

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
301-36 (LS)	Joe S. San Agustin	AN ACT TO APPROVE THE LAND LEASE AGREEMENT AS LENDERS' CONDITION TO FUND THE CONSTRUCTION OF A 198 MW POWER PLANT AND BESS FACILITY LOCATED ON LOT NOS. 5010 1NEW-NEW-1 AND 5010-1NEW-NEW-R1, DEDEDO, AND A RELATED RESERVE FACILITY LOCATED ON LOT NO. 261-2, PITI, GUAM, AND TO AUTHORIZE THE USE OF THOSE PROPERTIES FOR SUCH PURPOSES.	4/29/22 9:46 a.m.	4/29/22	Committee on Health, Land, Justice, and Culture			Request: 4/29/22  5/6/22	



Vice Speaker

**TINA ROSE MUÑA BARNES**

**CHAIRPERSON, COMMITTEE ON RULES**

*I Mina'trentai Sais Na Liheslaturan Guåhan*

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May 6, 2022

# MEMO

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

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

**Re:** **Fiscal Notes on Bill Nos. 299-36 (LS) and 301-36 (LS)**

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*Håfa adai,*

Attached, please find the fiscal notes for the following bills:

**Bill No. 299-36 (LS)**

**Bill No. 301-36 (LS)**

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 Mary Maravilla, 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. 301-36 (LS)**

**AN ACT TO APPROVE THE LAND LEASE AGREEMENT AS LENDERS' CONDITION TO FUND THE CONSTRUCTION OF A 198 MW POWER PLANT AND BESS FACILITY LOCATED ON LOT NOS. 5010-1NEW-NEW-1 AND 5010-1NEW-NEW-R1, DEDED0, AND A RELATED RESERVE FACILITY LOCATED ON LOT NO. 261-2, PITI, GUAM, AND TO AUTHORIZE THE USE OF THOSE PROPERTIES FOR SUCH PURPOSES.**

**Department/Agency Appropriation Information**

Dept./Agency Affected: Guam Power Authority	Dept./Agency Head: John M. Benavente, P.E., General Manager
Department's General Fund (GF) appropriation(s) to date:	\$0
Department's Other Fund appropriation(s) to date:	\$0
Total Department/Agency Appropriation(s) to date:	\$0

**Fund Source Information of Proposed Appropriation**

	General Fund:	(Specify Special Fund):	Total:
FY 2021 Unreserved Fund Balance	\$0	\$0	\$0
FY 2022 Adopted Revenues	\$0	\$0	\$0
FY 2022 Appro. (P.L. 36-54 thru )	\$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 2022 (if applicable)	FY 2023	FY 2024	FY 2025	FY 2026
General Fund	1/	\$0	\$0	\$0	\$0	\$0
Special Fund	1/	\$0	\$0	\$0	\$0	\$0
Total	1/	\$0	\$0	\$0	\$0	\$0

- |   |            |          |
|---|------------|----------|
| 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?                        | / X / 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: Abigail R. Ofeciar  
 Abigail R. Ofeciar, BMA III

Date: 5/4/2022

Director: Lester L. Carlson, Jr.  
 Lester L. Carlson, Jr., Director

Date: MAY 06 2022

Notes:  
 1/ See attached comments.

BUREAU OF BUDGET AND MANAGEMENT RESEARCH  
COMMENTS ON BILL NO. 301-36 (LS)

The proposed legislation intends to approve the land lease agreement, attached as Exhibit A “Second Amended and Restated Land Lease Agreement” between the Guam Power Authority (GPA), as lessor and the Guam Ukudu Power, LLC (GUP), as lessee. The properties subject to the land lease agreement are identified as Lot No. 5010-1NEW-NEW-1 and Lot No. 5010-1NEW-NEW-R1, both in the municipality of Dededo, Guam; and Lot No. 261-2 in the municipality of Piti, Guam. Collectively, these three parcels of land are part of the New Power Plant Project as mandated by a Consent Decree filed on April 20, 2020 relative to Case No. 1:20-cv-00007 (U.S. District Court of Guam). Said properties will be used for the construction and operation of a natural gas/ultra-low sulfur diesel dual-fired power electric facility and a related battery energy storage system in Dededo, as well as an ultra-low sulfur high speed diesel reserve facility in Piti. Said lease agreement shall be for a period not to exceed twenty-five (25) contract years from the Commercial Operation Date.

The proposed legislation also intends to grant waivers from the conditions set forth in 1) Section 60115, Chapter 60 of Title 21 Guam Code Annotated (GCA) relative to the review by appropriate Municipal Planning Council; 2) Section 5127, Chapter 5 of Title 5 GCA relative to commercial leasing of public real property and related facilities not to exceed five (5) years; and 3) Section 2107, Chapter 2 of Title 2 GCA and Section 6.04(c)(i) of the Standing Rules of the 36<sup>th</sup> Guam Legislature relative to the appraisals of land identified in bills authorizing the transfer or leasing of land(s). The proposed legislation shall be effective upon enactment.

In terms of fiscal impact, Article 4 of the land lease agreement states that the “Project Company will pay to GPA as rent... the annual sum of US\$100.00.” For purposes of the lease agreement, GUP, as lessee is also referred to as the Project Company. Relative to project financing, Article 13 of the land lease agreement states that the Project Company will obtain third party debt financing from lenders, subject to customary lender mortgage rights and liens upon the premises and related improvements. Article 15 of the lease agreement also states that the Project Company will be responsible for the payment of all taxes, assessments, and similar charges during the term of the lease. Liabilities pertaining to destruction of premises, for injury or damage under the lease agreement, for insurance coverage, and environmental protection shall be at the expense of the Project Company.

While the proposed legislation has no direct fiscal impact on the General Fund as confirmed by GPA, the Bureau recognizes that this proposed legislation may have an impact on the revenues and expenditures of GPA, which is an autonomous agency pursuant to Chapter 8 of Title 12 of the GCA. GPA stated that the passage of this legislation is crucial to meet the requirements of the April 20, 2020 Consent Decree as it pertains to the commissioning of the new Ukudu power plant in Dededo and reserve facility in Piti.