

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
240-36 (COR)	James C. Moylan	AN ACT TO AMEND § 16311 AND § 16312 OF CHAPTER 16, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING FINES IF PROVISIONS PURSUANT TO MANDATING REFERENDUMS FOR VOTER APPROVALS ON TAX INCREASES, GENERAL OBLIGATION BONDS, OR FEES, ARE IGNORED.	1/14/22 8:00 a.m.						

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

Bill No. 240-36 (COR)

Introduced by:

James C. Moylan 

AN ACT TO *AMEND* § 16311 AND § 16312 OF CHAPTER 16, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING FINES IF PROVISIONS PURSUANT TO MANDATING REFERENDUMS FOR VOTER APPROVALS ON TAX INCREASES, GENERAL OBLIGATION BONDS, OR FEES, ARE IGNORED.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that language has been in Guam's statutes since 1998, which requires the voter's approval for any locally enacted or administered tax, General Obligation Bonds pursued which exceeds Twenty-Five Million Dollars (\$25,000,000), or for the establishment of any new fees for existing government services. However, the mandate has not been truly enforced, or it is conveniently bypassed, just as in 2018, when the Business Privilege Tax (BPT) was increased indefinitely without the voter's approval.

The spirit of Public Law 24-222, which established the process for such voter approvals was to provide the community with decision making on mandates which directly impacts the pocketbooks of island residents. A process which mirrors many other jurisdictions nationally. While the intent or the need of the measure may differ in term of perspectives of the role of a legislative body, the reality is that unless the statute is repealed, it is still law.

1 It is also another example of a series of statutes in Guam's books which are
2 either never enforced or conveniently ignored, hence this Act establishes a fine on
3 any individual who administers a tax increase or new fee, which have not been
4 approved through the provisions stipulated in § 16311 and § 16312 of Chapter 16,
5 Title 3, Guam Code Annotated. In essence it would penalize anyone breaking the
6 law. Further, the greater objective is to hope that this Act would set the precedence
7 moving forward with assuring enacted statutes are indeed adhered to.

8 **Section 2.** § 16311 of Chapter 16, Title 3, Guam Code Annotated, is hereby
9 *amended* to read as follows:

10 **§ 16311. Referendum on Tax Increases Required.**

11 Notwithstanding any other provision of law, no increase in real property tax,
12 liquid fuel tax, business privilege tax or any locally enacted and administered tax
13 on Guam *shall* go into effect without the approval of the voters of Guam in a
14 referendum held during a general election or a special single-site election pursuant
15 to § 16214 of this Chapter. The manner in which a proposed tax increase *shall* be
16 placed in referendum before the voters of Guam pursuant to this Section *shall* be as
17 follows:

18 (a) *I Liheslaturan Guåhan* must pass, in bill form, a proposed tax
19 increase, the effective date to be thirty (30) days after ratification by the
20 voters of Guam in a referendum, such ratification to be certified by the
21 Guam Election Commission. The bill must detail the amount and nature of
22 the proposed increase and the purpose to which such proposed increase *shall*
23 be applied.

24 (b) No more than ten (10) days after the bill is enacted into law, the
25 full text of the law shall be transmitted to the Guam Election Commission by
26 the Legislative Secretary of *I Liheslaturan Guåhan*. The Guam Election
27 Commission *shall* place before the voters of Guam the question of whether

1 the voters approve or disapprove of the proposed tax increase at the next
2 General Election; provided, that the date of transmittal of the proposed tax
3 increase from *I Liheslaturan Guåhan* to the Guam Election Commission is at
4 least ninety (90) days prior to the date of the next General Election.

5 (c) The Guam Election Commission *shall* cause to appear in a daily
6 periodical of mass publication on Guam a full text of the proposed tax
7 increase to be submitted to the voters in referendum pursuant to this Section,
8 at a date no less than thirty (30) days prior to the General Election during
9 which the referendum shall be held. *I Liheslaturan Guåhan shall* make such
10 provisions as are deemed necessary to provide the public with information
11 necessary to arrive at an informed position with respect to the proposal.

12 (d) Any submission to the voters made pursuant to this Section *shall*
13 be treated as an initiative for the purpose of determining the number of votes
14 needed to ratify a proposal placed before the voters pursuant to this Section.

15 (e) Notwithstanding any other provisions of the law, rule, or
16 regulation to the contrary, any individual who administers or enforces a tax
17 increase on a locally enacted or administered tax in Guam, without the
18 approval of voters through the provisions stipulated pursuant to § 16311 of
19 this Chapter, shall be subject to a fine of Five Hundred Dollars (\$500) for
20 the violation, and these monies shall be deposited to the Better Public
21 Service Fund, pursuant to Chapter 161 of Title 11, Guam Code Annotated.

22 This Section *shall* not be interpreted as requiring voter ratification of a tax
23 imposed by the government of the United States of America, provided that this
24 Section *shall* apply upon de-linkage of the Guam income tax from the Federal
25 Internal Revenue Code.

26 **Section 3.** § 16312 of Chapter 16, Title 3, Guam Code Annotated, is hereby
27 *amended* to read as follows:

1 **§ 16312. Voter Approval Required on General Obligation Bonds and Certain**
2 **Fees.**

3 (a) The provisions of § 16311 of this Article and Chapter *shall* apply
4 in the case of any general obligation bond of the government of Guam in
5 excess of Twenty-Five Million Dollars (\$25,000,000), as well as in the case
6 of the creation of any new fee for service proposed to be established in such
7 cases where the fee is for a service already provided by the government of
8 Guam prior to the establishment of the new fee, and where such service was
9 previously funded through other revenues.

10 (b) Notwithstanding any other provisions of the law, rule, or
11 regulation to the contrary, any individual who administers or enforces the
12 provisions of pursuing general obligation bonds of the government of Guam
13 in excess of Twenty-Five Million Dollars (\$25,000,000) or charging new
14 fees, pursuant to § 16312(a) of this Chapter, without the approval of voters
15 through the provisions stipulated pursuant to § 16311 of this Chapter, *shall*
16 be subject to a fine of Five Hundred Dollars (\$500) for the violation, and
17 these monies *shall* be deposited to the Better Public Service Fund, pursuant
18 to Chapter 161 of Title 11, Guam Code Annotated.

19 **Section 4. Severability.** If any provision of this Act or its application to any
20 person or circumstance is found to be invalid or contrary to law, such invalidity
21 *shall not* affect other provisions or applications of this Act that can be given effect
22 without the invalid provision or application, and to this end the provisions of this
23 Act are severable.

24 **Section 5. Effective Date.** The Act *shall* be effective upon enactment.