I Mina'trentai Sais 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
298-36 (LS) As amended by the Committee on General Government Operations, Appropriations, and Housing; and further amended in the Committee of the Whole.	Telena Cruz Nelson Jose "Pedo" Terlaje	AN ACT TO *AMEND* SECTION 4(a) OF PUBLIC LAW 34-70, AS AMENDED BY SECTION 2 OF PUBLIC LAW 35-44, RELATIVE TO THE FINANCING OR REFINANCING IMPROVEMENTS AND CAPITAL IMPROVEMENTS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT (PORT), AND OTHER RELATED FACILITIES AND OPERATIONS OF THE PORT, THROUGH REVENUE BOND PROCEEDS.	4/25/22 4:12 p.m.	4/26/22	Committee on General Government Operations, Appropriations, and Housing	6/30/22 9:00 a.m.	9/21/22 9:33 a.m. As amended by the Committee on General Government Operations, Appropriations, and Housing	Request: 4/26/22 4/29/22	

SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES
12/2/22	AN ACT TO *AMEND* SECTION 4(a) AND *ADD* A NEW SECTION 4(f) OF PUBLIC LAW 34-70, AS AMENDED BY SECTION 2 OF PUBLIC LAW 35-44, RELATIVE TO THE FINANCING OR REFINANCING IMPROVEMENTS AND CAPITAL IMPROVEMENTS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT (PORT), AND OTHER RELATED FACILITIES AND OPERATIONS OF THE PORT, THROUGH REVENUE BOND PROCEEDS.	12/16/22	12/16/22	12/28/22	36-134	12/28/22	Received: 12/29/22 Mess and Comm. Doc. No. 36GL-22-2937

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LT. GOVERNOR

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

Transmitted via email to: speaker@guamlegislature.org

December 28, 2022

Doc Type: 36GL-22-2937
OFFICE OF THE SPEAKER
THERESE M. TERLAJE
-12-28 2022
Time: 6:04pm
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: BILL NO. 298-36 (LS) - AN ACT TO *AMEND* SECTION 4(a) AND *ADD* A NEW SECTION 4(f) OF PUBLIC LAW 34-70, AS AMENDED BY SECTION 2 OF PUBLIC LAW 35-44, RELATIVE TO THE FINANCING OR REFINANCING IMPROVEMENTS AND CAPITAL IMPROVEMENTS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT (PORT), AND OTHER RELATED FACILITIES AND OPERATIONS OF THE PORT, THROUGH REVENUE BOND PROCEEDS

Hafa Adai Madame Speaker,

Bill No. 298-36 seeks to remove legislative funding caps associated with the capital improvement projects funded by revenue bonds and authorize the reprogramming of the Port Authority of Guam revenue bonds proceeds. The measure will allow the Port Authority of Guam to prioritize modernization projects within the port, which will support our island's continued economic growth and reinforce United States defenses in the western Pacific. For these reasons, I am signing Bill No. 298-36 into law as ***Public Law 36-134***.

Senseremente,

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

RECEIVED
DEC 29 2022
2:53 P.M.
COMMITTEE ON RULES

Enclosure: Bill No. 298-36 (LS) *nka P.L. No. 36-134*

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*, Lt. Governor of Guam
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 **Bill No. 298-36 (LS), "AN ACT TO *AMEND* SECTION 4(a) AND *ADD* A NEW SECTION 4(f) OF PUBLIC LAW 34-70, AS AMENDED BY SECTION 2 OF PUBLIC LAW 35-44, RELATIVE TO THE FINANCING OR REFINANCING IMPROVEMENTS AND CAPITAL IMPROVEMENTS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT (PORT), AND OTHER RELATED FACILITIES AND OPERATIONS OF THE PORT, THROUGH REVENUE BOND PROCEEDS,"** was on the 16th day of December 2022, duly and regularly passed.

Therese M. Terlaje
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 16TH day of Dec, 2022, at 10:06 o'clock P.M.

POZ C C Chong 362
Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 12/28/2022

Public Law No. 36-134

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

Bill No. 298-36 (LS)
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
V. Anthony Ada
Frank Blas Jr.
Joanne Brown
Christopher M. Dueñas
James C. Moylan
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* SECTION 4(a) AND *ADD* A NEW SECTION 4(f) OF PUBLIC LAW 34-70, AS AMENDED BY SECTION 2 OF PUBLIC LAW 35-44, RELATIVE TO THE FINANCING OR REFINANCING IMPROVEMENTS AND CAPITAL IMPROVEMENTS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT (PORT), AND OTHER RELATED FACILITIES AND OPERATIONS OF THE PORT, THROUGH REVENUE BOND PROCEEDS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Jose D. Leon Guerrero Commercial Port's modernization program is

designed to meet the island's growth, including the expansion of the U.S. military and the growing tourism market, with the key project initiatives as justified to the bond market investors, as follows:

(a) expansion of wharf space to accommodate larger vessels and increase vessel handling capacity;

(b) upgrade terminal operating system to allow for automated invoicing cargo and container tracking, financial management, and maintenance management;

(c) expansion of the existing facilities to support fishing and cruise line industries; and

(d) replacement of gantry cranes at the end of its useful life to maintain uninterrupted cargo movement.

As part of the modernization program, the Port through Public Law 34-70 obtained Seventy-one Million Four Hundred Forty-five Thousand Dollars ($71,445,000) in revenue bonds to finance certain capital improvements and to refinance all or a portion of outstanding loans of the Port Authority.

I Liheslaturan Guåhan finds that on July 20, 2018, Pro Marine Technology submitted its findings in an Underwater Assessment and Inspection Services of F-1, F-3, F-4, F-5, and F-6; and based on their assessment, found that the waterfront facilities were in dire need of repair and provided recommendations for such repair.

Moreover, *I Liheslaturan Guåhan* finds that to ensure the uninterrupted flow in the deployment of fuel products which could be obtained in F-1 Fuel Pier or Golf Fuel Pier, a connectivity line would need to be installed at F-1 to allow discharged or loaded fuel to be routed to and from other petroleum fuel companies' storage tanks.

To enhance the Port's invoicing to ensure one hundred percent (100%) cost recovery per the established tariffs, the Terminal Operating and Financial

Management systems must be integrated, along with an upgrade of the Ports' current information technology system for accurate financial data on the expenses rendered to vessels and related services versus revenues.

The 2007 Master Plan included a recommendation for the current Port Administration Building to be extended with an annex and a bridge connecting the building to the existing building for compliance with the Americans with Disabilities Act (ADA), but such project was changed in the 2013 Master Plan Update which endorsed that a large new building be constructed, and the current administration building be demolished.

In 2019, the Port presented to Governor Lourdes A. Leon Guerrero and members of the 35th Guam Legislature that if the Port pursues the 2007 Master Plan recommendation to construct an annex with a bridge connecting to the existing administration building, a portion of the funding originally earmarked for the construction of the new administration building could otherwise be used to address the deficiencies of the Port's revenue-generating waterfront facilities, a connectivity fuel line between Golf Pier and F-1 Pier, and improvements needed for the Port's information technology systems.

The 35th Guam Legislature unanimously agreed that an amendment to Section 4(a) of Public Law 34-70 would allow for the reprogramming of such bond proceeds needed to address the deficiencies of the Port's revenue-generating facilities, the connectivity fuel line between Golf Pier and F-1, and improvements needed for the Port's information systems, and all remaining balances, if any, shall be allocated to provide for supplemental funding for the procurement of a new gantry crane.

On October 16, 2019, Governor Leon Guerrero signed Bill No. 149-35(COR) into law as Public Law 35-44, which authorized the reprogramming of the Port

Authority revenue bond proceeds and amended the capital improvement projects in Section 4(a) of Public Law 34-70.

The Port issued a procurement on the architectural and engineering (A&E) designs for the Port revenue bond projects; and in the A&E designs the construction cost associated with the repairs exceeded those outlined in Section 4(a) of Public Law 34-70, as amended by Section 2 of Public Law 35-44. The engineering cost estimates outlined in the revenue bond mandates obtained back in 2014 are now severely underfunded. Because the mandates specifically identified the revenue bond project costs to be funded by the revenue bond, it did not allow the Port to reallocate revenue bond proceeds to address the anticipated shortfalls of the construction costs for which has specific costs associated in the mandates.

To address these shortfalls, Port management actively submitted requests for federal grants to fund some of the revenue bond projects, and they were awarded Two Million Four Hundred Thousand Dollars ($2,400,000) from the U.S. Economic Development Administration for the fuel connectivity line, freeing up a portion of the revenue bond proceeds for that project. The Board of Directors also authorized the General Manager to use other funding sources for the payment of the cost of construction or improvement or any part thereof or any available money or funds of the Port Authority made available by a federal grant to be expended. The Port held procurement solicitation openings for several of the revenue bond projects resulting in either no offers being submitted, or procurement construction bid submittal costs exceeded between ten percent (10%) to one hundred fifty-six percent (156%) of the legislative funding cap of the respective project.

A review of other revenue bond mandates for other autonomous agencies was made and it is noted that the Port's revenue bond legislation is the only legislation which specifically states the proceeds are to "finance certain Authority capital improvements, including, but not limited to..." and each project has an associated

funding cap versus other autonomous agencies' revenue bond legislations which simply stated the project(s) and total amount authorized to borrow. Although the Board of Directors authorized management to use other funding sources, it appears the revenue bond legislations may disallow the Port from exceeding the cost associated with the projects as outlined in Section 4(a) of Public Law 34-70, as amended by Section 2 of Public Law 35-44.

I Liheslaturan Guåhan finds that an amendment to Section 4(a) of Public Law 34-70, as amended by Section 2 of Public Law 35-44, to remove the legislative funding caps strictly tied to the 2018 Revenue Bond funds is necessary in order for the Port to accomplish its commitment of ensuring the modernization program is neither further delayed nor jeopardized.

It is, therefore, the intent of *I Liheslaturan Guåhan* to amend Section 4(a) of Public Law 34-70, as amended by Section 2 of Public Law 35-44, and remove the legislative funding caps associated with the capital improvement projects to be funded by the revenue bonds and authorize the reprogramming of the Port Authority of Guam revenue bond proceeds to fund the shortfalls.

Section 2. Section 4(a) of Public Law 34-70, as amended by Section 2 of Public Law 35-44, is hereby further *amended* to read:

"(a) to finance certain Authority capital improvements, including, but not limited to:

(1) local match for the Transportation Investment Generating Economic Recovery (TIGER) grant program funding for rehabilitation of "H" Wharf and access road;

(2) construction of an annex building with the construction of a bridge attached to the current Administration Building and upgrade of infrastructure. Any remaining balance resulting from this reset to the Port Modernization Plan shall be prioritized by the Port's Board of

Directors in order to shore up the Port's current related revenue-generating facilities and financial management systems, specifically for repair of F-1 Fuel Pier; repairs of F-3, F-4, F-5, and F-6 of the waterfront facilities; installation of a connectivity fuel line connecting Golf Pier and F-1 Fuel Pier; and an upgrade to the Port's information technology system and integration of the Terminal Operating System and Financial Management System;

(3) replacement and relocation of waterline(s);

(4) repair and expansion of the Equipment Maintenance & Repair Building (EQMR);

(5) repair of Warehouse 1;

(6) repair of Golf Pier; and

(7) all remaining balances, if any, shall be allocated to provide for supplemental funding for the procurement of a new gantry crane."

Section 3. A new Subsection (f) is *added* to Section 4 of Public Law 34-70 to read:

"(f) Reporting Requirements for Status of Bond Funded Projects. Notwithstanding any other provision of law, rule, or regulation, the Authority, shall, no later than the fifth (5th) day following the end of each month beginning on January 31, 2023, submit a report to the Speaker of *I Liheslaturan Guåhan* detailing information regarding the status of bond funded projects. The report shall include, but not be limited to, information relating to reprogrammed projects, obligated, de-obligated, encumbered, unencumbered and or expended revenue bonds or proceeds of the Port Authority of Guam."

Section 4. Effective Date. This Act shall be effective upon enactment.

Section 5. 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.