

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

Bill No. *389-33 (COR)*

Introduced by:

B. J. F. Cruz 

AN ACT TO *APPROPRIATE* FISCAL YEAR 2016 GENERAL FUND REVENUES TO THE GOVERNMENT OF GUAM RETIREMENT FUND, TO *AMEND* SECTION 6 OF CHAPTER XI AND SECTION 8, CHAPTER I OF PUBLIC LAW 33-66 RELATIVE TO THE PAYMENT OF FISCAL YEAR 2016 RETIREE MEDICAL, DENTAL, AND LIFE INSURANCE EXPENSES AND TO PROVIDE A CASH CONTINGENCY FOR ANTICIPATED FISCAL YEAR 2017 RETIREE MEDICAL, DENTAL, AND LIFE INSURANCE EXPENSES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that Public Law 33-66, the General Appropriations Act of 2016 adopted a General Fund revenue projection of Eight Hundred Twenty Four Million Nine Hundred Ninety Eight Thousand Two Dollars (**\$824,998,002**). *I Liheslaturan Guåhan* further finds that § 22436, Article 4, Chapter 22, Title 5 of the Guam Code Annotated sets a General Fund Appropriations Cap wherein *I Liheslaturan Guåhan shall not* appropriate more than ninety-eight percent (98%) of the total revenues projected for the General Fund for the fiscal year until such time as the General Fund deficit is eliminated. All unappropriated annual General Fund revenues collected in excess of appropriations *shall* be used to liquidate obligations for refunds, earned income tax credits and prior years' vendor payables.

I Liheslaturan Guåhan further finds that *I Maga'låhen Guåhan*, in his submission of the Executive Budget Request for FY 2016, did not include such a

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1 General Fund Appropriations Cap and that *I Liheslatura*, after having received the
2 results of the Government-Wide Audited Financial Statements for FY 2014
3 discovered that there was a cumulative General Fund deficit as of the end of FY
4 2014 of Fifty Nine Million Six Hundred Fifteen Thousand Sixty Five Dollars
5 (**\$59,615,065**) which prompted the General Fund Appropriations Cap mandated in
6 § 22436, Article 4, Chapter 22, Title 5 of the Guam Code Annotated.

7 *I Liheslaturan Guåhan* further finds that Public Law 33-66 includes such
8 General Fund Appropriations Cap of ninety-eight percent (98%) whereby two
9 percent (2%) was set aside for deficit reduction in accordance with § 22436,
10 Article 4, Chapter 22, Title 5 of the Guam Code Annotated. The two percent (2%)
11 General Fund reserve for deficit reduction amounted to Thirteen Million Five
12 Hundred Seventy Two Thousand Two Hundred Eighty Nine Dollars
13 (**\$13,572,289**). As a result of this General Fund Appropriations Cap, this sum was
14 *not* appropriated in Public Law 33-66.

15 *I Liheslaturan Guåhan* further finds that as of October 18, 2016, according
16 to the government of Guam financial management system, the AS400, the sum of
17 Eight Hundred Twenty Four Million Nine Hundred Thirty Eight Thousand Three
18 Hundred Eight Dollars (**\$824,938,308**) was collected in General Fund revenue in
19 FY 2016. The adopted General Fund revenue in Public Law 33-66 was Eight
20 Hundred Twenty Four Million Nine Hundred Ninety Eight Thousand Two Dollars
21 (**\$824,998,002**) which represents a variance of *only* Fifty Nine Thousand Six
22 Hundred Ninety Four Dollars (**\$59,694**) or seven thousandths of a percent
23 (0.007%).

24 As a result of the government of Guam collecting over ninety-nine and
25 ninety-nine hundredths percent (99.99%), there remains over Thirteen Million Five
26 Hundred Thousand Dollars (**\$13,500,000**) available to appropriate toward
27 liquidating obligations for such things as vendor payables.

1 *I Liheslaturan Guåhan* further finds that *I Maga'låhen Guåhan*, in his
2 Executive Budget Request for FY 2016, requested an appropriation of Twenty
3 Four Million Two Hundred Five Thousand Nine Hundred Eighty One Dollars
4 **(\$24,205,981)** for Retiree Medical, Dental, and Life insurance premiums and that *I*
5 *Liheslatura* appropriated the exact same amount as requested by *I Maga'låhen*
6 *Guåhan* in Public Law 33-66.

7 *I Liheslaturan Guåhan* further finds that as a result of increased retiree
8 premiums in FY 2016, a spending/appropriation authority shortfall has been
9 estimated by the Department of Administration of approximately Thirteen Million
10 Eight Hundred Thousand Dollars **(\$13,800,000)**. *I Liheslatura* understands that the
11 Director of Administration has stated that cash is not an issue, rather
12 spending/appropriation authority is all that is necessary to be able to expend
13 government funds to cover this shortfall.

14 Therefore, *I Liheslaturan Guåhan* appropriates the available sum from the
15 FY 2016 two percent (2%) General Fund reserve revenues that remains un-
16 appropriated toward the payment of FY 2016 Retiree Medical, Dental, and Life
17 insurance premiums.

18 **Section 2. Appropriation for Retiree Medical, Dental, and Life**
19 **Insurance Premiums in FY 2016.** The sum of Thirteen Million Five Hundred
20 Twelve Thousand Five Hundred Ninety Five Dollars **(\$13,512,595)** is hereby
21 appropriated from FY 2016 General Fund revenues to the Government of Guam
22 Retirement Fund for the sole purpose of paying retiree group medical and dental
23 insurance premiums and coverage and life insurance subsidy for Judiciary of Guam
24 retirees, to continue existing programs currently contained in the semi-monthly
25 payments. The appropriation in this Section *shall not* lapse and *shall* continue in
26 FY 2017.

1 **Section 3.** Section 6 of Chapter XI, Public Law 33-66 is hereby *amended* to
2 read:

3 **“Section 6. Retiree Medical, Dental and Life Insurance Expenses**
4 **Appropriated to the Government of Guam Retirement Fund (GGRF).** The sum
5 of Twenty-Three Million Five Hundred Thousand Nine Hundred Eighty-One
6 Dollars (**\$23,005,981**) is appropriated from the General Fund, and One Million Two
7 Hundred Thousand Dollars (**\$1,200,000**) is appropriated from the Section 2718 Fund
8 to the GGRF to pay for retiree group medical and dental insurance premiums and
9 life insurance subsidy, including retiree group medical and dental insurance
10 premiums and coverage and life insurance subsidy for Judiciary of Guam retirees, to
11 continue existing programs currently contained in the semi-monthly payments. The
12 appropriation from the unappropriated fund balance of the Section 2718 Fund in this
13 Section *shall* continue to be available until fully expended. In addition to General
14 Fund transfer authority authorized in Section 9, Chapter XIII of this Act, *I*
15 *Maga’låhen Guåhan* is authorized to transfer *up to* ~~Ten Million~~ Three Hundred
16 Thousand Dollars (\$10,000,000-300,000) from General Fund appropriations in Part
17 IV of Chapter II, Parts II, III, and IV of Chapter III, and Chapter V to cover
18 government of Guam retiree medical, dental, and life insurance expenses for FY
19 2016. Such transfer authority authorized in this Section shall be reported to the
20 Speaker of I Liheslaturan Guåhan no later than five (5) calendar days after such
21 transfer is made. Such report shall include the amount transferred, the agency,
22 division, program, and AS400 account number from which such appropriation was
23 transferred.”

24 **Section 4.** Section 8 of Chapter I, Public Law 33-66 is hereby *amended* to
25 read:

26 **“Section 8. Excess Section 30 Fund Revenues.** Notwithstanding §§ 22903
27 and 22904, Article 9, Chapter 22, Title 5 of the Guam Code Annotated, and any

1 other provision of law, rule, or regulation, any Section 30 Funds received by the
2 government of Guam during Fiscal Year 2016~~7~~ above the sum of ~~Seventy Seven~~
3 ~~Million Nine Hundred Fifty One Thousand Seven Hundred Ninety Six~~ Seventy
4 Four Million Nine Hundred Thousand Two Hundred Ninety Dollars (\$77,951,796
5 74,900,290) is hereby appropriated to the Rainy Day Fund (Article 9, Chapter 22,
6 Title 5 of the Guam Code Annotated) for the *sole* purpose of establishing a cash
7 contingency account for the government of Guam bi-weekly payroll and cost of
8 living allowance cash shortfalls, and *shall* continue to be available.

9 Notwithstanding §§ 22903 and 22904, Article 9, Chapter 22, Title 5 of the
10 Guam Code Annotated, the Director of Administration: (1) *shall* establish a
11 separate and restricted bank account solely for the Rainy Day Fund; and (2) *shall*
12 deposit the cash from excess Section 30 Funds received in accordance with this
13 Section *no later than* three (3) days after receipt of said funds; and (3) *shall not*
14 withdraw, expend, transfer, or otherwise displace any cash from the Rainy Day
15 Fund deposited pursuant to this Section *unless* otherwise authorized by this
16 Section. Notwithstanding any other provision of law, *I Maga'låhen Guåhan shall*
17 *not* authorize the withdrawal, expenditure, or transfer of any cash deposited into
18 the Rainy Day Fund pursuant to this Section *unless* an Executive Order is issued
19 and delivered to the Speaker of *I Liheslaturan Guåhan* declaring an emergency
20 relative to the need to utilize such cash contingency for: (1) bi-weekly payroll for
21 the government of Guam employees-~~or~~, (2) payment for cost of living allowances
22 to government of Guam retirees; or (3) payment of Fiscal Year 2017 retiree
23 medical, dental, and life insurance expenses. Such Executive Order *shall* include
24 the details of such emergency declared and the specific use of the cash deposited
25 into the Rainy Day Fund. The Executive Order *shall* include certification from the
26 Director of the Department of Administration on the proposed withdrawal,
27 transfer, or expenditure from the Rainy Day Fund. The Rainy Day Fund *shall* be

1 replenished by the government of Guam by the end of the fiscal year in which such
2 withdrawal, transfer, and/or expenditure occurred including any interest, penalties,
3 or fees due to the withdrawal. It *shall* be a ministerial duty of the Director of
4 Administration to adhere to the requirements in this Section.”

5 **Section 5. Effective Date.** This Act *shall* become effective upon enactment.

6 **Section 6. Severability.** *If* any provision of this Act or its application to any
7 person or circumstance is held invalid, the invalidity *shall not* affect other provisions
8 or applications of this Act which can be given effect without the invalid provision or
9 application and to this end the provisions of this Act is severable.