

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
365-36 (LS)	Jose "Pedro" Terlaje	AN ACT TO ADD A NEW SECTION 54 TO CHAPTER XII OF PUBLIC LAW 36-107, THE FISCAL YEAR 2023 GENERAL APPROPRIATIONS ACT, RELATIVE TO ACHIEVING SALARY PARITY FOR ATTORNEYS SERVING AS CRIMINAL DEFENSE ATTORNEYS AT THE PUBLIC DEFENDER SERVICE CORPORATION AND THE ALTERNATE PUBLIC DEFENDER.	12/12/22 10:52 a.m.	12/21/22	Committee on General Government Operations, Appropriations, and Housing			12/23/22	



Vice Speaker

**TINA ROSE MUÑA BARNES**

**CHAIRPERSON, COMMITTEE ON RULES**

*I Mina'trentai Sais Na Liheslaturan Guåhan*

GUAM CONGRESS BUILDING  
163 CHALAN SANTO PAPA  
HAGÅTÑA, GUAM 96910  
TEL 671-472-2461  
COR@GUAMLEGISLATURE.ORG

December 23, 2022

# MEMO

**To:** Rennae Meno  
Clerk of the Legislature

**From:** Vice Speaker Tina Rose Muña Barnes  
Chairperson, Committee on Rules

**Re:** Fiscal Note on Bill No. 365-36 (LS)

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*Håfa Adai,*

Attached, please find the fiscal note for the following bill:

**Bill No. 365-36 (COR)**

Please forward the same to Management Information Services (MIS) for posting on our website.

If you have any questions or concerns, please feel free to contact Hannah Elmore, Acting Committee on Rules Director at 472-2461.

Thank you for your attention to this important matter.



**Bureau of Budget & Management Research**  
Fiscal Note of Bill No. 365-36 (LS)

**AN ACT TO ADD A NEW SECTION 54 TO CHAPTER XII OF PUBLIC LAW 36-107, THE FISCAL YEAR 2023 GENERAL APPROPRIATIONS ACT, RELATIVE TO ACHIEVING SALARY PARITY FOR ATTORNEYS SERVING AS CRIMINAL DEFENSE ATTORNEYS AT THE PUBLIC DEFENDER SERVICE CORPORATION AND THE ALTERNATE PUBLIC DEFENDER.**

**Department/Agency Appropriation Information**

Dept./Agency Affected: Public Defender Service Corp./ Alternate Public Defender	Dept./Agency Head: Stephen P. Hattori, Executive Director
Department's General Fund (GF) appropriation(s) to date:	\$6,481,092
Department's Other Fund (specify):	\$0
Total Department/Agency Appropriation(s) to date:	\$6,481,092

**Fund Source Information of Proposed Appropriation**

	General Fund:	Special Fund:	Total:
FY 2022 Unreserved Fund Balance		\$0	\$0
FY 2023 Adopted Revenues	\$0	\$0	\$0
FY 2023 Appro. (P.L. 36-107 thru 36-XX)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

**Estimated Fiscal Impact of Bill**

	One Full Fiscal Year	For Remainder of FY 2023 (if applicable)	FY 2024	FY 2025	FY 2026	FY 2027
General Fund	\$0	1/	1/	\$0	\$0	\$0
Special Fund	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	1/	1/	\$0	\$0	\$0

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|---|------------------|---------|
| 1. Does the bill contain "revenue generating" provisions?                             | / / Yes          | / X/ No |
| If Yes, see attachment  |                  |         |
| 2. Is amount appropriated adequate to fund the intent of the appropriation?           | / X/ N/A         | / / Yes |
| If no, what is the additional amount required? \$ _____                               | / X/ N/A         | / / No  |
| 3. Does the Bill establish a new program/agency?                                      | / / Yes          | / X/ No |
| If yes, will the program duplicate existing programs/agencies?                        | / / N/A          | / / Yes |
| Is there a federal mandate to establish the program/agency?                           | / / Yes          | / X/ No |
| 4. Will the enactment of this Bill require new physical facilities?                   | / / Yes          | / X/ No |
| 5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: | / X/ Yes         | / / No  |
| / / Requested agency comments not received by due date                                | / / Other: _____ |         |

Analyst: <u>Anthony Quintana, BMA I</u>	Date: <u>12/22/22</u>	Director: <u>Lester L. Carlson, Jr.</u>	Date: <u>DEC 22 2022</u>
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1/ See attached comments

BUREAU OF BUDGET AND MANAGEMENT RESEARCH  
COMMENTS ON BILL NO. 365-36(LS)

The proposed legislation adds a new Section 54 to Chapter XII of Public Law 36-107 which will provide Special Pay for Public Defenders. The Section 54 will add a new §11111.1 to Chapter 11, Title 12, Guam Code Annotated. The intent is to achieve parity for attorneys serving as criminal defense attorneys at the Public Defender Service Corporation (PDSC) and the Alternate Public Defender (APD) to be entitled to special pay, calculated at the rate of their regular wage plus 15%.

Enacted on September 12, 2022, Public Law 36-107 ("FY 2023 General Appropriations Act") in part appropriates funding for the implementation of pay raises to help the PDSC and the Office of the Attorney General (OAG) improve recruitment and retentions of qualified criminal attorneys. However, whereas the FY 2023 General Appropriations Act provided the public defenders 6% salary increase, the budgeted bill was further amended on the floor to give prosecutors a 15% differential pay upon enactment. The subsequent result of this legislation is the pay disparity between the prosecutors and the public defenders for comparable work and impacts the PDSC's and APD's ability to hire and retain attorneys willing to represent those charged with criminal offenses.

According to the PDSC, there will be increased personnel services costs. The estimated additional amount required for PDSC is \$297,335 and for APD is \$112,640 for a total a \$409,974 for FY2023. The proposed legislation does not include an appropriation to cover the additional personnel services costs but provides authorization to be paid from FY2023 appropriations and other funds available from prior years. The PDSC also notes that additional funding will be required in subsequent fiscal years to continue the additional pay requirement beyond FY2023.