Guam Legislature Clerks <clerks@guamlegislature.org>

Messages and Communications for Doc. Nos. 36GL-22-1903 through 1911*.

1 message

Committee on Rules 36GL <cor@guamlegislature.org> Wed, Apr 13, 2022 at 10:34 AM
To: Clerks <clerks@guamlegislature.org>, Rennae Meno <rennae@guamlegislature.org>
Cc: "Speaker Therese M. Terlaje" <speaker@guamlegislature.org>

Håfa Adai Clerks,

Please see attached M&C Doc. No. 36GL-22-1903 to 1911 for processing:

36GL-22-1903	BILL NO. 169-36 (LS) nka P.L. No. 36-89 - An Act to Amend Appendix A, Appendix B, Appendix C, Appendix D, and Appendix E, All of Chapter 67, Title 9, Guam Code Annotated, Relative to Updating the List of Scheduled Controlled Substances Provided in the Guam Uniform Controlled Substances Act *.	Office of the Governor of Guam
36GL-22-1904	BILL NO. 247-36 (COR) nka P.L. No. 36-90 - An Act to Amend §§ 53101(d) and 53102, and to Add a New § 53109, All of Chapter 53, Title 11, Guam Code Annotated, Relative to Transferring the Authority to Implement the Guam Able Savings Program from the Department of Revenue and Taxation to the Department of Administration, and Authorizing the Governor to Identify and Transfer Up to Two Hundred Fifty Thousand Dollars ($250,000) from the General Fund to Implement the Program*.	Office of the Governor of Guam
36GL-22-1905	SUBSTITUTE BILL NO. 213-36 (COR) nka P.L. No. 36-91 - An Act to Add New Subsections (a) and (b) to § 8119 of Article 1, Chapter 8, Title 12, Guam Code Annotated, Relative to Establishing an Exemption to the Guam Power Authority for the Construction of New Forty-One (41) Megawatt Ultra-Low Sulfur Diesel Units on Lots 261 and 257, U.S. Navy Apra Harbor Reservation, and be Required to Comply with the Air Quality and Emissions Limitations Contained in the U.S. Environmental Protection Agency Clean Air Act of 1990*.	Office of the Governor of Guam
36GL-22-1906	BILL NO. 224-36 (COR) nka P.L No. 36-92 - An Act to Repeal Chapter 19, Division 3 of Title 30, Guam Administrative Rules and Regulations; and to Add a New Chapter 2 to Title 12, Guam Administrative Rules and Regulations, Relative to Clarifying Insurance Continuing Education*.	Office of the Governor of Guam
36GL-22-1907	SUBSTITUTE BILL NO. 41-36 (COR) nka P.L. No. 36-93 - An Act to Amend § 4210 of Article 2, Chapter 4, Title 19, Guam Code Annotated, Relative to Expediting Social Studies for Adoptions*.	Office of the Governor of Guam
36GL-22-1908	BILL NO. 68-36 (COR) nka P.L. No. 36-94 – An Act to Amend §§ 88103 and 88104, and to Add a New § 88103.1, All of Chapter 88, Title 5, Guam Code Annotated, Relative to Adding Youth Representation to *I Kumision I Fino' CHamoru Yan I Fina'na'guen I Historia Yan I Lina'la' I Taotao Tano'* (The Commission on CHamoru Language and the Teaching of the History and Culture of the Indigenous People of Guam), and Prohibiting Double Representation on *I Kumision*; and to Cite this Act as the "*Mahoben Para I Fino'-ta Act*"*.	Office of the Governor of Guam
36GL-22-1909	SUBSTITUTE BILL NO. 236-36 (COR) VETO - An Act to Amend § 5213 of Subarticle B, Article 3, Chapter 5, Title 5, Guam Code Annotated, Relative to Strengthening the Requirements of Small Purchases*.	Office of the Governor of Guam
36GL-22-1910	BILL NO. 123-36 (COR) VETO - An Act to Amend § 2108 of Chapter 2, Title 4, Guam Code Annotated, Relative to Requiring Employees Who Resign from Government of Guam Employment to Submit to Drug Testing to Retain Re-Employment Rights if said Resignation was Tendered Subsequent to the Employer's Announcement of Drug Testing*.	Office of the Governor of Guam
36GL-22-1911	BILL NO. 239-36 (COR) VETO - An Act to Add a New § 76206 to Article 2 of Chapter 76, Division 3, Title 11, Guam Code Annotated; and to Add a New § 13510 to Article 5 of Chapter 13, Title 19, Guam Code Annotated, Relative to Business License Requirements for Entities Engaging in Child Replacement Services*.	Office of the Governor of Guam

Electronic and Hard Copies received and attached.

Si Yu'os Ma'åse',

COMMITTEE ON RULES
Vice Speaker Tina Rose Muña Barnes
36th Guam Legislature
I Mina'trentai Sais Na Liheslaturan Guåhan
163 Chalan Santo Papa Hågatña Guam 96910
Email: cor@guamlegislature.org

"Disclaimer: This message is intended only for the use of the individual or entity to which it is addressed and may contain information which is privileged, confidential, proprietary, or exempt from disclosure under applicable law. If you are not the intended recipient or the individual responsible for delivering the message to the intended recipient, you are strictly prohibited from disclosing, distributing, copying, or in any way using this message. If you have received this communication in error, please notify the sender and immediately delete any copies you may have received. Thank you."

---------- Forwarded message ---------
From: **Speaker Therese M. Terlaje** <speaker@guamlegislature.org>
Date: Wed, Apr 13, 2022 at 9:46 AM

Subject: Messages and Communications for 36GL-22-1903 to 1911
To: Legislative Secretary Amanda Shelton <officeofsenatorshelton@guamlegislature.org>, Committee on Rules 36GL <cor@guamlegislature.org>

Håfa Adai,

Please see attached M&C Doc. No. 36GL-22-1903 to 1911.*

36GL-22-1903	BILL NO. 169-36 (LS) nka P.L. No. 36-89 - An Act to Amend Appendix A, Appendix B, Appendix C, Appendix D, and Appendix E, All of Chapter 67, Title 9, Guam Code Annotated, Relative to Updating the List of Scheduled Controlled Substances Provided in the Guam Uniform Controlled Substances Act.*	Office of the Governor of Guam
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36GL-22-1907	SUBSTITUTE BILL NO. 41-36 (COR) nka P.L. No. 36-93 - An Act to Amend § 4210 of Article 2, Chapter 4, Title 19, Guam Code Annotated, Relative to Expediting Social Studies for Adoptions.*	Office of the Governor of Guam
36GL-22-1908	BILL NO. 68-36 (COR) nka P.L. No. 36-94 – An Act to Amend §§ 88103 and 88104, and to Add a New § 88103.1, All of Chapter 88, Title 5, Guam Code Annotated, Relative to Adding Youth Representation to I Kumision I Fino' CHamoru Yan I Fina'na'guen I Historia Yan I Lina'la' I Taotao Tano' (The Commission on CHamoru Language and the Teaching of the History and Culture of the Indigenous People of Guam), and Prohibiting Double Representation on I Kumision; and to Cite this Act as the "Mahoben Para I Fino'ta Act".*	Office of the Governor of Guam
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36GL-22-1910	BILL NO. 123-36 (COR) VETO - An Act to Amend § 2108 of Chapter 2, Title 4, Guam Code Annotated, Relative to Requiring Employees Who Resign from Government of Guam Employment to Submit to Drug Testing to Retain Re-Employment Rights if said Resignation was Tendered Subsequent to the Employer's Announcement of Drug Testing.*	Office of the Governor of Guam
36GL-22-1911	BILL NO. 239-36 (COR) VETO - An Act to Add a New § 76206 to Article 2 of Chapter 76, Division 3, Title 11, Guam Code Annotated; and to Add a New § 13510 to Article 5 of Chapter 13, Title 19, Guam Code Annotated, Relative to Business License Requirements for Entities Engaging in Child Replacement Services.*	Office of the Governor of Guam

Note: e-Delivery received April 12, 2022 at 9:46 a.m. Hard copies received April 12, 2022 at 11:31 a.m.

Si Yu'os Ma'åse',

Marie Cruz
Community Relations Liaison

Office of Speaker Therese M. Terlaje
Committee on Health, Land, Justice and Culture
I Mina'trentai Sais na Liheslaturan Guåhan
36th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 F: (671) 989-3590 Email: senatorterlajeguam@gmail.com
website: www.senatorterlaje.com

---------- Forwarded message ---------
From: **Brianne LG Dunstan** <brianne.dunstan@guam.gov>
Date: Tue, Apr 12, 2022 at 9:46 AM
Subject: Statements regarding Legislative bills passed on: April 1, 2022
To: Speaker Therese M. Terlaje <speaker@guamlegislature.org>
Cc: GOVERNOR Lourdes A. Leon Guerrero <governor@guam.gov>, LT. GOVERNOR Joshua F. Tenorio <lt.governor@guam.gov>, Geraldine A. Cepeda <gcepeda@guamcourts.gov>, Guam Compiler of Laws <guamcompiler@gmail.com>, Lisa C. Ibanez <libanez@guamcourts.gov>, CHIEF OF STAFF Jon Junior Calvo <jon.calvo@guam.gov>, DEPUTY COS Alice Taijeron <alice.taijeron@guam.gov>, Legal <legal@guam.gov>, Stephanie G. Flores <stephanie.flores@guam.gov>, Krystal Paco-San Agustin <krystal.paco@guam.gov>, <lester.carlson@bbmr.guam.gov>, BERTHA <bertha.duenas@guam.gov>, Eliza G. Dames (Chamber) <eliza.dames@guam.gov>, Shamra L.A. Chargualaf (Chamber) <shamra.chargualaf@guam.gov>, Josephine C. Cepeda (Chamber) <josephine.cepeda@guam.gov>, Kathleen C. Cepeda (COS) <kathleen.cepeda@guam.gov>, Rhea Chang <rhea.chang@guam.gov>, Jessica Cruz (CF) <jessica.cruz@guam.gov>, BBMR Administrative Staff <admin@bbmr.guam.gov>, Analyn Eustaquio <analyn.eustaquio@bbmr.guam.gov>, Michael D. Weakley <michael.weakley@guam.gov>, Rikki Orsini <rikki.orsini@guam.gov>

Hafa Adai Madame Speaker,

Enclosed are copies of statements dated April 11, 2022, from the *Honorable,* Lourdes A. Leon Guerrero, regarding the following nine (9) bills:

- **BILL NO. 169-36 (LS) nka P.L. No. 36-89** - An Act to Amend Appendix A, Appendix B, Appendix C, Appendix D, and Appendix E, All of Chapter 67, Title 9, Guam Code Annotated, Relative to Updating the List of Scheduled Controlled Substances Provided in the Guam Uniform Controlled Substances Act
- **BILL NO. 247-36 (COR) nka P.L. No. 36-90** - An Act to Amend §§ 53101(d) and 53102, and to Add a New § 53109, All of Chapter 53, Title 11, Guam Code Annotated, Relative to Transferring the Authority to Implement the Guam Able Savings Program from the Department of Revenue and Taxation to the Department of Administration, and Authorizing the Governor to Identify and Transfer Up to Two Hundred Fifty Thousand Dollars ($250,000) from the General Fund to Implement the Program
- **SUBSTITUTE BILL NO. 213-36 (COR) nka P.L. No. 36-91** - An Act to Add New Subsections (a) and (b) to § 8119 of Article 1, Chapter 8, Title 12, Guam Code Annotated, Relative to Establishing an Exemption to the Guam Power Authority for the Construction of New Forty-One (41) Megawatt Ultra-Low Sulfur Diesel Units on Lots 261 and 257, U.S. Navy Apra Harbor Reservation, and be Required to Comply with the Air Quality and Emissions Limitations Contained in the U.S. Environmental Protection Agency Clean Air Act of 1990
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- **BILL NO. 68-36 (COR) nka P.L. No. 36-94 –** An Act to Amend §§ 88103 and 88104, and to Add a New § 88103.1, All of Chapter 88, Title 5, Guam Code Annotated, Relative to Adding Youth Representation to I Kumision I Fino' CHamoru Yan I Fina'na'guen I Historia Yan I Lina'la' I Taotao Tano' (The Commission on CHamoru Language and the Teaching of the History and Culture of the Indigenous People of Guam), and Prohibiting Double Representation on I Kumision; and to Cite this Act as the "Mahoben Para I Fino'ta Act"
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The original statements and bills will be delivered to your office today.

Respectfully,
--

Brianne LG Dunstan
Unisifan I Maga'hågan Guåhan
Office of the Governor of Guam
Office of Legal Counsel
513 West Marine Corps Drive
Ricardo J. Bordallo Governor's Complex
Hagåtña, Guam 96910
Office: 671.473.1118
brianne.dunstan@guam.gov

9 attachments

36GL-22-1905.pdf
551K

36GL-22-1904.pdf
517K

36GL-22-1907.pdf
468K

36GL-22-1906.pdf
824K

36GL-22-1909.pdf
628K

36GL-22-1908.pdf
637K

36GL-22-1910.pdf
473K

36GL-22-1911.pdf
461K

36GL-22-1903.pdf
1945K

Speaker Therese M. Terlaje <speaker@guamlegislature.org>

Statements regarding Legislative bills passed on: April 1, 2022

Brianne LG Dunstan <brianne.dunstan@guam.gov> Tue, Apr 12, 2022 at 9:45 AM
To: "Speaker Therese M. Terlaje" <speaker@guamlegislature.org>
Cc: "GOVERNOR Lourdes A. Leon Guerrero" <governor@guam.gov>, "LT. GOVERNOR Joshua F. Tenorio" <lt.governor@guam.gov>, "Geraldine A. Cepeda" <gcepeda@guamcourts.gov>, Guam Compiler of Laws <guamcompiler@gmail.com>, "Lisa C. Ibanez" <libanez@guamcourts.gov>, CHIEF OF STAFF Jon Junior Calvo <jon.calvo@guam.gov>, DEPUTY COS Alice Taijeron <alice.taijeron@guam.gov>, Legal <legal@guam.gov>, "Stephanie G. Flores" <stephanie.flores@guam.gov>, Krystal Paco-San Agustin <krystal.paco@guam.gov>, lester.carlson@bbmr.guam.gov, BERTHA <bertha.duenas@guam.gov>, "Eliza G. Dames (Chamber)" <eliza.dames@guam.gov>, "Shamra L.A. Chargualaf (Chamber)" <shamra.chargualaf@guam.gov>, "Josephine C. Cepeda (Chamber)" <josephine.cepeda@guam.gov>, "Kathleen C. Cepeda (COS)" <kathleen.cepeda@guam.gov>, Rhea Chang <rhea.chang@guam.gov>, "Jessica Cruz (CF)" <jessica.cruz@guam.gov>, BBMR Administrative Staff <admin@bbmr.guam.gov>, Analyn Eustaquio <analyn.eustaquio@bbmr.guam.gov>, "Michael D. Weakley" <michael.weakley@guam.gov>, Rikki Orsini <rikki.orsini@guam.gov>

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The original statements and bills will be delivered to your office today.

Respectfully,
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Brianne LG Dunstan
Unisifan I Maga'hågan Guåhan
Office of the Governor of Guam
Office of Legal Counsel
513 West Marine Corps Drive
Ricardo J. Bordallo Governor's Complex
Hagåtña, Guam 96910
Office: 671.473.1118
brianne.dunstan@guam.gov

Doc Type: 36GL-22-1903-1911
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

04-12 2022

Time: 9:46 a.m.
Received:

COMMITTEE ON RULES
RECEIVED:
April 13, 2022
9:46 A.M.

9 attachments

- **Bill No. 247-36 (COR) nka P.L. 36-90.pdf** 169K — 36GL-22-1904
- **Sub. Bill No. 213-36 (COR) nka P.L. 36-91.pdf** 187K — 36GL-22-1905
- **Bill No. 224-36 (COR) nka P.L. 36-92.pdf** 314K — 36GL-22-1906
- **Sub. Bill No. 41-36 (COR) nka P.L. 36-93.pdf** 144K — 36GL-22-1907
- **Bill No. 68-36 (COR) nka P.L. 36-94.pdf** 226K — 36GL-22-1908
- **Sub. Bill No. 236-36 (COR) _VETO.pdf** 225K — 36GL-22-1909
- **Bill No. 123-36 (COR)_VETO.pdf** 148K — 36GL-22-1910
- **Bill No. 239-36 (COR)_VETO.pdf** 135K — 36GL-22-1911
- **Bill No. 169-36 (LS) nka P.L. 36-89.pdf** 853K — 36GL-22-1903

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

April 11, 2022

HONORABLE THERESE M. TERLAJE, *Speaker*
I Mina'trentai Sais Na Liheslaturan Guåhan
36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: SUBSTITUTE BILL NO. 213-36 (COR) – AN ACT TO *ADD* NEW SUBSECTIONS (a) AND (b) TO § 8119 OF ARTICLE 1, CHAPTER 8, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN EXEMPTION TO THE GUAM POWER AUTHORITY FOR THE CONSTRUCTION OF NEW FORTY-ONE (41) MEGAWATT ULTRA-LOW SULFUR DIESEL UNITS ON LOTS 261 AND 257, U.S. NAVY APRA HARBOR RESERVATION, AND BE REQUIRED TO COMPLY WITH THE AIR QUALITY AND EMISSIONS LIMITATIONS CONTAINED IN THE U.S. ENVIRONMENTAL PROTECTION AGENCY CLEAN AIR ACT OF 1990

Hafa Adai Madame Speaker,

Guam, like many island nations and marginalized communities, is still heavily dependent on fossil fuels to generate electricity. Guam law prohibits the construction of a fossil fuel power generator in excess of one megawatt (MW) within 1,500 feet of a school. Bill 213-36 seeks to create an exemption from that prohibition, thereby authorizing the Guam Power Authority (GPA) to construct a 41-MW diesel unit within 1,200 feet of Jose Rios Middle School. In reaching my decision to sign this legislation into law, my Administration has reviewed materials relating to Bill 213-36, including the EPA's scientific literature on sulfur dioxide (SO2) air quality standards; and the Consent Decree and Modifying Order, and court filings on *USA v. GPA and Marianas Energy Company, LLC,* Case No. 1:20-cv-00007, as referenced in the legislation. More importantly, my Administration has reviewed and considered the public testimony and concerns expressed by the children, youth, concerned parents, and the public.

On the one hand, my Administration acknowledges that students and parents without access to reliable electricity often lack internet or services that improve the quality of a child's education and opportunities. And on the other hand, my Administration also understands that an electrical grid reliant on fossil fuels, such as diesel, produces emissions and particulate matter that can impact human health and the environment. As Governor, I have a responsibility to protect the health of our children and the community at large, while engaging in efforts that ensure our people have access to reliable electricity. To that end, and on balance, my Administration will be working with

our local agencies and subject matter experts to prepare mitigation measures that are protective of the neighboring population and environment.

Moreover, on April 8, 2022, GPA represented to me and Lt. Governor Josh Tenorio that GPA will install air monitoring devices at the middle school and the Port Authority of Guam to monitor the 41-MW diesel unit's emissions and potential impacts on the air quality. Accordingly, per GPA's representations to my Administration, this mitigation measure will be part of a lease agreement between GPA and the government of Guam. As noted above, my Administration will be working with our agencies and subject matter experts to develop further mitigation measures as are necessary.

Finally, I raise concerns about the Legislative Findings and Intent section's characterization of the Consent Decree requirements. Contrary to the Legislative Findings and Intent, the Consent Decree neither requires the construction of a 41MW near Jose Rios Middle School by April 30, 2024, nor an exemption to the law that prohibits the construction of fossil fuel generators within 1,500 feet of a school. Rather, the Consent Decree and Modifying Order simply provides, "[b]y April 30, 2024, GPA shall operate 180 MW of new generation utilizing only ULSD, at least initially, but capable of burning natural gas[.]"

Like many marginalized communities, reducing our reliance on fossil fuels for electricity is an ongoing multi-generational effort that will take time and resources. Until we achieve that moment in time where we, as an island, can no longer rely on diesel for electricity, my Administration is presented with difficult options and considerations. My decision today seeks to balance the protection of public health and the environment with our interest in ensuring our students have reliable electricity so that they too can have access to quality education and opportunities. Noting the reasons and concerns discussed, I sign Bill No. 213-36 into law as ***Public Law 36-91***.

Senseremente,

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

Enclosure: Substitute Bill No. 213-36 (COR) *nka P.L. No. 36-91*

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*
Compiler of Laws

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

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

This is to certify that **Substitute Bill No. 213-36 (COR), "AN ACT TO *ADD* NEW SUBSECTIONS (a) AND (b) TO § 8119 OF ARTICLE 1, CHAPTER 8, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN EXEMPTION TO THE GUAM POWER AUTHORITY FOR THE CONSTRUCTION OF NEW FORTY-ONE (41) MEGAWATT ULTRA-LOW SULFUR DIESEL UNITS ON LOTS 261 AND 257, U.S. NAVY APRA HARBOR RESERVATION, AND BE REQUIRED TO COMPLY WITH THE AIR QUALITY AND EMISSIONS LIMITATIONS CONTAINED IN THE U.S. ENVIRONMENTAL PROTECTION AGENCY CLEAN AIR ACT OF 1990,"** was on the 1st day of April 2022, duly and regularly passed.

Therese M. Terlaje
Therese M. Terlaje
Speaker

Attested:

Amanda L. Shelton
Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 1 day of April, 2022, at 9:39 o'clock P.M.

P03 C C Chong
Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 4/11/2022

Public Law No. 36-91

RCVD AT CENTRAL FILES
APR 4'22 AM8:58
2022-1493
Evelyn Fejer...

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 213-36 (COR)
As substituted and amended on the Floor.

Introduced by: Joe S. San Agustin
Tina Rose Muña Barnes
Christopher M. Dueñas
Joanne Brown
V. Anthony Ada
Jose "Pedo" Terlaje
Frank Blas Jr.
James C. Moylan
Telena Cruz Nelson
Clynton E. Ridgell
Telo T. Taitague
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *ADD* NEW SUBSECTIONS (a) AND (b) TO § 8119 OF ARTICLE 1, CHAPTER 8, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN EXEMPTION TO THE GUAM POWER AUTHORITY FOR THE CONSTRUCTION OF NEW FORTY-ONE (41) MEGAWATT ULTRA-LOW SULFUR DIESEL UNITS ON LOTS 261 AND 257, U.S. NAVY APRA HARBOR RESERVATION, AND BE REQUIRED TO COMPLY WITH THE AIR QUALITY AND EMISSIONS LIMITATIONS CONTAINED IN THE U.S. ENVIRONMENTAL PROTECTION AGENCY CLEAN AIR ACT OF 1990.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Guam Power Authority (GPA), pursuant to a consent decree with the U.S.

Environmental Protection Agency and the U.S. Department of Justice, is required to construct the *Ukudu* Power Plant and the associated forty-one (41) megawatt (MW) diesel units by April 30, 2024. The diesel units were required to be relocated to the Cabras industrial area on Lot 261 to ensure that the *Ukudu* Power Plant could be constructed using a minor source permit.

I Liheslaturan Guåhan further finds that the proposed construction area on Lot 261 is within one thousand two hundred feet (1,200') of Jose Rios Middle School. The new 41MW diesel plant is for emergency/peaking use and will use clean burning ultra-low sulfur diesel. This site is within the Cabras industrial area and was deeded to GPA by the U.S. Navy in March 1976 for the operation of a fuel oil storage and a steam power plant. An exemption is needed for the construction on Lot 261 as § 8119 of Article 1, Chapter 8, Title 12, GCA provides that "No power generation facility, with a capacity in excess of one (1) megawatt and utilizing fossil fuels, may be constructed within one thousand five hundred feet (1,500') of a school."

It is, therefore, the intent of *I Liheslaturan Guåhan* to ensure compliance with the consent decree with the U.S. Environmental Protection Agency and the U.S. Department of Justice by authorizing an exemption in § 8119 of Article 1, Chapter 8, Title 12, Guam Code Annotated, to the Guam Power Authority.

Section 2. New Subsections (a) and (b) are hereby *added* to § 8119 of Article 1, Chapter 8, Title 12, Guam Code Annotated, to read:

"(a) Exemption. The construction of the new forty-one (41) megawatt diesel units burning ultra-low sulfur diesel on Lots 261 and 257, U.S. Navy Apra Harbor Reservation, shall be exempt from this Section.

(b) GPA shall be required to comply with the Air Quality and Emissions Limitations contained in the U.S. Environmental Protection Agency Clean Air Act of 1990, Chapter 85 of Title 42, United States Code, Section 7401 et seq. (Clean Air Act). GPA shall install air quality monitors,

or such other device specified in the Clean Air Act necessary to measure air quality emissions from the forty-one (41) megawatt diesel units construction on Lots 261 and 257 and ensure compliance with the Clean Air Act."

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. Effective Date. This Act shall be effective upon enactment.

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

April 11, 2022

Doc Type: 36GL-22-1905
OFFICE OF THE SPEAKER
THERESE M. TERLAJE
04-12 2022
Time: 11:31a.m.
Received:

HONORABLE THERESE M. TERLAJE, *Speaker*
I Mina'trentai Sais Na Liheslaturan Guåhan
36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: **SUBSTITUTE BILL NO. 213-36 (COR) – AN ACT TO *ADD* NEW SUBSECTIONS (a) AND (b) TO § 8119 OF ARTICLE 1, CHAPTER 8, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN EXEMPTION TO THE GUAM POWER AUTHORITY FOR THE CONSTRUCTION OF NEW FORTY-ONE (41) MEGAWATT ULTRA-LOW SULFUR DIESEL UNITS ON LOTS 261 AND 257, U.S. NAVY APRA HARBOR RESERVATION, AND BE REQUIRED TO COMPLY WITH THE AIR QUALITY AND EMISSIONS LIMITATIONS CONTAINED IN THE U.S. ENVIRONMENTAL PROTECTION AGENCY CLEAN AIR ACT OF 1990**

Hafa Adai Madame Speaker,

Guam, like many island nations and marginalized communities, is still heavily dependent on fossil fuels to generate electricity. Guam law prohibits the construction of a fossil fuel power generator in excess of one megawatt (MW) within 1,500 feet of a school. Bill 213-36 seeks to create an exemption from that prohibition, thereby authorizing the Guam Power Authority (GPA) to construct a 41-MW diesel unit within 1,200 feet of Jose Rios Middle School. In reaching my decision to sign this legislation into law, my Administration has reviewed materials relating to Bill 213-36, including the EPA's scientific literature on sulfur dioxide (SO2) air quality standards; and the Consent Decree and Modifying Order, and court filings on *USA v. GPA and Marianas Energy Company, LLC,* Case No. 1:20-cv-00007, as referenced in the legislation. More importantly, my Administration has reviewed and considered the public testimony and concerns expressed by the children, youth, concerned parents, and the public.

On the one hand, my Administration acknowledges that students and parents without access to reliable electricity often lack internet or services that improve the quality of a child's education and opportunities. And on the other hand, my Administration also understands that an electrical grid reliant on fossil fuels, such as diesel, produces emissions and particulate matter that can impact human health and the environment. As Governor, I have a responsibility to protect the health of our children and the community at large, while engaging in efforts that ensure our people have access to reliable electricity. To that end, and on balance, my Administration will be working with

our local agencies and subject matter experts to prepare mitigation measures that are protective of the neighboring population and environment.

Moreover, on April 8, 2022, GPA represented to me and Lt. Governor Josh Tenorio that GPA will install air monitoring devices at the middle school and the Port Authority of Guam to monitor the 41-MW diesel unit's emissions and potential impacts on the air quality. Accordingly, per GPA's representations to my Administration, this mitigation measure will be part of a lease agreement between GPA and the government of Guam. As noted above, my Administration will be working with our agencies and subject matter experts to develop further mitigation measures as are necessary.

Finally, I raise concerns about the Legislative Findings and Intent section's characterization of the Consent Decree requirements. Contrary to the Legislative Findings and Intent, the Consent Decree neither requires the construction of a 41MW near Jose Rios Middle School by April 30, 2024, nor an exemption to the law that prohibits the construction of fossil fuel generators within 1,500 feet of a school. Rather, the Consent Decree and Modifying Order simply provides, "[b]y April 30, 2024, GPA shall operate 180 MW of new generation utilizing only ULSD, at least initially, but capable of burning natural gas[.]"

Like many marginalized communities, reducing our reliance on fossil fuels for electricity is an ongoing multi-generational effort that will take time and resources. Until we achieve that moment in time where we, as an island, can no longer rely on diesel for electricity, my Administration is presented with difficult options and considerations. My decision today seeks to balance the protection of public health and the environment with our interest in ensuring our students have reliable electricity so that they too can have access to quality education and opportunities. Noting the reasons and concerns discussed, I sign Bill No. 213-36 into law as ***Public Law 36-91***.

Senseremente,

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

Enclosure: Substitute Bill No. 213-36 (COR) *nka P.L. No. 36-91*

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*
Compiler of Laws

COMMITTEE ON RULES
RECEIVED:
April 13, 2022
9:46 A.M.

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

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

This is to certify that **Substitute Bill No. 213-36 (COR), "AN ACT TO *ADD* NEW SUBSECTIONS (a) AND (b) TO § 8119 OF ARTICLE 1, CHAPTER 8, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN EXEMPTION TO THE GUAM POWER AUTHORITY FOR THE CONSTRUCTION OF NEW FORTY-ONE (41) MEGAWATT ULTRA-LOW SULFUR DIESEL UNITS ON LOTS 261 AND 257, U.S. NAVY APRA HARBOR RESERVATION, AND BE REQUIRED TO COMPLY WITH THE AIR QUALITY AND EMISSIONS LIMITATIONS CONTAINED IN THE U.S. ENVIRONMENTAL PROTECTION AGENCY CLEAN AIR ACT OF 1990,"** was on the 1st day of April 2022, duly and regularly passed.

Therese M. Terlaje
Therese M. Terlaje
Speaker

Attested:

Amanda L. Shelton
Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 1 day of April, 2022, at 9:39 o'clock P.M.

P03 C C Chow
Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lou Leon Guerrero
Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 4/11/2022

Public Law No. 36-91

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I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

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