emergency and in response to COVID-19, any government of Guam employee who, in the line and scope of his or her employment, constitutes an essential employee within any of the following categories shall be entitled to a COVID-19 hazardous pay differential as follows:

(1) Category 1. Twenty-five percent (25%) hazardous pay differential to essential employees, who in the course of their duties are in direct contact or in close physical proximity to a population infected with or may be reasonably suspected to be infected with COVID-19. Such positions may include, but not be limited to, sworn public safety/law enforcement officers,

health care providers, and other positions performing essential critical mission duties

(2) Category 2. Fifteen percent (15%) hazardous pay differential to essential employees, who in the course of their duties may incidentally come into contact with or close physical proximity to a population infected with or may be reasonably suspected to be infected with COVID-19. These employees may also be providing humanitarian services or direct public assistance to the general public.

(3) Category 3. Ten percent (10%) hazardous pay differential to essential employees whose positions do not allow them to telework and are mandated to perform their job duties at physical worksites pre-determined by their agency heads, as required by the government of Guam's response to the COVID-19 pandemic.

(b) Unclassified employees working in the Office of the Governor and the Office of the Lieutenant Governor, agency directors and deputy directors shall not be eligible for the COVID-19 hazardous pay differential except for such instances where assigned duties require an exposure level of risk defined in Categories 1 or 2.

(c) Notwithstanding the Administrative Adjudication Law, a director or agency head or equivalent thereof in the case of any government of Guam branch, agency, autonomous or semi-autonomous agency, department, instrumentality, public corporation, and all other entities of the government, no matter how designated, including, but not limited to, any Mayor's office, shall promulgate rules and regulations to implement this Section. Such rules and regulations shall

include determinations of positions deemed "essential" under each category provided under this § 32120.1(a); provided, that all rules and regulations shall be subject to written certification and approval by *I Maga'hågan Guåhan.*

(d) Regardless of whether the site is owned or operated by the government of Guam, an employee entitled to a COVID-19 hazardous pay differential under this Section shall not be eligible for compensation as provided in § 32114 of this Chapter.

(e) A COVID-19 hazardous pay differential shall be retroactive to March 14, 2020.

Section 2. 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 that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 3. This Act shall be effective upon enactment.

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 **Substitute Bill No. 326-35 (COR), "AN ACT TO *ADD* A NEW § 32120.1 TO CHAPTER 32 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO SPECIFYING A COVID-19 HAZARDOUS PAY DIFFERENTIAL IN LIGHT OF THE COVID-19 PANDEMIC,"** was on the 16th day of April 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 16th day of April, 2020, at 6:15 o'clock P.M.

C.J. Uzuha, Government House
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
2020 (SECOND) Regular Session

Bill No. 326-35 (COR)
As substituted; and amended on the Floor.

Introduced by:

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

AN ACT TO *ADD* A NEW § 32120.1 TO CHAPTER 32 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO SPECIFYING A COVID-19 HAZARDOUS PAY DIFFERENTIAL IN LIGHT OF THE COVID-19 PANDEMIC.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the COVID-19 pandemic has become an overwhelming public health emergency, impacting disaster relief workers and government of Guam employees, who are needed and required to assist in providing essential goods and services.

It is the intent of *I Liheslaturan Guåhan* to provide uniform guidelines within the law to make provisions for the extension and specification of a COVID-19 hazardous pay differential to essential employees who perform work that involves exposure to hazardous conditions during the COVID-19 pandemic.

Section 2. A new § 32120.1 is *added* to Chapter 32 of Title 10, Guam Code Annotated, to read:

"**§ 32120.1. Hazardous Pay In Support of the State of Emergency in Response to the corona virus disease 2019 (COVID-19).**

(a) During a public health emergency and in response to COVID-19, any government of Guam employee who, in the line and scope of his or her employment, constitutes an essential employee within any of the following categories shall be entitled to a COVID-19 hazardous pay differential as follows:

(1) Category 1. Twenty-five percent (25%) hazardous pay differential to essential employees, who in the course of their duties are in direct contact or in close physical proximity to a population infected with or may be reasonably suspected to be infected with COVID-19. Such positions may include, but not be limited to, sworn public safety/law enforcement officers, health care providers, and other positions performing essential critical mission duties.

(2) Category 2. Fifteen percent (15%) hazardous pay differential to essential employees, who in the course of their duties may incidentally come into contact with or close physical proximity to a population infected with or may be reasonably suspected to be infected with COVID-19. These employees may

also be providing humanitarian services or direct public assistance to the general public.

(3) Category 3. Ten percent (10%) hazardous pay differential to essential employees whose positions do not allow them to telework and are mandated to perform their job duties at physical worksites pre-determined by their agency heads, as required by the government of Guam's response to the COVID-19 pandemic.

(b) Notwithstanding the Administrative Adjudication Law, a Director or agency head or equivalent thereof in the case of any government of Guam branch, agency, autonomous or semi-autonomous agency, department, instrumentality, public corporation, and all other entities of the government, no matter how designated, including, but not limited to, any Mayor's office, shall promulgate rules and regulations to implement this Section within ten (10) working days of enactment of this Act. Such rules and regulations shall include determinations of positions deemed "essential" under each category provided under this § 32120.1(a); provided, that all rules and regulations shall be subject to written certification and approval by *I Maga'hågan Guåhan* within five (5) business days of receipt of said rules and regulations.

(c) Notwithstanding any provision of law, rule or regulation, or executive order, in no event shall any employee be entitled to multiple hazardous differential rates of pay for the same period. In the event the employee is entitled to varying types or amounts of hazardous pay differentials, the highest authorized differential rate shall be used.

(d) Notwithstanding any provision of law, rule or regulation, or executive order, the provisions of the Department of Administration Personnel Rules and Regulations 8.406 authorizing payment at double the regular rate of pay shall apply to the COVID-19 public health emergency, and shall be extended to employees eligible for COVID-19 hazardous pay differential. A COVID-19 hazardous pay differential shall be calculated and paid based on the regular rate of the employee.

(e) Regardless of whether the site is owned or operated by the government of Guam, an employee entitled to a COVID-19 hazardous pay differential under this Section shall not be eligible for compensation as provided in § 32114 of this Chapter.

(f) A COVID-19 hazardous pay differential shall be retroactive to March 14, 2020, the date of *I Maga'hågan Guåhan's* Executive Order No. 2020-03, relative to declaring a state of emergency.

(g) *I Maga'hågan Guåhan* shall submit a report to *I Liheslaturan Guahan* no later than fifteen (15) days after the termination of the public health emergency pursuant to 10 GCA Chapter 19; and, such report shall include all expenditures incurred pursuant to this Section and all transfers from the General or Special Funds and reimbursements from the federal government."

Section 3. 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 that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 4. This Act shall be effective upon enactment.

Office of the Speaker
TINA ROSE MUÑA BARNES
I Mina'Trentai Singko Na Liheslaturan Guahan

April 9, 2020

To: All Senators
From: Speaker Tina Rose Muña Barnes

RE: Waiver of Public Hearing Requirement – Bill no. 326-35

Dear Colleagues:

Buenas yan Hafa Adai! Pursuant to Section 1.02(b)(1)(ii) of our Standing Rules I hereby certify that emergency conditions exist involving danger to the public health or safety.

Furthermore, the public hearing requirement for Bill no. 326-35 (LS) is waived in accordance with 2 GCA § 2103(a).

Sinseru Yan Magahit,

Tina Rose Muña Barnes
Speaker, 35th Guam Legislature

Address: 163 W. Chalan Santo Papa Hagåtña, GU 96910
Phone: (671) 477-2520/2521 / Email: speaker@guamlegislature.org / Website: www.guamlegislature.org

Office of the Speaker

TINA ROSE MUÑA BARNES

I Mina'Trentai Singko Na Liheslaturan Guahan

REQUEST FOR PUBLIC HEARING WAIVER

Bill No: 326-35 **Authored By:** Telena Cruz Nelson

Bill Title AN ACT TO *ADD* A NEW SECTION 32120.1 DIVISION 2 CHAPTER 32 OF TITLE 10, GUAM CODE ANNOTATED, and *ADD* A NEW SECTION 63507 ARTICLE 5 CHAPTER 63 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO SPECIFYING HAZARD PAY RECIPIENTS IN LIGHT OF COVID-19 PANDEMIC.

Does this Bill directly benefit the response efforts of the Government of Guam in its effort to protect the Health and Safety of the People of Guam from COVID-19?

Yes ____X____ No _____

Does this Bill directly benefit residents of Guam during this economic crisis due to COVID-19?

Yes ____X____ No _____

Does the enactment of this measure have a cost associated with it?

Yes ____X____ No _____

If so, please provide the following:

Anticipated Cost: Unknown/TBA
Funding Source: Unknown/TBA

Based on PL 35-36 will current government revenues/operations be impacted by the reduction of the anticipated funding source?

Depending on where the governor decides to transfer funds from, yes the revenues will be impacted as well as operations to provide and process hazardous pay during the pandemic. Operations are already impacted, the pay will need to follow.

Speaker Tina Rose Muña Barnes

APR 0 8 2020
Time 5:00 ( )AM (•)PM
Received By:

Address: 163 W. Chalan Santo Papa Hagåtña, GU 96910
Phone: (671)477-2520/2521/Email: speaker@guamlegislature.org/Website: www.guamlegislature.org

Office of the Speaker

TINA ROSE MUÑA BARNES

I Mina'Trentai Singko Na Liheslaturan Guahan

If so, please identify the estimated dollar amount reduction in revenues and a corresponding aggregate amount in appropriation reductions in PL35-36. Such reductions shall be specifically identified by fund source, by department/agency, and/or by program or miscellaneous appropriation. Is there consent or support from its respective Directors on this measure?

Unknown.

Should we need to assemble in the Committee of the Whole, have the respective directors and stakeholders been contacted? (Please list each individual party separately):

Name/Title	Agency	Yes/No
David Dell'Isola	Dept. of Labor	no
Edward Burn	Dept. of Administration	no
		no

OFB/BBMR:

1) Does the Office of Finance and Budget **OR** the Bureau of Budget Management and Research concur that the statements made regarding the fiscal impact of this proposed measure are accurate?
   Yes_____ No_____X_____

2) Are funds available in the specified funding source to support this measure?
   UNKNOWN*
   Yes_____ No_____? Unknown _____

Comments:_____

Name & Signature of Certifying individual from BBMR or OFB:

Name	Agency & Title	Signature & Date

Should this section be unattainable, please submit documentation that demonstrates an effort was made.

Address: 163 W. Chalan Santo Papa Hagåtña, GU 96910
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Office of the Speaker

TINA ROSE MUÑA BARNES

I Mina'Trentai Singko Na Liheslaturan Guahan

The above information is true and correct. This bill addresses an immediate emergency and I am requesting that the public hearing be waived.

Name of Main Author/Senator Making a request to waive Public Hearing_: Telena Cruz Nelson

Signature_____ Date_____

Note: Public concerns/comments that have been received with regards to this measure, or any other pertinent document/information can be attached to this document.

Attachments:

*A.*_____

*B.*_____

*C.*_____

Address: 163 W. Chalan Santo Papa Hagâtña, GU 96910

Phone: (671)477-2520/2521/Email: speaker@guamlegislature.org/Website: www.guamlegislature.org