Guam Legislature Clerks <clerks@guamlegislature.org>

M&C Fwd: IMPORTANT: REQUEST for Emergency Session, Bill 424-35

1 message

Speaker's Office <speaker@guamlegislature.org> Fri, Oct 30, 2020 at 9:48 AM
To: Clerks Office <clerks@guamlegislature.org>
Cc: Rennae Meno <rennae@guamlegislature.org>

10/29/20	3:44 PM	10/29/20	Request for Emergency Session for Bill 424-35 (COR).*	Office of Senator James C. Moylan	35GL-20-2368

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 mandespåtcha. Yanggen 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'.

---------- Forwarded message ---------
From: **Office of Senator Moylan Guam Legislature** <officeofsenatormoylan@guamlegislature.org>
Date: Thu, Oct 29, 2020 at 3:44 PM
Subject: IMPORTANT: REQUEST for Emergency Session, Bill 424-35
To: Speaker Tina Muna Barnes <speaker@guamlegislature.org>
Cc: <phnotice@guamlegislature.org>

Hafa Adai Speaker,

Please see letter from Senator Moylan in body and attachment.

SYM.

--
10/29/2020

TO: Speaker Tina Muna-Barnes
FR: Jim Moylan
RE: *Bill 424-35*

Dear Speaker Muna-Barnes;

This morning I filed *Bill 424-35*, which is titled as the following:

AN ACT TO *AMEND* § 19403(a)(1) OF CHAPTER 19, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO MANDATING THAT ANY PROPOSAL OF THE GOVERNOR WHERE REGULATORY STATUTES, ORDERS, AND RULES AND REGULATIONS ARE BYPASSED BY EXECUTIVE ORDER DURING A STATE OF PUBLIC HEALTH EMERGENCY, *SHALL BE* APPROVED BY THE GUAM LEGISLATURE.

The measure is in response to Governor Lou Leon Guerrero's Executive Order 2020-38, which proposes to bypass the Administrative Adjudication Act to create policies associated with establishing penalties, curfew statutes, and other mandates. While I believe that we are in agreement that certain actions need to be considered to curtail the spread of this virus, the process being pursued opens up a dangerous precedent which in essence would end the sacred authority of the legislative branch when it comes to "Checks and Balances".

I have introduced this measure to assure that whatever policies are pursued pursuant to § 19403(a)(1) of Chapter 19 10GAR attain the proper input and deliberation of the Guam Legislature. While the Department of Public Health and Social Services state that a public hearing may be held on proposals that are still in a draft stage, the present law does not mandate it. Therefore, if the legislative branch remains silent on this Executive Order, who is not to say that future actions where fees, taxes or other policies may also be amended simply through an Executive Order while we remain under the *Emergency Powers Act*.

Because the administration is moving along with certain policies by the virtue of the E.O., it is crucial that Bill *424-35* be deemed an emergency, and that I would respectfully request for your consideration of calling an Emergency Session and to place the measure on the agenda for discussion. I have also attached a form requesting for the waiving of a public hearing on the legislation.

The Guam Legislature has already been placed in a distance from many actions of the Executive Branch since the State of a Public Health Emergency was declared in March of this year. This latest E.O. has the potential of literally removing any role of the legislative branch when it comes to accountability, transparency, and checks and balances during the remaining period of this pandemic. *Bill 424-35* may not be the perfect solution, but at this point, it is the only measure on the table which will assure that the Guam Legislature (the people's house) does NOT become antiquated.

I do hope that my request attains careful consideration, to assure that 35th Guam Legislature is not left out of the decision-making process. Thank you.

Respectfully;
Jim

--

Office of Senator James "Jim" C. Moylan
I Mina'trentai Singko na Liheslaturan Guåhan
35th Guam Legislature

DNA Bldg. Ste. 407 | 238 Archbishop FC Flores St, | Hagatna, GU 96910
T: (671) 922/979 - MORE (6673)

3 attachments

LTRSPKR.102920.STATEMENT.pdf
377K

Bill No. 424-35 (COR) (1).pdf
264K

Waiver Request Form 424-35 (1).pdf
669K

OFFICE OF SENATOR JAMES "JIM" C. MOYLAN

I MINA' TRENTAI SINGKO NA LIHESLATURAN GUÅHAN | 35TH GUAM LEGISLATURE

OCTOBER 29, 2020

TO: Speaker Tina Muna-Barnes
FR: Jim Moylan
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Respectfully;

Jim

I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
424-35 (COR)	James C. Moylan	AN ACT TO *AMEND* § 19403(a)(1) OF CHAPTER 19, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO MANDATING THAT ANY PROPOSAL OF THE GOVERNOR WHERE REGULATORY STATUTES, ORDERS, AND RULES AND REGULATIONS ARE BYPASSED BY EXECUTIVE ORDER DURING A STATE OF PUBLIC HEALTH EMERGENCY, *SHALL BE* APPROVED BY THE GUAM LEGISLATURE .	10/29/20 11:35 a.m.						

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

Bill No. 424-35 (COR)

Introduced by: James C. Moylan

AN ACT TO *AMEND* § 19403(a)(1) OF CHAPTER 19, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO MANDATING THAT ANY PROPOSAL OF THE GOVERNOR WHERE REGULATORY STATUTES, ORDERS, AND RULES AND REGULATIONS ARE BYPASSED BY EXECUTIVE ORDER DURING A STATE OF PUBLIC HEALTH EMERGENCY, *SHALL BE* APPROVED BY THE GUAM LEGISLATURE .

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § 19403(a)(1) of Chapter 19, Title 10, Guam Code Annotated, is hereby *amended* to read as follows:

§ 19403. Effect of Declaration.

The declaration of a state of public health emergency shall activate the disaster response and recovery aspects of the government of Guam. Such declaration authorizes the deployment and use of any forces to which the plans apply and the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled or available pursuant to this Chapter.

(a) Emergency Powers. During a state of public health emergency, *I Maga'låhen Guåhan* [The Governor] may:

(1) through an executive order suspend, the provisions of any regulatory statute prescribing procedures for conducting local business,

or the orders, rules and regulations of any government of Guam agency, to the extent that strict compliance with the same would prevent, hinder or delay necessary action (including emergency purchases) by the public health authority to respond to the public health emergency, or increase the health threat to the population, granted that notwithstanding any other provisions of the law, that any such Executive Order, decision, *and/or* rules and regulations proposed by *I Maga'låhen Guåhan* [The Governor] pursuant to § 19403(a)(1) *shall be* approved by *I Liheslaturan Guåhan* [The Legislature];

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. Effective Date. This Act *shall be* retroactively effective on October 28, 2020.

Office of the Speaker

ROSE MUÑA BARNES

I Mina'Trentai Singko Na Liheslaturan Guahan

REQUEST FOR PUBLIC HEARING WAIVER

Bill No: 424-35 (COR) **Authored By:** James C. Moylan

Bill Title: **AN ACT TO *AMEND* § 19403(a)(1) OF CHAPTER 19, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO MANDATING THAT ANY PROPOSAL OF THE GOVERNOR WHERE REGULATORY STATUTES, ORDERS, AND RULES AND REGULATIONS ARE BYPASSED BY EXECUTIVE ORDER DURING A STATE OF PUBLIC HEALTH EMERGENCY, *SHALL BE* APPROVED BY THE GUAM LEGISLATURE .**

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: NA

Source: NA

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

This legislation will not impact government revenues/operations through any reductions. However, the failure to act on this measure will certainly provide for loopholes which have the potential of impacting government funds without any input of the legislative body.

Office of the Speaker

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?

$0 Dollars

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
Art San Agustin-Director	**DPHSS**	NO (But will if the request is approved)

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.

Office of the Speaker

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 **James C. Moylan**

Signature _____ Date **10/29/2020**

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. **Bill No 424-35 (COR)**

B. _____