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Messages and Communications

1 message

Speaker's Office <speaker@guamlegislature.org>
To: Clerks Office <clerks@guamlegislature.org>
Cc: Rennae Meno <rennae@guamlegislature.org>

05-08-20	6:22 PM	05-08-20	Override of Substitute Bill No. 333-35 (COR), now known as Public Law 35-86.	Office of the Governor of Guam
05-08-20	6:22 PM	05-08-20	Executive Order No. 2020-14.	Office of the Governor of Guam





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

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Gumai pribilehu yan konfedensia este siha na mensâhi. Solo espesiâtmente para hâgu ma entensioña pat ma aturisa para unrisibi. Sen prubidu kumu ti un ma aturisa para manribisa, na'setbe, pat mandespâtcha. Yang mensâhi , put fabot ago' guatu gi I numa'huyong gi as speaker@guamlegislature.org yan despues destrosa todu siha I kopian mensâhi. Si Yu'os ma'âse'.

2 attachments

Override of S.Bill 333-35 (COR), now known as Public Law 35-86.pdf
2551K

Executive Order No. 2020-14.pdf
2119K

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
and Hand Delivery

May 8, 2020

35GL-20-1782
Speaker Tina Rose Muña Barnes

MAY 0 8 2020
Time 6:22 ( )AM ( )PM
Received By: Matt

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

Re: OVERRIDE of Substitute Bill No. 333-35 (COR) – An Act Relative to the Rapid and Transparent Implementation of Federal and Local Assistance Programs Related to the COVID-19 Pandemic

Dear Madame Speaker:

The federal government has advised, on numerous occasions and through several forums, that funds from the CARES Act are not subject to local legislative appropriation. These funds must be used by the Executive Branch for specific, if broadly stated, purposes and the federal Inspector General is granted specific oversight over the use of the funds. *See* H.R. 748, the CARES Act, https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf at 223-24. In fact, the District Court has previously decided against the 14th Legislature of Guam in its attempt to control and appropriate "all grants and appropriations made by the United States to the government of Guam where the grant or appropriation provides one hundred percent (100%) of the funding for a specific project or purpose and which grant or appropriation makes no provision for local legislative control." *Wong v. Camina*, 2 Guam 134, 134, (Dist. Ct. Guam Jan. 24, 1978). The *Wong* decision provides clear guidance and authority that the CARES Act funds must be managed by the Executive Branch. Section 6 of the Bill does not address any perceived issue of transparency, it merely confuses and misstates federal law.

I agree with the spirit of Sections 7 and 8 and have enacted provisions in Executive Order No. 2020-13 to execute those purposes legally. I have published a specific and detailed budget for the CARES Act funds. I have committed to reporting expenditures on a timely basis. It is already

within the authority and it is the mandate of the Office of the Public Accountability ("OPA") to conduct audits on these expenditures. The federal government will require multiple levels of oversight. Even with all these already rigorous requirements, I have inserted another layer of third party review so that the public can be ensured that these federal funds are spent appropriately.

Trust and transparency cannot be legislated.

These are wise and clear words from the Honorable Senator Amanda Shelton as she spoke against the override of my veto to Substitute Bill No. 333-35 ("the Bill"). And these words were clear to me long before she spoke them on the floor of the Guam Legislature. That is why I notified the legislative majority of my intent to enact an executive order that provides the public a greater vision of how the government has been working diligently and faithfully for the people it serves.

During that meeting, I was transparent in explaining how I had developed a budget for the use of CARES Act funds. I was transparent in how I intended to go beyond the requirements of law and report COVID-19 related expenditures online. I was transparent in stating that, although the expenditures would already be audited by the Office of the Public Accountability and federal auditors, I intended on having a third party conduct reviews of CARES Act expenditures. And as promised, I issued Executive Order No. 2020-13 which does far more than the Bill in terms of transparency.

In Section 2 of the Bill, the authors allowed me to hire temporary employees or to detail employees. This is an inherent authority of the Executive Branch and already codified in the Guam Code and reiterated in Public Law No. 35-36 (Budget FY 2020). This section does not address any perceived issues of transparency.

In Section 4 of the Bill, the authors provided the Department of Revenue and Taxation ("DRT") with authority to "implement any procedures necessary to implement the federal economic impact payments or cash assistance programs." It also reminds DRT to follow federal law and not allow abatement, attachment, or garnishment of the economic impact payments. As following all laws, federal and local, is inherent for DRT to perform its core functions, this section does not address any perceived issues of transparency.

Section 5 of the Bill purports to give DRT authority to enforce Executive Order No. 2020-07 by allowing DRT to "deny renewal of business licenses" who are noncompliant with the reporting requirements in Executive Order No. 2020-07. However, due to the emergency, DRT had already extended licenses that have expired since March of this year through the end of this month. There is not a high likelihood that any businesses who are noncompliant with Executive Order No. 2020-07 will be needing to seek a renewal anytime soon. This section does not address any perceived issues of transparency.

Section 3 of the Bill is very problematic. It is clearly an overreach of the Legislative Branch and unnecessarily stunts Guam's ability to make decisions for itself. This section requires that Guam "shall reasonably attempt to execute all necessary Memoranda of Understanding and Memoranda of Agreement between the United States and Guam and establish all necessary programs to effectuate the provisions of the [CARES Act]." While we should be extremely grateful of the federal government for its financial aid, Guam should never blindly enter into any agreement.

Here, the Legislature's override of my veto attempts to strip the Executive Branch of its fundamental duty: to make executive decisions always for the benefit of and for the people of Guam.

The United States Supreme Court's recent denial of our petition for writ of certiorari in *Guam v. Davis* should have reminded us that there is still an uncomfortable relationship between Guam and the federal government. This pandemic emergency should never require us to, "within five (5) working days" of the override of my veto, trample on the blood, sweat, and tears of our people who have desperately sought a voice for self-determination.

Knowing fully well the political pressures at play, I was not shocked by your veto, but I was dismayed that it came even when the legislature knew federal preemption was a certainty.

This Bill, even with the full force and effect of its title, does not actually address any issues of transparency or deepen public trust. Like Senator Shelton stated so succinctly: trust and transparency cannot be legislated. I am committed to continuing discussions to give the Legislature more vision on the day to day activities. I am committed to earning its trust even if the Legislature will never learn to give it. But most importantly, right now, I am committed to ensuring the health and safety of our people and doing all I can to help make Guam's path towards recovery successful.

Substitute Bill No. 333-35, by the Legislature's override, is now known as ***Public Law No. 35-86***.

Senseremente,

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

Enclosure(s): Substitute Bill No. 333-35 (COR) *nka Public Law No. 35-86*

cc via email: *Sigundo Maga'låhen Guåhan*
Compiler of Laws

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. 333-35 (COR), "AN ACT RELATIVE TO THE RAPID AND TRANSPARENT IMPLEMENTATION OF FEDERAL AND LOCAL ASSISTANCE PROGRAMS RELATED TO THE COVID-19 PANDEMIC,"** was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 5th day of May 2020, to pass said bill notwithstanding the veto of *I Maga'hågan Guåhan* by a vote of 14 members.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 5th day of May, 2020, at 12:40 o'clock ~~a~~ P.m.

Assistant Staff Officer
Maga'hågan's Office

Public Law No. 35-84

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

Bill No. 333-35 (COR)
As substituted; and amended on the Floor.

Introduced by:

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

AN ACT RELATIVE TO THE RAPID AND TRANSPARENT IMPLEMENTATION OF FEDERAL AND LOCAL ASSISTANCE PROGRAMS RELATED TO THE COVID-19 PANDEMIC.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that on March 27, 2020, President Trump signed into law H.R. 748, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), as U.S. Public Law 116-136, which provides an estimated Two Trillion Dollar stimulus package to states and territories to address the health and economic impacts of the COVID-19 pandemic.

I Liheslaturan Guåhan finds that the COVID-19 pandemic on Guam has crippled numerous private sector businesses and employees amid the necessary island-wide quarantine of the residents of Guam.

I Liheslaturan Guåhan further finds that the government of Guam must act swiftly to bring much-needed economic relief to the people of Guam and access the federal assistance opportunities of U.S. Public Law 116-136.

Section 2. *I Maga'hågan Guåhan,* or her designated representative, may hire temporary employees or temporarily redirect existing employees to implement and expedite federal and local programs related to U.S. Public Law 116-136 and to process tax refunds on an expedited basis. *I Maga'hågan Guåhan* shall submit a report to *I Liheslaturan Guåhan* on July 1, 2020, and monthly thereafter, of the number of temporary employees hired pursuant to this Section, the positions filled, the length of employment, the cost of said hiring, the source of funding, and the nature of the critical need that was filled.

Section 3. Within five (5) working days after the enactment of this Act, *I Maga'hågan Guåhan,* or her designated representative, shall reasonably attempt to execute all necessary Memoranda of Understanding and Memoranda of Agreement between the United States and Guam and establish all necessary programs to effectuate the provisions of U.S. Public Law 116-136. *I Maga'hågan Guåhan* and every director or agency head shall submit to *I Liheslaturan Guåhan* a copy of any agreement signed on behalf of the agency or the government of Guam within twenty-four (24) hours of signing on behalf of Guam, and shall submit a copy of the fully executed agreement within twenty-four (24) hours of receipt.

Section 4. The Department of Revenue and Taxation is authorized to implement any procedures necessary to implement the federal economic impact payments or cash assistance programs. In implementing the cash assistance procedures for the 2020 recovery rebates under U.S. Public Law 116-136, the

Department of Revenue and Taxation shall not allow any abatement, attachment, or garnishment of the economic impact payments, except for child support.

Section 5. *I Maga'hågan Guåhan*, through Executive Order 2020-07, required employers who reduced their workforce through employee terminations, layoffs, furloughs, or reductions in hours since January 1, 2020 and through the duration of the COVID-19 public health emergency, or extension thereof, to report such reductions to the Department of Labor (DOL) in a form prescribed by its Director in preparation for the implementation of the federal Pandemic Unemployment Insurance program. To assist the Department of Labor in collecting the required information detailed in E.O. 2020-07, the Department of Revenue and Taxation (DRT) may deny renewal of business licenses for any employer certified by DOL to be noncompliant with said reporting requirement; provided, that such denial is authorized only for the period of time that an employer fails to complete the reporting requirement. DRT shall not be authorized to deny renewals of business licenses beyond December 31, 2020.

Notwithstanding the Administrative Adjudication Law, the Department of Labor shall utilize any existing program or create separate rules for the implementation of the unemployment insurance program authorized in U.S. Public Law 116-136. Said rules shall be posted on the DOL website and shall be transmitted to the Speaker of *I Liheslaturan Guåhan* within fifteen (15) days of the enactment of this Act.

Section 6. Notwithstanding any other provision of law, any funds that may be subject to legislative authorization or appropriation for expenditures pursuant to Section 5001, Title V of U.S. Public Law 116-136 shall not be expended, earmarked, or set aside without a legislative appropriation and are not subject to transfer by *I Maga'håga*.

Section 7. *I Maga'hågan Guåhan* shall keep a full account of all COVID-19 expenses incurred by *I Maga'håga* funded by either local or federal funds and shall submit a report to the Speaker of *I Liheslaturan Guåhan* within twenty (20) days of the close of each calendar month. Reports shall include a clear description of the source of funds, such as transferred funds, lapsed funds, local appropriations, federal funds, or any other discernable fund type.

Section 8. The Public Auditor shall conduct semi-annual audits of all expenditures on Guam associated with U.S. Public Law 116-136, for compliance with all applicable local and federal laws, and may require information from government of Guam agencies or *I Maga'håga* necessary to complete the audits. *I Maga'hågan Guåhan* may allocate funds provided by the federal government to the Office of Public Accountability for the purposes of this Section.

Section 9. 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.

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. 333-35

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. 333-35 (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: 333-35 (COR) **Authored By:** Therese M. Terlaje, Sabina Flores Perez, James Moylan

Bill Title AN ACT RELATIVE TO THE RAPID AND TRANSPARENT IMPLEMENTATION OF FEDERAL AND LOCAL ASSISTANCE PROGRAMS RELATED TO COVID-19.

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 ____ No X

If so, please provide the following:

Anticipated Cost: 0
Funding Source: FEDERAL RELIEF FUNDS TO BE RECEIVED ESTIMATED AT $111 MILLION.

Based on PL 35-36 will current government revenues/operations be impacted by the reduction of the anticipated funding source?
THE EXPENSES ASSOCIATED WITH THE IMPLEMENTATION OF THIS LEGISLATION WILL BE SELF-REIMBURSED BY THE GOVERNMENT OF GUAM FROM FEDERAL CORONAVIRUS RELIEF FUNDS THAT WILL BE MADE AVAILABLE TO STATES AND TERRITORIES ON APRIL 24, 2020. ONCE THESE FUNDS ARE RECEIVED, GOVERNMENT REVENUES WILL NOT BE AFFECTED. FEDERAL RELIEF FUNDS TO BE RECEIVED ARE ESTIMATED AT $111 MILLION. THE COST IMPACT OF HIRING TEMPORARY EMPLOYEES AUTHORIZED IN THIS LEGISLATION CAN BE SUPPLEMENTED UTILIZING EXISTING GOVERNMENT EMPLOYEES CURRENTLY ON STANDBY, PER EXECUTIVE ORDER WILL ENSURE A ZERO FICAL IMPACT FOR THE HIRING OF "TEMPORARY WORKERS."

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?

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
Edward Birn, Director	Department of Administration	No- pending contact
Lester Carlson, Director	Bureau of Budget & Management Research	No- pending contact
Stephen Guerrero, Director	Office of Finance and Budget	No- pending contact

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_____

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

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.

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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 Therese M. Terlaje

Signature Therese M. Terlaje Date APRIL 08, 2020

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. _____

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