

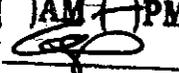


Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Office of the People's Speaker
vicente (ben) c. pangelinan

APR 29 2004

TIME: 4:22 AM + PM
RECEIVED BY: 

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

29 APR 2004

The Honorable Vicente C. Pangelinan
Speaker
Mina' Bente Siete Na Liheslaturan Guåhan
Twenty-Seventh Guam Legislature
155 Hesler Street
Hagåtña, Guam 96910

Dear Speaker Pangelinan:

Transmitted herewith is Bill No. 66 (LS), "AN ACT *ADD* A NEW §22430 OF ARTICLE 4, CHAPTER 22, DIVISION 2, TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO EXPIRATION DATE FOR ENCUMBRANCES; AND TO *AMEND* §22203 OF ARTICLE 2, CHAPTER 22, DIVISION 2, TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO CLOSING GOVERNMENT OF GUAM BANK ACCOUNTS," now designated as **Public Law 27-78**.

Sinseru yan Magåhet,



FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: a copy of the overridden bill is attached

cc: The Honorable Tina Rose Muna-Barnes
Senator and Legislative Secretary



MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN
TWENTY-SEVENTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

April 27, 2004

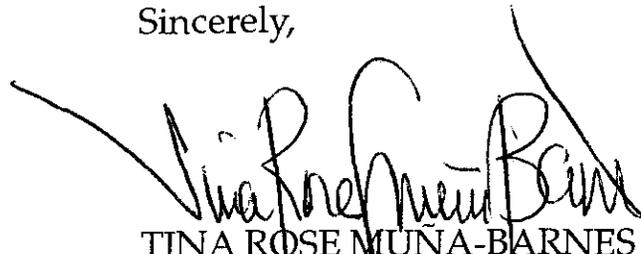
The Honorable Felix P. Camacho
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Substitute Bill Nos. 49(COR) and 66(LS) which were overridden by *I Mina'Bente Siete Na Liheslaturan Guåhan* on April 26, 2004, notwithstanding your veto.

Sincerely,


TINA ROSE MUNA-BARNES
Legislative Secretary

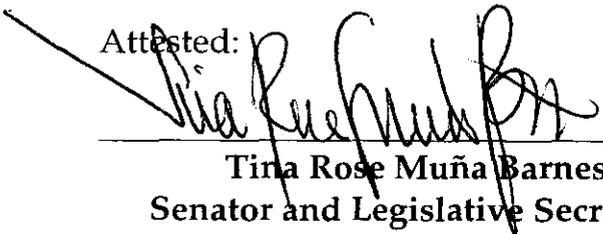
Enclosures (2)

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

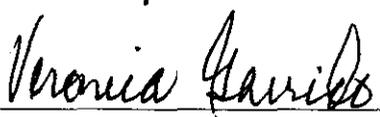
This is to certify that **Substitute Bill No. 66 (LS), "AN ACT TO ADD A NEW §22430 OF ARTICLE 4, CHAPTER 22, DIVISION 2, TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO EXPIRATION DATE FOR ENCUMBRANCES; AND TO AMEND §22203 OF ARTICLE 2, CHAPTER 22, DIVISION 2, TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO CLOSING GOVERNMENT OF GUAM BANK ACCOUNTS,"** returned without approval of *I Maga'lahen Guåhan* was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 26th day of April, 2004, to pass said bill notwithstanding the veto of *I Maga'lahen Guåhan* by a vote of Fifteen (15) Members.

Attested:


Tina Rose Muña Barnes
Senator and Legislative Secretary

vicente (ben) c. pangelinan
Speaker

This Act was received by *I Maga'lahen Guåhan* this 27 day of April, 2004, at 11:45
o'clock 4.M.



Assistant Staff Officer
Maga'lahi's Office

Public Law No. 27-78

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2003 (FIRST) Regular Session

Bill No. 66 (LS)

As substituted by the Author
and amended on the Floor.

Introduced by:

v. c. pangelinan
F. B. Aguon, Jr.
J. M.S. Brown
F. R. Cunliffe
C. Fernandez
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
L. A. Leon Guerrero
J. A. Lujan
T. R. Muña Barnes
J. M. Quinata
R. J. Respicio
Toni Sanford
Ray Tenorio

AN ACT TO ADD A NEW §22430 OF ARTICLE 4,
CHAPTER 22, DIVISION 2, TITLE 5 OF THE GUAM
CODE ANNOTATED, RELATIVE TO EXPIRATION
DATE FOR ENCUMBRANCES; AND TO AMEND §22203
OF ARTICLE 2, CHAPTER 22, DIVISION 2, TITLE 5 OF
THE GUAM CODE ANNOTATED, RELATIVE TO
CLOSING GOVERNMENT OF GUAM BANK
ACCOUNTS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*
3 finds that the government of Guam encumbrances have grown from
4 Eighteen Million Four Hundred Thousand Dollars (\$18,400,000.00) in

1 Fiscal Year 1998 to Fifty Million One Hundred Thousand Dollars
2 (\$50,100,000.00) in Fiscal Year 2001. In addition, encumbrances for
3 Fiscal Years 1990, 1991, 1993, 1994, 1996, and 1997 increased by Two
4 Hundred Thirteen Thousand Dollars (\$213,000.00), while Fiscal Years
5 1992 and 1995 encumbrances decreased only by Thirteen Thousand
6 Dollars (\$13,000.00). Encumbrances that old should not be increasing
7 but rather be decreasing, if not completely eliminated as it creates
8 potential cash drain in the government's coffers.

9 Therefore, it is the intent of *I Liheslaturan Guåhan* to ensure that
10 such encumbrances are not used as the authority for the reallocation of
11 additional funding for purposes that no appropriation may have been
12 made. Moreover, elimination of aged encumbrances will provide the
13 government of Guam a better understanding of its General Fund
14 ("Fund") cash standing and ensure that appropriations are expended as
15 authorized.

16 **Section 2.** A new §22430 is hereby *added* to Article 4 of Chapter
17 22, Division 2, Title 5 of the Guam Code Annotated, to read as follows:

18 **"§22430. (a) Expiration Date for Encumbrances.** An
19 encumbrance against any type of appropriation shall be
20 automatically returned to the Fund against which it was
21 encumbered nine (9) months after fiscal year end in which the
22 encumbrance was originally recorded, unless the encumbrance
23 falls under requirements imposed by United States law governing
24 United States Federal awards.

1 (b) Encumbrances that are returned to the Fund against
2 which it was encumbered are hereby de-appropriated. The
3 appropriate government of Guam department, agency,
4 instrumentality, or public corporation incurring the encumbrance
5 may submit a request for a re-appropriation immediately, to *I*
6 *Liheslaturan Guåhan*. The request for a re-appropriation shall
7 include, but not be limited to, the reason why such appropriation
8 is necessary, and details on the delay of expending the original
9 encumbrance by the requesting department, agency,
10 instrumentality, or public corporation.

11 (c) All capital improvement, or capital outlay project
12 encumbrances shall be exempted from this Section.”

13 **Section 3.** §22203 of Article 2, Chapter 22, Division 2, Title 5 of
14 the Guam Code Annotated, is hereby *amended* to read as follows:

15 “§22203. **Duties of Director.** The Director shall, with due
16 regard for the function of the specific agencies concerned, organize
17 and operate the accounting system on a fund basis with a self-
18 balancing set of accounts, recording cash and/or other resources
19 together with all related liabilities, obligations, reserves and
20 equities which are segregated for the purpose of carrying on
21 specific activities or attaining certain objectives; establish an
22 accounting system which provides budgetary control over general
23 governmental revenues and expenditures; determine fairly and
24 with full disclosure the financial position and results of financial
25 operations; show that all applicable legal provisions have been

1 complied with; establish various types of funds as are necessary
2 and as required by law; shall account in the General Fund all
3 financial transactions not properly accounted for in another fund;
4 shall account in the Special Revenue Funds all proceeds of specific
5 revenue sources or to finance specific activities as required by law;
6 shall account in the capital improvements funds all receipts and
7 disbursements of monies used for the acquisition of capital
8 facilities; shall account in other funds consistent with legal and
9 operating requirements; classify accounts to insure compliance
10 with budgetary provisions; provide a basis for financial and
11 administrative control, furnish data required for financial
12 statements and provide a basis for comparison with similar data
13 for other periods, etc.; establish standards, procedures and
14 techniques for a central accounting system; conduct a continuing
15 review of all accounting operations to effect improvements in
16 accordance with current accounting practices; establish standards
17 for the preparation of financial statements and other reports as are
18 necessary; maintain all Federal grant award funds including
19 maintenance of encumbrance and expenditure; obtain reports
20 from all departments and agencies as are required for the effective
21 administration of a central accounting system; and establish
22 written policies or procedures that provide guidance on *how* and
23 *when* to transfer funds and close government of Guam bank
24 accounts, ensuring that the Treasurer of Guam does not close bank
25 accounts or transfer funds in bank accounts, until the affected

1 agencies have had the opportunity to determine the best method
2 for clearing all legal and outstanding transactions.”

3 **Section 4.** The requirement of establishing written policies or
4 procedures in transferring funds and closing government of Guam bank
5 accounts, pursuant to Section 3 of this Act, shall be completed within
6 thirty (30) days after the enactment of this Act.

7 **Section 5. Severability.** *If* any provision of this Law or its
8 application to any person or circumstance is found to be invalid or
9 contrary to law, such invalidity shall *not* affect other provisions or
10 applications of this Law which can be given effect without the invalid
11 provisions or application, and to this end the provisions of this Law are
12 severable.

Furthermore, extending or deleting executive accounts is part of the spending power inherent in the Executive Branch. Therefore, the Legislature should not be in the business of affecting the details of fiscal management of encumbrances. For these reasons, I have vetoed Bill No. 66.

Sincerely yours,



FELIX P. CAMACHO

I Maga'lahaen Guåhan

Governor of Guam

Attachment: original attached for vetoed bill

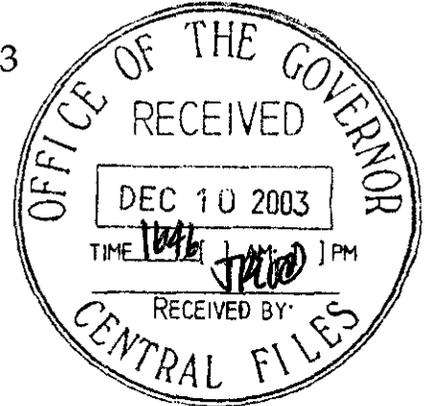
cc: The Honorable Tina Rose Muña-Barnes
Senator and Legislative Secretary



MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN
TWENTY-SEVENTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

December 10, 2003

The Honorable Felix P. Camacho
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 60(COR), 62(COR), 78(LS), 107(COR), 139(COR), 154(COR) and 182(LS), and Substitute Bill Nos. 11(COR), 23(COR), 32(COR), 66(LS), 156(COR), 169(LS) and 171(LS) which were passed by *I Mina' Bente Siete Na Liheslaturan Guåhan* on December 6, 2003.

Sincerely,

A handwritten signature in black ink, appearing to read "Tina Rose Muña Barnes".

TINA ROSE MUÑA BARNES
Legislative Secretary

Enclosures (14)

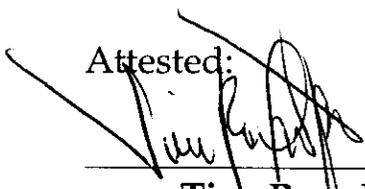
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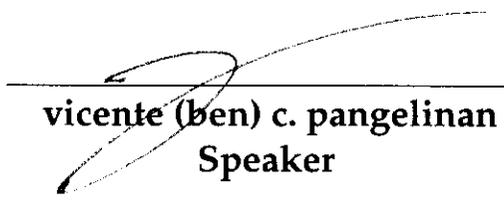
I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2003 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 66 (LS), "AN ACT TO ADD A NEW §22430 OF ARTICLE 4, CHAPTER 22, DIVISION 2, TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO EXPIRATION DATE FOR ENCUMBRANCES; AND TO AMEND §22203 OF ARTICLE 2, CHAPTER 22, DIVISION 2, TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO CLOSING GOVERNMENT OF GUAM BANK ACCOUNTS," was on the 6th day of December, 2003, duly and regularly passed.

Attested:


Tina Rose Muña Barnes
Senator and Legislative Secretary


vicente (ben) c. pangelinan
Speaker

This Act was received by I Maga'lahaen Guåhan this 6th day of December, 2003, at
4:50 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

VET
FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____



FILE COPY

MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN
TWENTY-SEVENTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

April 27, 2004

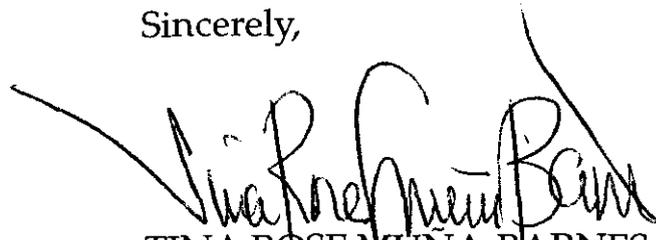
The Honorable Felix P. Camacho
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Substitute Bill Nos. 49(COR) and 66(LS) which were overridden by *I Mina' Bente Siete Na Liheslaturan Guåhan* on April 26, 2004, notwithstanding your veto.

Sincerely,


TINA ROSE MUÑA-BARNES
Legislative Secretary

Enclosures (2)

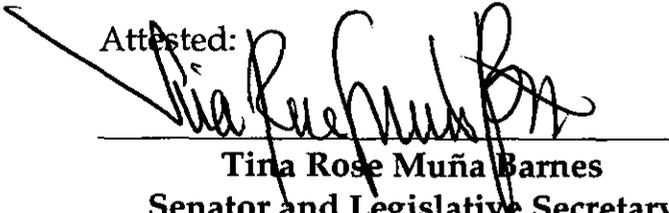
I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

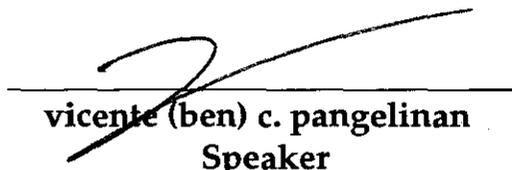
FILE COPY

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

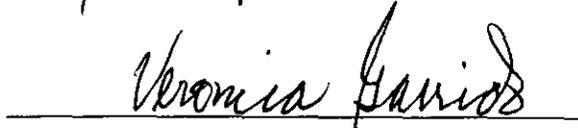
This is to certify that Substitute Bill No. 66 (LS), "AN ACT TO ADD A NEW §22430 OF ARTICLE 4, CHAPTER 22, DIVISION 2, TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO EXPIRATION DATE FOR ENCUMBRANCES; AND TO AMEND §22203 OF ARTICLE 2, CHAPTER 22, DIVISION 2, TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO CLOSING GOVERNMENT OF GUAM BANK ACCOUNTS," returned without approval of *I Maga'lahaen Guåhan* was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 26th day of April, 2004, to pass said bill notwithstanding the veto of *I Maga'lahaen Guåhan* by a vote of Fifteen (15) Members.

Attested:


Tina Rose Muña Barnes
Senator and Legislative Secretary


vicente (ben) c. pangelinan
Speaker

This Act was received by *I Maga'lahaen Guåhan* this 27 day of April, 2004, at 11:45
o'clock A.M.


Assistant Staff Officer
Maga'lahaen's Office

Public Law No. _____



FRANK B. AGUON, JR.

Vice Speaker

JUNE 18, 2003

The Honorable ben c. pangelinan
Speaker, *I Mina' Bente Siete Na Liheslaturan Guåhan*
155 Hesler Street
Hagåtña, Guam 96910

Via: Honorable Senator Lou Leon Guerrero, Committee on Rules & Health

Dear Speaker pangelinan:

The Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform, to which Bill 66 (LS), which was referred, wishes to report its findings and recommendations TO DO PASS BILL (LS) as substituted – An Act to add a new Section 22430 of Article 4 of Chapter 22 of Division 2 of Title 5, Guam Code Annotated, relative to expiration date for encumbrances; and to amend Section 22203 of Article 2 of Chapter 22 of Division 2 of Title 5, Guam Code Annotated, relative to closing Government of Guam bank accounts.

The voting record is as follows:

TO PASS

7

NOT TO PASS

Ø

TO ABSTAIN DUE TO POTENTIAL CONFLICT

Ø

TO PLACE IN INACTIVE FILE

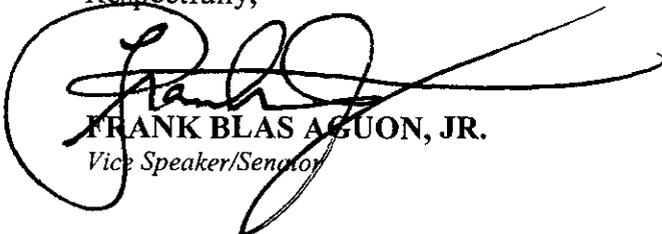
Ø

TO REPORT OUT

Ø

Copies of the Committee Report and other pertinent documents are attached. Thank you for your attention to this matter. **Dangkolo' Na Si Yu'os Ma'ase.**

Respectfully,


FRANK BLAS AGUON, JR.
Vice Speaker/Senator

Respetu Para Todu (Respect for All)

I Mina Bente-Siete Na Liheslaturan Guåhan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
Phone (671) 479-4GUM (4486/4828) * Fax (671) 479-4827





FRANK B. AGUON, JR.

Vice Speaker

JUNE 18, 2003

MEMORANDUM

TO: Members, Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform

FROM: Vice Speaker Frank B. Aguon, Jr.
Chairman

SUBJECT: Committee Report – Bill 66 (LS), as substituted: An Act to add a new Section 22430 of Article 4 of Chapter 22 of Division 2 of Title 5, Guam Code Annotated, relative to expiration date for encumbrances; and to amend Section 22203 of Article 2 of Chapter 22 of Division 2 of Title 5, Guam Code Annotated, relative to closing Government of Guam bank accounts.

Transmitted herewith for your information and action is the report on Bill 66 (LS) from the Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform.

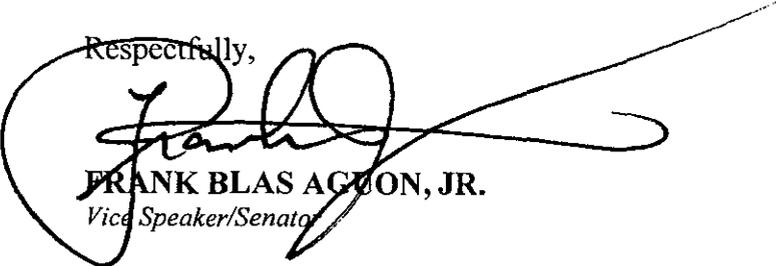
This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill 66 (LS), as substituted
4. Public Hearing Sign-in Sheet
5. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me. **Dangkolo' Na Si Yu'os Ma'ase.**

Respectfully,


FRANK BLAS AGUON, JR.
Vice Speaker/Senator

Respetu Para Todu (Respect for All)

I Mina Bente-Siete Na Liheslaturan Guahan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
Phone (671) 479-4GUM (4486/4828) * Fax (671) 479-4827





FRANK B. AGUON, JR.

Vice Speaker

Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform

VOTING SHEET

Bill 66 (LS), as substituted: An Act to add a new Section 22430 of Article 4 of Chapter 22 of Division 2 of Title 5, Guam Code Annotated, relative to expiration date for encumbrances; and to amend Section 22203 of Article 2 of Chapter 22 of Division 2 of Title 5, Guam Code Annotate, relative to closing Government of Guam bank accounts.

Committee Members	To Pass	Not to Pass	To Report Out	To Abstain due to potential Conflict	To place in inactive File
 FRANK B. AGUON, JR., Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 ANTOINETTE D. SANFORD Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LOU LEON GUERRERO Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 TINA R. MUÑA-BARNES Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JOHN M. QUINATA Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 RORY J. RESPICIO Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CARMEN FERNANDEZ Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 MARK FORBES Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LAWRENCE F. KASPERBAUER Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Respetu Para Todu (Respect for All)

I Mina Bente-Siete Na Liheslaturan Guåhan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
Phone (671) 479-4GUM (4486/4828) * Fax (671) 479-4827





FRANK B. AGUON, JR.

Vice Speaker

MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN

Committee on Appropriations and Budgeting,
General Governmental Operations,
Reorganization and Reform

**VICE SPEAKER FRANK B. AGUON, JR.
CHAIRMAN**

Committee Report
On
Bill No. 66 (LS), as substituted

"An Act to add a new Section 22430 of Article 4 of Chapter 22 of Division 2 of Title 5, Guam Code Annotated, relative to expiration date for encumbrances; and to amend Section 22203 of Article 2 of Chapter 22 of Division 2 of Title 5, Guam Code Annotate, relative to closing Government of Guam bank accounts."



Respetu Para Todu (Respect for All)

I Mina Bente-Siete Na Liheslaturan Guåhan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
Phone (671) 479-4GUM (4486/4828) * Fax (671) 479-4827



I. OVERVIEW

The Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform held a public hearing on Bill No. 66 at 10 a.m. on **May 7th, 2003** in the Public Hearing Room, *I Liheslaturan Guåhan*. Public notice was provided to the media on Friday, May 2, 2003, Sunday, May 4, 2003, and Tuesday, May 6, 2003.

Senators present at the public hearing were:

Vice-Speaker Frank Blas Aguon, Jr., Chairman
Senator Lou Leon Guerrero, Member
Senator Tina Muna-Barnes, Member
Senator Carmen Fernandez, Member
Senator Lawrence Kasperbauer, Member
Speaker vicente "ben" c. pangelinan
Senator Robert Klitzkie

II. SUMMARY OF TESTIMONY

Individuals appearing before the Committee to present oral and written testimony on the bill are as follows:

Mr. Charles Troutman, Compiler of Laws, submitted written testimony on behalf of the Attorney General's Office in support of the bill with changes, which is included in this report.

Mr. H. Delos Santos, President of the Guam Community College, submitted written testimony, which is included in this report.

Mr. Daniel Fitzgerald, Chairman of Deloitte, Touche, Tohmatsu, submitted written testimony in support of the bill, which is included in this report.

Public Auditor Doris Flores Brooks, Public Auditor of Guam, submitted written testimony in support of the bill, which is included in this report.

III. FINDINGS AND RECOMMENDATION

The Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform finds that Bill No. 66, as substituted, is necessary to prevent a cash drain on the Government of Guam coffers, and unencumbering such funds will help ensure the appropriations are expended as authorized.

Accordingly, the Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform, to which Bill No. 66 was referred, does hereby submit to *I Mina' Bente Siete Na Liheslaturan Guåhan* TO DO PASS Bill No. 66, as substituted: "An Act to add a new Section 22430 of Article 4 of Chapter 22 of Division 2 of Title 5, Guam Code Annotated, relative to expiration date for encumbrances; and to amend Section 22203 of Article 2 of Chapter 22 of Division 2 of Title 5, Guam Code Annotate, relative to closing Government of Guam bank accounts."



Office of the Attorney General

Douglas B. Moylan

Attorney General of Guam

Guam Judicial Center, Suite 2-200E

120 West O'Brien Drive

Hagåtña, Guam 96910 • USA

(671) 475-3324 • (671) 472-2493 (Fax)

www.guamattorneygeneral.com • law@mail.justice.gov.gu

May 7, 2003

The Honorable Frank B. Aguon, Jr.
Vice-Speaker and Chairperson,
Committee on Finance and Budget, General Government
Operations, Reorganization and Reform
Mina Bente Siete I Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

SUBJECT: BILL 66 TESTIMONY

Dear Mr. Vice-Speaker:

In regards to your May 6, 2003 fax requesting this Office's comments for your public hearing on Bill Number 66, please find the attached comments.

Please feel free to call me if you have any questions. Thank you.

Sincerely,

Douglas B. Moylan

Attachment



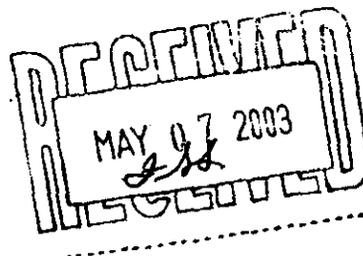
GOVERNMENT OF GUAM

DEPT. OF LAW - COMPILER OF LAWS

HAGATÑA, GUAM



May 6, 2003



MEMORANDUM

To: Attorney General

From: Compiler of Laws

Subject: Bill No. 66

When Title 1 of the Guam Code Annotated was enacted as positive law, there was a §705 which defined "encumbrances" and how long they were good. The Legislature repealed it at a later date. We should support such a law as §2 of Bill 66 but with changes. As is it is vague and probably a violation of separation of powers.

What does it mean in subsection (a) that the encumbrance has not been "used"? The language should read:

1 GCA § 705. Expiration Date for Encumbrances. An encumbrance against any type of appropriation shall automatically be returned to the fund against which it was encumbered if no action has been taken with respect to such encumbrance and no legal obligations have been entered into which would require expenditures from all or part that encumbrance after either 90 days past the end of the fiscal in which the encumbrance was made or after 90 days of total inactivity with respect to the encumbrance. The Director of Administration shall be responsible to entering this transaction after consulting with the agencies involved to make sure that no covered actions are pending.

Extending or deleting executive accounts is part of the spending power inherent in the Executive Branch. See *Santos v. Calvo*, D.C. Civil App. #80-0223A, [S.C. Civil #66380 D.C. Guam, Appellate Division, August 11, 1982. Therefore, the Legislature should not be in the business of extending an encumbrance. However, it can terminate it as part of its appropriation power and require that the money be subject to a new appropriation. There, it seems best to leave the termination of encumbrances to the Executive Branch only.

The second section comments are best left to people who know government accounting.

Charles H. Troutman
 CHARLES H. TROUTMAN

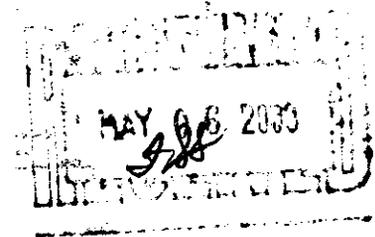
General,
Bill 66 Testimony
J. Santos

Office of the President

H. delos Santos, Ed.D.
President

May 6, 2003

Senator Frank Aguon, Jr.
Chairman, Committee on Ways and Means
Twenty-seventh Guam Legislature
155 Hesler Street
Hagatna, Guam 96910



Subject: Bill No. 66

Hafa Adai Senator Aguon:

GCC would like to submit written testimony on Bill 66 introduced by Speaker Ben Pangelinan. This bill restricts the validity of purchase orders/encumbrances to no more than nine months after the end of the fiscal year. In reading the proposed law, we understand that the intent is to reduce problems that arise when old encumbrances are utilized as a mechanism to reallocate funds. Theoretically, this is an excellent law, and the nine-month limit is reasonable in most instances. However, there are several instances in which the proposed law would cause inappropriate consequences for federal grants and certain other funds. What we see as foreseeable problems as it relates to federal grants are as follows:

1. Many federal grants are multi year grants. For example, the Vocational Education Grant awards, which GCC administers, are each valid for a full 27 months. Thus it is common to issue purchase orders that reflect the College's administration of a grant program that carries well beyond a single fiscal year.

Another kind of federal grant problem is created by grants that utilize a non-standard award year. Often federal grant awards utilize a July 1 to June 30 fiscal year. A purchase order could be issued in the period July 1 to September 30, and would be valid over a year later during the 90 day "mop up" period allowed by other federal grants for close out. However, the current language of the bill would automatically close out such purchase orders while they would still be valid according to the federal government.

Written Testimony to Senator Aguon

May 6, 2003

Page 2 of 2

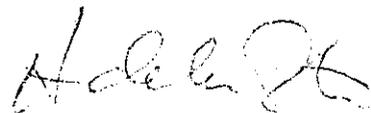
A final problem created by federal grants is that many such grants require local matching funds. Often a purchase order would encumber both federal funds and local matching funds. If the language of Bill 66 is not carefully worded, the local funds could be cancelled while the federal monies would still be valid. This would lead to great confusion once the goods and/or services are delivered and invoiced.

2. The current wording of the bill does not speak to the fact that many construction and major repair contracts carry over one or more fiscal years. These documents, from an accounting viewpoint, are nothing more than encumbered purchase orders. The current wording of the bill would cancel these contracts.

The legal remedy proposed in the bill would be that the members of the Executive Branch request the permission of the legislative branch to have the purchase orders extended. While this is a theoretically possible solution, it would result in managerial issues as well as issues related to the separation of governmental powers.

In closing, we want to reiterate that the intent of Bill 66 is with merit. However, language needs to be added to the bill excluding, in some way, construction and repair contracts. Language also needs to be added covering the purchase orders funded with federal money. Such purchase orders should automatically remain open for the length of time that the federal component is a valid source of funds. The College stands ready to work with the Legislature to assist in developing appropriate language that considers the management of its federal grants.

Respectfully,



H. delos Santos

cc: Members, Board of Trustees

JJT:HDS:cg

General
Vicente
5/12/03

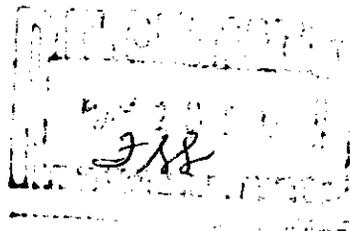


OFFICE OF THE PUBLIC AUDITOR

May 9, 2003

CONFIRMATION

Honorable Frank B. Aguon Jr.
Vice Speaker, 27th Guam Legislature
118 East Marine Drive
Hagåtña, Guam 96910



Re: Bill 66 Relative to the Expiration of Encumbrances

Dear Mr. Vice Speaker:

I write this letter in support of Bill 66 that would impose an automatic termination of nine months for encumbrances not utilized. In February, I wrote to Speaker Vicente Pangelinan outlining the ever-increasing amount of encumbrances, which was in excess of \$50 million as of September 30, 2001. Attached is my February 7th letter.

The Department of Administration still has on its books encumbrances dating as far back as 1987. In fact there are still outstanding nearly \$4.2 million in encumbrances from FY 1997 and prior years. Bill 66 would call for the automatic deletion of these encumbrances if they have not been expended.

I would suggest the addition of reporting requirement by the Department of Administration on the status of all encumbrances to the Guam Legislature and to this Office annually within ten months after the close of the fiscal year. This would ensure that any old encumbrances have been appropriately deleted.

I apologize that I was not able to attend the public hearing on this bill as I was meeting with the Department of Education on the status of their audits.

Senseramente,

Doris Flores Brooks
Public Auditor

Attachment: February 7th letter



OFFICE OF THE PUBLIC AUDITOR

February 7, 2003

Honorable Vicente C. Pangelinan
Speaker 27th Guam Legislature
155 Hesler St.
Hagåtña, Guam 96910

Dear Senator Pangelinan:

I understand you wish further elaboration of the discussion item # 9 on outstanding encumbrances that was transmitted to you the end of January. I have enclosed two letters from Deloitte and Touche that provide background on these long outstanding encumbrances.

Due to staff shortages, the Department of Administration has not assign responsibility for detail review and deletion of old outstanding encumbrances. For example encumbrances for FY 1990, 1991, 1993, 1994, 1996, 1997 increased by \$213,000 while FY 1992 and 1995 encumbrances decreased only by \$13,000. Encumbrances that old should not be increasing but rather be decreasing if not completely eliminated. Pre 1997 encumbrances total over \$4.1 million and are potential cash drain.

On the other hand 1998, 1999 and 2000 encumbrances did dropped dramatically by \$36 million yet there is \$8.8 million of 1998 and 1999 encumbrances still outstanding.

As DOA accounting is unable to monitor these encumbrances, Deloitte, as do I, recommend that the Legislature impose an expiration date of say 18 months after year end if the encumbrances have not been used.

Should you require more information please contact me.

Senseramente,

Doris Flores Brooks
Public Auditor

Encl.: Deloitte letters of November 11, 2002 and November 14, 2002

November 11, 2002

Ms. Doris Flores Brooks
Public Auditor
Office of the Public Auditor
Government of Guam

Dear Ms. Brooks:

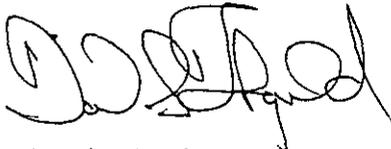
We have provided you with a detailed aging of outstanding encumbrances as of September 30, 2001 and 2000. It is apparent that aged items are being carried on the books. The reason for this is twofold:

1. The Legislature has not mandated an expiration date for encumbrances.
2. The Executive Branch has not detailed responsibility for reviewing and deleting encumbrances.

We recommend consideration of a requirement that encumbrances be deleted after a certain time period: for example, eighteen months after year end. Deletion would automatically occur unless an extension is approved by the Guam Legislature.

Alternatively, DOA or BBMR could be tasked with reviewing the encumbrances with applicable departments and removing dated items no longer considered necessary. In this case, we recommend consideration of a time period beyond which the encumbrance cannot be carried forward without Legislature approval.

Very truly yours,



Daniel S. Fitzgerald

November 14, 2002

Ms. Doris Flores Brooks
Public Auditor
Office of the Public Auditor
Government of Guam

Dear Ms. Brooks:

The following are the outstanding encumbrances for the FYE 9/30/01 and FYE 9/30/00. The 9/30/01 listing was sorted using the same parameters as the 9-30-00 listing to show a more comparative amount per fiscal year. This was done with consultation from Kathy Kakigi, deputy controller at DOA. The revised schedule is as follows:

	<u>FYE 9-30-01</u>	<u>FYE 9-30-00</u>	<u>Variance</u>
FY 1987	\$ 25,311.46	\$ 25,311.46	\$ -
FY 1988	12,670.45	12,670.45	-
FY 1989	61,865.42	61,865.42	-
FY 1990	281,339.07	224,971.07	56,368
FY 1991	331,672.41	296,297.63	35,374.78
FY 1992	400,853.79	406,938.19	(6,084.40)
FY 1993	475,298.83	438,668.28	36,630.55
FY 1994	494,720.53	445,577.72	49,142.81
FY 1995	360,427.77	367,596.77	(7,169.00)
FY 1996	365,416.25	350,855.22	14,561.03
FY 1997	1,361,076.88	1,303,421.31	57,655.57
FY 1998	4,143,785.61	14,533,001.15	(10,389,215.54)
FY 1999	4,658,321.38	16,942,215.23	(12,283,893.85)
FY 2000	21,638,834.43	34,855,207.13	(13,216,372.70)
FY 2001	15,438,703.14	102,408.61	15,336,294.53
FY 2002	16,465	-	16,465.00
Miscellaneous	18,404.41	16,256.00	2,148.41
Total	\$ 50,085,166.83	70,383,261.64	(20,298,094.81)

I hope that you find the above information useful for you. If you have any questions, I can be reached at 646-3884 ext. 249.

Sincerely,


Tim San Nicolas
Audit Senior

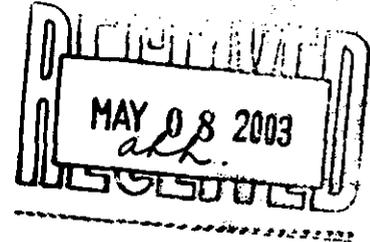
cc: D. Fitzgerald

General,
Bill M. Williams
Shirley
etc

**Deloitte
Touche
Tohmatsu**

May 7, 2003

Honorable Frank B. Augon, Jr.
Vice Speaker
Office of the Vice Speaker
Twenty Seventh Guam Legislature
118 East Marine Drive
Hagatna, Guam 96910



Dear Mr. Vice Speaker:

Thank you for the chance to provide input into draft Bill No. 66 concerning "A new section 22430 of Chapter 22 of Division 2 of Title 5, Guam Code Annotated....". I am pleased that after so many years, this issue is being addressed by the Guam Legislature. I write in support of the intent of the bill and offer the following for your consideration.

In Section 2, 22430. (a), I recommend consideration of altering the wording as follows:

"An encumbrance against any type of appropriation shall be automatically deleted nine (9) months after the fiscal year end in which the encumbrance was originally recorded, unless the encumbrance falls under requirements imposed by U. S. law governing U. S. federal awards."

I recommend that the current wording of "if such encumbrance has not been used" be deleted unless a definition of "used" is provided. Additionally, the above language recognizes that certain U.S. federal grants have different expiration dates and may be available to Guam for a period of up to three years.

I further recommend that your Office consider whether an exception for capital improvement project encumbrances should be made since provision for the reversion of such appropriations already exists in law.

I apologize for my inability to attend today's hearing and will be pleased to work with you and your staff to clarify the above recommendations.

Very truly yours,

Daniel S. Fitzgerald
Chairman

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 66**

Bill Title (Preamble): AN ACT TO ADD NEW SECTION 22430 OF ARTICLE 4 OF CHAPTER 22 OF DIVISION 2 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO EXPIRATION DATE FOR ENCUMBRANCES; AND TO AMEND SECTION 22203 OF ARTICLE 2 OF CHAPTER 22 OF DIVISION 2 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO CLOSING GOVERNMENT OF GUAM BANK ACCOUNTS.

Department/Agency Appropriation Information	
Dept./Agency Affected: GOVERNMENT WIDE	Dept./Agency Head: GOVERNOR OF GUAM
Department's General Fund (GF) appropriation(s) to date:	\$0
Department's Other Fund (Specify): _____ appropriation(s) to date:	\$0
Total Department/Agency Appropriation(s) to date:	\$0

Fund Source Information of Proposed Appropriation			
	General Fund:	Other (specify):	Total:
FY Adopted Revenues	\$392,221,102	\$44,544,071	\$436,765,173
FY Appra. to P.L. <u>27-05</u>	(\$466,188,319)	(\$43,692,103)	(\$509,880,422)
Sub-total:	(\$73,967,217)	\$851,968	(\$73,115,249)
Less appropriation in Bill	\$0	\$0	\$0
Total:	(\$73,967,217)	\$851,968	(\$73,115,249)

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of Current FY (if applicable)	Second Year	Third Year	Fourth Year	Fifth Year
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Other Fund:	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$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? // Yes // No
If no, what is the additional amount required? \$ N/A
3. Does the Bill establish a new program/agency? // Yes /X/ No
If yes, will the program duplicate existing programs/agencies? // Yes // No
Is there a federal mandate to establish the program/agency? // Yes // 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
/X/ Requested agency comments not received by due date // Other: _____

Analyst: [Signature] Date: 6/9/03 Director: [Signature] Date: JUN 12 2003
R.G.10 Carlos P. Bordallo, Acting

Footnotes:
 Enactment of this bill may have an adverse effect on services, especially at this time, when the Government of Guam is experiencing cash flow deficiencies. The current cash shortfall situation is causing delays in vendor payments and therefore, resulting in outstanding purchase orders, contracts, and other encumbered obligations. DOA was contacted to provide reconciliation of outstanding encumbrances stated in the bill and any other input or comments regarding the administrative provisions set forth in the bill. No response was received from DOA as of the time this fiscal note was finalized.