



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

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

Date: 11/6/06
Time: 3:50
Rec'd by: [Signature]
Print Name: [Signature]
28-060 1173

06 NOV 2006

The Honorable Mark Forbes
Speaker
Mina' Bente Ocho Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 332(LS), "AN ACT TO PROVIDE FOR COLA PAYMENTS TO GOVERNMENT OF GUAM RETIREES AS ORDERED BY THE SUPERIOR COURT IN SP0206-93 BY AUTHORIZING I MAGA'LAHEN GUÅHAN TO EXPEND FUNDS FROM CERTAIN ACCOUNTS; BY AMENDING TITLE 4 G.C.A. §7101; BY ADDING NEW §§20101.1 AND 20101.2 TO TITLE 5 G.C.A.; BY ADDING §§8140.2 AND 8140.3 TO TITLE 4 G.C.A.; BY ADDING A NEW §3101.1 TO TITLE 15 G.C.A.; AND TO ADD A NEW CHAPTER 44 TO TITLE 11 G.C.A. TO PROVIDE FOR TAX REBATES FOR COLA AWARDEES" which I signed into law on October 31, 2006, as Public Law 28-151.

Sinseru yan Magåhet,

[Signature of Felix P. Camacho]

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

Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo
Senator and Legislative Secretary

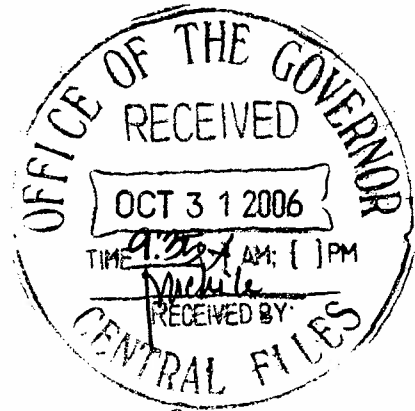
1076

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE
ACKNOWLEDGEMENT RECEIPT
Rcv'd by: [Signature]
Print Name & Initial
Time: 1:40
Date: 11-13-06



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

October 30, 2006



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

Dear *Maga'lahi* Camacho:

Transmitted herewith is Substitute Bill No. 332(LS), which was passed by *I Mina' Bente Ocho Na Liheslaturan Guåhan* on October 30, 2006.

Sincerely,


EDWARD J.B. CALVO
Senator and Secretary of the Legislature

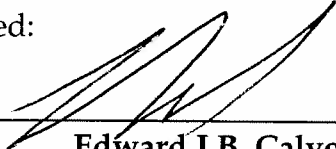
Enclosure (1)

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

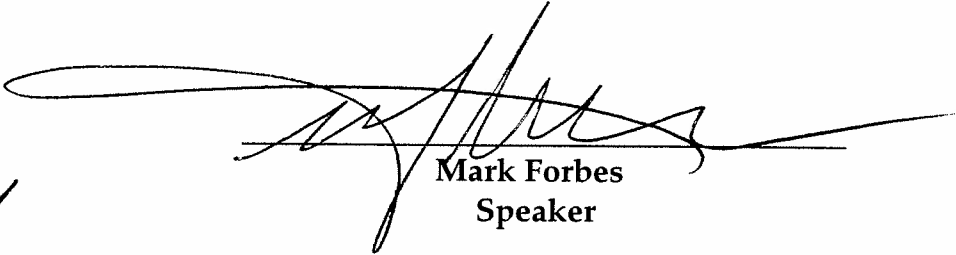
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 332 (LS), "AN ACT TO PROVIDE FOR COLA PAYMENTS TO GOVERNMENT OF GUAM RETIREES AS ORDERED BY THE SUPERIOR COURT IN SP0206-93 BY AUTHORIZING I MAGA'LAHEN GUÅHAN TO EXPEND FUNDS FROM CERTAIN ACCOUNTS; BY AMENDING TITLE 4 G.C.A. §7101; BY ADDING NEW §§20101.1 AND 20101.2 TO TITLE 5 G.C.A.; BY ADDING NEW §§8140.2 AND 8140.3 TO TITLE 4 G.C.A.; BY ADDING A NEW §3101.1 TO TITLE 15 G.C.A.; AND TO ADD A NEW CHAPTER 44 TO TITLE 11 G.C.A. TO PROVIDE FOR TAX REBATES FOR COLA AWARDEES," was on the 30th day of October, 2006, duly and regularly passed.

Attested:

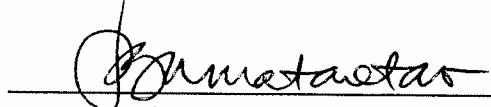


Edward J.B. Calvo
Senator and Secretary of the Legislature



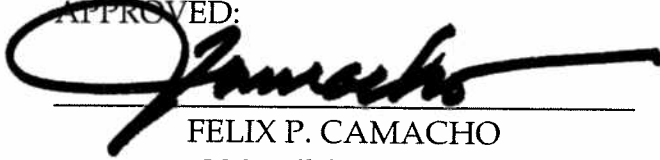
Mark Forbes
Speaker

This Act was received by *I Maga'lahaen Guåhan* this 31 day of Oct, 2006, at
9:35 o'clock A.M.



Assistant Staff Officer
Maga'laha's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

PL 28-151

Public Law No. 10/31/06

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

Bill No. 332(LS)

As substituted and amended
in the Committee of the Whole.

Introduced by:

Committee on Calendar
by request of *I Maga'lahen*
Guåhan, the Governor of
Guam, in accordance with the
Organic Act of Guam.

**AN ACT TO PROVIDE FOR COLA PAYMENTS TO
GOVERNMENT OF GUAM RETIREES AS ORDERED BY
THE SUPERIOR COURT IN SP0206-93 BY AUTHORIZING *I
MAGA'LAHEN GUÅHAN* TO EXPEND FUNDS FROM
CERTAIN ACCOUNTS; BY *AMENDING* TITLE 4 G.C.A.
§7101; BY *ADDING* NEW §§20101.1 AND 20101.2 TO TITLE 5
G.C.A.; BY *ADDING* NEW §§8140.2 AND 8140.3 TO TITLE 4
G.C.A.; BY *ADDING* A NEW §3101.1 TO TITLE 15 G.C.A.;
AND TO *ADD* A NEW CHAPTER 44 TO TITLE 11 G.C.A. TO
PROVIDE FOR TAX REBATES FOR COLA AWARDEES.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Authorization to Access Funds.** Notwithstanding any other
3 provision of law, *I Maga'lahen Guåhan* is authorized to access and expend funds from
4 the executive branch accounts listed in Attachment "A" for the purpose of making
5 payments for the Cost of Living Adjustment to government of Guam retirees as set
6 forth in *Rios v. Camacho, et al.*, Superior Court Case No. SP0206-93, provided that *no*
7 funds appropriated for the operations of agencies responsible for education, health or
8 public safety pursuant to P.L. 28-149 and P.L. 28-150 shall be expended. The
9 payments authorized by this Section shall *not* be considered a new appropriation. All

1 cash expended from executive branch accounts identified in Attachment "A" shall be
2 reimbursed promptly as cash becomes available. Upon disbursement, *I Maga'laha*
3 *Guåhan* shall provide *I Liheslaturan Guåhan* with a report detailing the total amount
4 paid to retirees and the remaining balance owed.

5 **Section 2.** Title 4 G.C.A., Chapter 7, §7101 is *amended* to read:

6 **"§7101. Definitions.** For purposes of this Chapter:

7 (1) Employee means all employees of the government of Guam.

8 (2) Money due means the pay and allowances due on account of the
9 services of a deceased employee of the government of Guam. It includes the
10 following:

11 (A) Per diem and amounts due in reimbursement of travel
12 expenses;

13 (B) Overtime or premium pay;

14 (C) Payments for accrued annual and sick leave;

15 (D) Amounts of checks drawn for pay which were not delivered to
16 the employee during his lifetime;

17 (E) Amounts of unnegotiated checks returned to the Government
18 because of the death of the employee.

19 (F) COLA AWARDS.

20 It does *not* include amounts the disposition of which is otherwise
21 expressly prescribed by law.

22 (3) COLA AWARDS means Cost of Living Adjustment payments made
23 pursuant to Superior Court Case No. SP0206-93.

24 (4) COLA AWARDEE means a government retiree entitled to receive a
25 Cost of Living Adjustment payment pursuant to Superior Court Case No.
26 SP0206-93."

27 **Section 3.** A new §20101.1 is *added* to Chapter 20 of Title 5 G.C.A. to read:

1 **“§20101.1. Director of Administration to Pay COLA AWARDS.**
2 *Unless* the Superior Court orders otherwise, the Director of Administration shall
3 serve as agent for payment of COLA AWARDS as defined by Title 4 G.C.A.
4 §7101(3). The Director shall pay COLA AWARDS to:

- 5 (1) COLA AWARDEES as defined by Title 4 G.C.A. §7101(4);
6 (2) their beneficiaries designated pursuant to Title 4 G.C.A. §7102;
7 (3) their personal representatives or their heirs pursuant to a Decree of
8 Final Distribution;
9 (4) pursuant to Title 15 G.C.A. §3101.1.”

10 **Section 4.** A new §20101.2 is *added* to Chapter 20 of Title 5 G.C.A. to read:

11 **“§20101.2. Duties of Director of Administration Regarding COLA**
12 **AWARDS.**

13 (a) When a COLA AWARDEE dies before receiving his award, a
14 beneficiary designated pursuant to Title 4 G.C.A. Chapter 7, §7202 may submit
15 to the Director of Administration:

- 16 (1) the AWARDEE’s death certificate;
17 (2) an affidavit stating (i) that the decedent was entitled to the
18 award; (ii) that he died before receiving it; and (iii) the name, age
19 and mailing address of every beneficiary entitled to receive the
20 award pursuant to Title 4 G.C.A. §7202.

21 (b) If the Director determines that the affidavit is correct and that §7202
22 applies, he shall pay over the COLA AWARD to the designated beneficiaries.

23 (c) The Director shall develop a form affidavit to assist applicants for
24 COLA AWARDS.”

25 **Section 5.** A new §8140.2 is *added* to Article 1 of Chapter 8 of Title 4 G.C.A.

26 to read:

1 **“§8140.2. Duties of the Director of the Retirement Fund Regarding COLA**
2 **AWARDS.** The Director of the Government of Guam Employees’ Retirement Fund
3 shall provide the Director of Administration with any information he requires to
4 determine the amount of COLA AWARD per AWARDEE and appropriate
5 beneficiaries of COLA AWARDS pursuant to Title 5 G.C.A. §§20101.1 and
6 20101.2.”

7 **Section 6.** A new §8140.3 is *added* to Article 1 of Chapter 8 of Title 4 G.C.A.
8 to read:

9 **“§8140.3. Assistance for COLA AWARDEES.** The Government of Guam
10 Employees’ Retirement Fund shall provide, to any person seeking payment of a
11 COLA AWARD as defined by Title 4 G.C.A. §7101(3), assistance in preparing the
12 documents required by Title 5 G.C.A. §§20101.1 and 20101.2 or Title 15 G.C.A.
13 §3101.1.”

14 **Section 7.** A new §3101.1 is *added* to Title 15 G.C.A. to read:

15 **“§3101.1. Estates of Deceased COLA AWARDEES; Summary**
16 **Administration or Probate; Affidavit.** When a COLA AWARDEE as defined by
17 Title 4 G.C.A. §7101(4) dies before receiving the award and the Director of
18 Administration determines that Title 4 G.C.A. §7102 does not apply, the Director
19 shall pay over the COLA AWARD as defined by Title 4 G.C.A. §7101(3) as follows:

- 20 (a) If no proceeding regarding the AWARDEE’s estate was brought pursuant
21 to Title 15 G.C.A., a person who has a right to succeed to the AWARDEE’s
22 property may, without bringing such a proceeding, submit to the Director
23 the COLA AWARDEE’s death certificate and an affidavit showing the
24 name, age and address of every person entitled to the COLA AWARD
25 pursuant to the laws of intestate succession. If the Director determines that
26 the affidavit is correct, he shall distribute the COLA AWARD accordingly.

1 (b) If a proceeding regarding the COLA AWARDEE's estate pursuant to Title
2 15 G.C.A. is pending, the court in said proceeding shall order the Director
3 to pay over the award to the decedent's personal representative.

4 (c) If a proceeding regarding the COLA AWARDEE's estate was brought
5 pursuant to Title 15 G.C.A. but is closed, the personal representative or an
6 heir of the COLA AWARDEE may request payment of the COLA
7 AWARD and present the Director of Administration with a certified copy
8 of the Final Decree of Distribution. The Director shall pay over the COLA
9 AWARD according to said Decree in the appropriate amounts to the heirs
10 named therein or to their personal representatives or successors in interest.

11 The Director shall develop form affidavits to assist applicants for COLA
12 AWARDS.”

13 **Section 8. Tax Rebates for COLA Awardees.** A new Chapter 44 is *added* to
14 Title 11 G.C.A. to read:

15 **“CHAPTER 44.**

16 **The COLA Settlement Awardee Appreciation Act**

17 **TAX REBATES FOR COLA Settlement Awardees**

18 **§44101. Definitions.**

19 **§44102. Tax Rebate for COLA Settlement Awardees.**

20 **§44103. Procedure to Claim Rebated Taxes.**

21 **§44104. Rebate Fund.**

22 **§44105. Implementation by Tax Commissioner.**

23 **§44101. Definitions.** As used in this Chapter:

24 (a) ‘COLA AWARDEE’ means a government retiree or eligible survivor
25 (pursuant to Title 4 G.C.A. §7102) entitled to receive a Cost of Living
26 Adjustment pursuant to Superior Court Case No. SP0206-93.

27 (b) ‘COLA Award Qualifying Certificate (CQC)’ means the declaration of

1 a COLA AWARDEE, made pursuant to Title 6 GCA §4308, of the
2 personal income tax due from a COLA AWARD received pursuant to
3 Superior Court Case No. SP0206-93.

4 **§44102. Tax Rebate for COLA Settlement Awardees.** A tax rebate in
5 an amount equal to the total personal income tax due regarding Cost of Living
6 Adjustment payments received pursuant to Superior Court Case No. SP0206-93
7 by 'COLA AWARDEES' is hereby established and declared.

8 **§44103. Procedure to Claim Tax Rebates.** When a tax return is
9 accompanied by a CQC, the amount of tax due prior to the rebate shall be
10 deposited with the government of Guam when the return is filed. Alternatively,
11 if no payment is due when the tax return is filed, the Tax Commissioner of
12 Guam shall credit the amount of the CQC to the Rebate Fund from taxes paid
13 by the taxpayer. Unless the Tax Commissioner finds that the rebate is not
14 payable, the rebate shall be withdrawn from the deposit and returned to the
15 taxpayer within one hundred eighty (180) days of the deposit without interest.

16 **§44104. Rebate Fund.** Deposits made pursuant to §44103 of this
17 Chapter shall be covered and deposited into the fund created by Title 12 G.C.A.
18 §58138.

19 **§44105. Implementation by Tax Commissioner.** The Tax
20 Commissioner of Guam shall, *no later than* ninety (90) days after the enactment
21 hereof, develop necessary procedures to implement this Chapter, and to that end
22 shall:

- 23 (a) enact such rules and regulations as he finds necessary;
24 (b) promulgate forms and publications to assist eligible taxpayers to
25 take advantage of this Chapter; and
26 (c) develop a procedure to allow the set off of an unpaid tax rebate
27 from a prior year against a current year's tax liability. ”

1 **Section 9.** *I Maga'lahaen Guåhan* is hereby authorized to enter into a structured
2 settlement with the class of retirees entitled to receive COLA AWARDS as defined by
3 Title 4 G.C.A. §7101(3) pursuant to Superior Court Case No. SP0206-93 upon such
4 terms as *I Maga'laha* determines to be just, to include interest up to seven percent
5 (7%) per annum on sums paid over pursuant to the settlement. *I Maga'laha* may
6 pledge up to Ten Million Dollars (\$10,000,000) per year from payments received by
7 the government of Guam pursuant to Section 30 of the Organic Act as collateral for
8 said settlement, subject to the approval of *I Liheslaturan Guåhan*.

9 **Section 10.** This Act shall be repealed and cease to be of any further force and
10 effect upon the Superior Court's determination in SP0206-93 that all COLA
11 AWARDS have been paid over.



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

FILE COPY

October 30, 2006




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

Dear *Maga'lahi* Camacho:

Transmitted herewith is Substitute Bill No. 332(LS), which was passed by *I Mina'Bente Ocho Na Liheslaturan Guåhan* on October 30, 2006.

Sincerely,


EDWARD J.B. CALVO
Senator and Secretary of the Legislature

Enclosure (1)

6
10/30/06

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

Bill No. 332(LS)

As substituted and amended
in the Committee of the Whole.

*

Introduced by:

Committee on Calendar
by request of *I Maga'lahen*
Guåhan, the Governor of
Guam, in accordance with the
Organic Act of Guam.

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Partial

AN ACT TO PROVIDE FOR COLA PAYMENTS TO GOVERNMENT OF GUAM RETIREES AS ORDERED BY THE SUPERIOR COURT IN SP0206-93 BY AUTHORIZING *I MAGA'LAHEN GUÅHAN* TO EXPEND FUNDS FROM CERTAIN ACCOUNTS; BY *AMENDING* TITLE 4 G.C.A. §7101; BY *ADDING* NEW §§20101.1 AND 20101.2 TO TITLE 5 G.C.A.; BY *ADDING* NEW §§8140.2 AND 8140.3 TO TITLE 4 G.C.A.; BY *ADDING* A NEW §3101.1 TO TITLE 15 G.C.A.; AND TO *ADD* A NEW CHAPTER 44 TO TITLE 11 G.C.A. TO PROVIDE FOR TAX REBATES FOR COLA AWARDEES.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Authorization to Access Funds.** Notwithstanding any other
3 provision of law, *I Maga'lahen Guåhan* is authorized to access and expend funds from
4 the executive branch accounts listed in Attachment "A" for the purpose of making
5 payments for the Cost of Living Adjustment to government of Guam retirees as set forth
6 in *Rios v. Camacho, et al.*, Superior Court Case No. SP0206-93, provided that *no* funds
7 appropriated for the operations of agencies responsible for education, health or public
8 safety pursuant to P.L. 28-149 and P.L. 28-150 shall be expended. The payments
9 authorized by this Section shall *not* be considered a new appropriation. All cash

1 expended from executive branch accounts identified in Attachment "A" shall be
2 reimbursed promptly as cash becomes available. Upon disbursement, *I Maga'lahen*
3 *Guåhan* shall provide *I Liheslaturan Guåhan* with a report detailing the total amount paid
4 to retirees and the remaining balance owed.

5 **Section 2.** Title 4 G.C.A., Chapter 7, §7101 is *amended* to read:

6 **“§7101. Definitions.** For purposes of this Chapter:

7 (1) Employee means all employees of the government of Guam.

8 (2) Money due means the pay and allowances due on account of the
9 services of a deceased employee of the government of Guam. It includes the
10 following:

11 (A) Per diem and amounts due in reimbursement of travel expenses;

12 (B) Overtime or premium pay;

13 (C) Payments for accrued annual and sick leave;

14 (D) Amounts of checks drawn for pay which were not delivered to the
15 employee during his lifetime;

16 (E) Amounts of unnegotiated checks returned to the Government
17 because of the death of the employee.

18 (F) COLA AWARDS.

19 It does *not* include amounts the disposition of which is otherwise
20 expressly prescribed by law.

21 (3) COLA AWARDS means Cost of Living Adjustment payments made
22 pursuant to Superior Court Case No. SP0206-93.

23 (4) COLA AWARDEE means a government retiree entitled to receive a
24 Cost of Living Adjustment payment pursuant to Superior Court Case No. SP0206-
25 93.”

26 **Section 3.** A new §20101.1 is *added* to Chapter 20 of Title 5 G.C.A. to read:

1 **“§20101.1. Director of Administration to Pay COLA AWARDS.** *Unless*
2 the Superior Court orders otherwise, the Director of Administration shall serve as
3 agent for payment of COLA AWARDS as defined by Title 4 G.C.A. §7101(3).

4 The Director shall pay COLA AWARDS to:

5 (1) COLA AWARDEES as defined by Title 4 G.C.A. §7101(4);

6 (2) their beneficiaries designated pursuant to Title 4 G.C.A. §7102;

7 (3) their personal representatives or their heirs pursuant to a Decree of Final
8 Distribution;

9 (4) pursuant to Title 15 G.C.A. §3101.1.”

10 **Section 4.** A new §20101.2 is *added* to Chapter 20 of Title 5 G.C.A. to read:

11 **“§20101.2. Duties of Director of Administration Regarding COLA**
12 **AWARDS.**

13 (a) When a COLA AWARDEE dies before receiving his award, a
14 beneficiary designated pursuant to Title 4 G.C.A. Chapter 7, §7202 may submit to
15 the Director of Administration:

16 (1) the AWARDEE’s death certificate;

17 (2) an affidavit stating (i) that the decedent was entitled to the award;
18 (ii) that he died before receiving it; and (iii) the name, age and mailing
19 address of every beneficiary entitled to receive the award pursuant to
20 Title 4 G.C.A. §7202.

21 (b) If the Director determines that the affidavit is correct and that §7202
22 applies, he shall pay over the COLA AWARD to the designated beneficiaries.

23 (c) The Director shall develop a form affidavit to assist applicants for COLA
24 AWARDS.”

25 **Section 5.** A new §8140.2 is *added* to Article 1 of Chapter 8 of Title 4 G.C.A. to
26 read:

1 **“§8140.2. Duties of the Director of the Retirement Fund Regarding COLA**
2 **AWARDS.** The Director of the Government of Guam Employees’ Retirement Fund
3 shall provide the Director of Administration with any information he requires to
4 determine the amount of COLA AWARD per AWARDEE and appropriate beneficiaries
5 of COLA AWARDS pursuant to Title 5 G.C.A. §§20101.1 and 20101.2.”

6 **Section 6.** A new §8140.3 is *added* to Article 1 of Chapter 8 of Title 4 G.C.A. to
7 read:

8 **“§8140.3. Assistance for COLA AWARDEES.** The Government of Guam
9 Employees’ Retirement Fund shall provide, to any person seeking payment of a COLA
10 AWARD as defined by Title 4 G.C.A. §7101(3), assistance in preparing the documents
11 required by Title 5 G.C.A. §§20101.1 and 20101.2 or Title 15 G.C.A. §3101.1.”

12 **Section 7.** A new §3101.1 is *added* to Title 15 G.C.A. to read:

13 **“§3101.1. Estates of Deceased COLA AWARDEES; Summary Administration**
14 **or Probate; Affidavit.** When a COLA AWARDEE as defined by Title 4 G.C.A.
15 §7101(4) dies before receiving the award and the Director of Administration determines
16 that Title 4 G.C.A. §7102 does not apply, the Director shall pay over the COLA AWARD
17 as defined by Title 4 G.C.A. §7101(3) as follows:

- 18 (a) If no proceeding regarding the AWARDEE’s estate was brought pursuant to
19 Title 15 G.C.A., a person who has a right to succeed to the AWARDEE’s
20 property may, without bringing such a proceeding, submit to the Director the
21 COLA AWARDEE’s death certificate and an affidavit showing the name, age
22 ~~and address of every person entitled to the COLA AWARD pursuant to the~~
23 laws of intestate succession. If the Director determines that the affidavit is
24 correct, he shall distribute the COLA AWARD accordingly.

1 (b) If a proceeding regarding the COLA AWARDEE's estate pursuant to Title 15
2 G.C.A. is pending, the court in said proceeding shall order the Director to pay
3 over the award to the decedent's personal representative.

4 (c) If a proceeding regarding the COLA AWARDEE's estate was brought
5 pursuant to Title 15 G.C.A. but is closed, the personal representative or an heir
6 of the COLA AWARDEE may request payment of the COLA AWARD and
7 present the Director of Administration with a certified copy of the Final Decree
8 of Distribution. The Director shall pay over the COLA AWARD according to
9 said Decree in the appropriate amounts to the heirs named therein or to their
10 personal representatives or successors in interest.

11 The Director shall develop form affidavits to assist applicants for COLA
12 AWARDS.”

13 **Section 8. Tax Rebates for COLA Awardees.** A new Chapter 44 is *added* to
14 Title 11 G.C.A. to read:

15 **“CHAPTER 44.**

16 **The COLA Settlement Awardee Appreciation Act**

17 **TAX REBATES FOR COLA Settlement Awardees**

18 **§44101. Definitions.**

19 **§44102. Tax Rebate for COLA Settlement Awardees.**

20 **§44103. Procedure to Claim Rebated Taxes.**

21 **§44104. Rebate Fund.**

22 ~~**§44105. Implementation by Tax Commissioner.**~~

23 **§44101. Definitions.** As used in this Chapter:

24 (a) ‘COLA AWARDEE’ means a government retiree or eligible survivor
25 (pursuant to Title 4 G.C.A. §7102) entitled to receive a Cost of Living
26 Adjustment pursuant to Superior Court Case No. SP0206-93.

27 (b) ‘COLA Award Qualifying Certificate (CQC)’ means the declaration of a

1 COLA AWARDEE, made pursuant to Title 6 GCA §4308, of the personal
2 income tax due from a COLA AWARD received pursuant to Superior
3 Court Case No. SP0206-93.

4 **§44102. Tax Rebate for COLA Settlement Awardees.** A tax rebate in an
5 amount equal to the total personal income tax due regarding Cost of Living
6 Adjustment payments received pursuant to Superior Court Case No. SP0206-93 by
7 'COLA AWARDEES' is hereby established and declared.

8 **§44103. Procedure to Claim Tax Rebates.** When a tax return is
9 accompanied by a CQC, the amount of tax due prior to the rebate shall be
10 deposited with the government of Guam when the return is filed. Alternatively, if
11 no payment is due when the tax return is filed, the Tax Commissioner of Guam
12 shall credit the amount of the CQC to the Rebate Fund from taxes paid by the
13 taxpayer. Unless the Tax Commissioner finds that the rebate is not payable, the
14 rebate shall be withdrawn from the deposit and returned to the taxpayer within one
15 hundred eighty (180) days of the deposit without interest.

16 **§44104. Rebate Fund.** Deposits made pursuant to §44103 of this Chapter
17 shall be covered and deposited into the fund created by Title 12 G.C.A. §58138.

18 **§44105. Implementation by Tax Commissioner.** The Tax Commissioner
19 of Guam shall, *no later than* ninety (90) days after the enactment hereof, develop
20 necessary procedures to implement this Chapter, and to that end shall:

- 21 (a) enact such rules and regulations as he finds necessary;
- 22 (b) promulgate forms and publications to assist eligible taxpayers to take
23 advantage of this Chapter; and
- 24 (c) develop a procedure to allow the set off of an unpaid tax rebate from a
25 prior year against a current year's tax liability. ”

26 **Section 9.** *I Maga'lahaen Guåhan* is hereby authorized to enter into a structured
27 settlement with the class of retirees entitled to receive COLA AWARDS as defined by

1 Title 4 G.C.A. §7101(3) pursuant to Superior Court Case No. SP0206-93 upon such
2 terms as *I Maga'lahi* determines to be just, to include interest up to seven percent (7%)
3 per annum on sums paid over pursuant to the settlement. *I Maga'lahi* may pledge up to
4 Ten Million Dollars (\$10,000,000) per year from payments received by the government
5 of Guam pursuant to Section 30 of the Organic Act as collateral for said settlement,
6 subject to the approval of *I Liheslaturan Guåhan*.

7 **Section 10.** This Act shall be repealed and cease to be of any further force and
8 effect upon the Superior Court's determination in SP0206-93 that all COLA AWARDS
9 have been paid over.

6

I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN
2006 (SECOND) Regular Session

Date: 10/30/06

VOTING SHEET

5 Bill No. 332(LS)
 Resolution No. _____
 Question: _____

NAME	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M.S.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J.F.	✓				
CRUZ, Michael (Dr.)	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
KLITZKIE, Robert		✓			
LUJAN, Jesse A.	✓				
PALACIOS, Adolpho B.	✓				
RESPICIO, Rory J.	✓				
TENORIO, Ray	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

13 1 0 0 0

CERTIFIED TRUE AND CORRECT:

Patricia C. Santos
 Clerk of the Legislature

* 3 Passes = No vote
 EA = Excused Absence



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

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

Douglas B. Moylan
Attorney General of Guam
Office of the Attorney General
The Justice Building
287 West O'Brien Drive
Hagåtña, Guam 96910

December 4, 2006

Dear Mr. Moylan:

This is in response to your letter dated December 1, 2006 concerning the issuance of Executive Order 2006-30.

First, I would like to note from the onset that your "reasons" and rationale are unfounded and without any legal basis and, certainly inconsistent with Superior Court and Guam Supreme Court rulings on the issue of borrowing. If we are to follow your logic, then any indebtedness incurred by the Government of Guam, whether it be by its own volition or, that which was mandated by the Court (in this case a judgment rendered by Judge Barcinas), is illegal. Your rationale begs to determine why you did not object to the decision of Judge Barcinas since the judgement obligates the General Fund to a "debt" owed to Retirees.

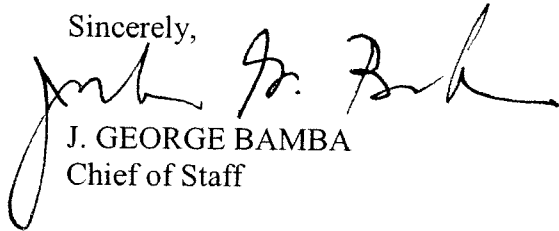
There was ample time for your office to object but, for unknown reasons, you chose not to do so. Replacing one form of General Fund debt with another form (a loan) does not increase the indebtedness of the General Fund. Instead it makes it definitely manageable by paying one promissory note as opposed to the thousands which Section 9 of P.L. 28-151 mandates the Government of Guam to do and, which is secured by Section 30 funds. This certainly would save the Government of Guam money in the administration of the program.

Second, you assume in your letter that the Retirement Fund's investment in this financial consortium will place the Retirement Fund in financial jeopardy. You go so far as to imply certain personal liabilities to individual board members. To make these remarks without adequate justification is clearly unprofessional on your part. May I remind you that the Retirement Fund has entered into an agreement, pursuant to P.L. 28-38 on the debt owed by the General Fund to the Retirement Fund for retirement contributions previously withheld but never remitted to the Fund. The Government of Guam "securitized" that debt and the Retirement Fund now receives investment income monthly and will continue to do so pursuant to the above mentioned law. After more than

agreement being in existence, are we now to assume that both the Guam Legislature and the Retirement Fund violated Presiding Judge Lamorena's order?

Finally, your assumption that the Executive Order is "illegal" because it does not have the Guam Seal affixed to it is absurd. I strongly suggest that you use the little time you have left in office preparing for a transition to the newly elected Attorney General that the people of Guam overwhelmingly voted into office.

Sincerely,



J. GEORGE BAMBA
Chief of Staff

cc: Joe T. San Agustin, Chairman, Board of Trustees
Members, Retirement Fund Board of Trustees
All Senators
Compiler of Laws
Legislative Secretary, Guam Legislature

Public Law 28- 38

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session**Bill No. 118 (EC)**

As substituted by the Committee
on General & Omnibus Matters and
amended.

Introduced by:

Mark Forbes
Mike Cruz
F. B. Aguon, Jr.
J. M.S. Brown
Edward J.B. Calvo
B. J. F. Cruz
L. F. Kasperbauer
R. Klitzkie
L. A. Leon Guerrero
J. A. Lujan
A. B. Palacios
R. J. Respicio
Ray Tenorio
A. R. Unpingco
J. T. Won Pat

AN ACT TO AUTHORIZE INTEREST ONLY PAYMENTS AND TO ADD A NEW SUBSECTION (h) TO TITLE 4 GCA §8137, ALL FOR THE PURPOSE OF PERMITTING EMPLOYEES ELIGIBLE TO RETIRE FROM THE DEPARTMENT OF EDUCATION AND THE GUAM MEMORIAL HOSPITAL AUTHORITY TO RETIRE IN FACT.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Special Retirement Provisions for DOE and GMHA. On the first day of the first month following the enactment hereof and on every first day of every month thereafter, with a grace period of *no more than* ten (10) days, the Treasurer of Guam shall pay "interest only" payments in the sum of One Hundred Ninety-two Thousand Nine Hundred Fifty-five Dollars and Seven Cents (\$192,955.07) for the Department of Education (DOE) deficiency to the Government of Guam Retirement Fund (GGRF) and the Treasurer of Guam shall pay interest only payments in the sum of One Hundred Ninety Thousand Five Hundred One Dollars and Nineteen Cents (\$190,501.19) for the Guam Memorial Hospital Authority (GMHA) deficiency to the GGRF on the first day of the first month following the enactment hereof and on every first day of every month thereafter. These interest only payments shall be paid automatically each month in the form of a cash draw down.

The interest only payments shall continue until satisfaction of both DOE's deficiency, in the amount of Seventeen Million One Hundred Fifty-four Thousand Six Hundred Eight Dollars and Seventy-five Cents (\$17,154,608.75), and GMHA's deficiency, in the amount of Sixteen Million Eight Hundred Sixty Thousand One Hundred Forty-two Dollars and Twenty-two Cents (\$16,860,142.22), from a General Obligation Bond or alternate means. If the DOE and GMHA deficiencies are not satisfied within five (5) years following enactment hereof, payments for DOE and GMHA principal shall resume and proceed as provided in 4 GCA §8137.

After the Treasurer of Guam has made the first monthly payment pursuant to this Section, the Government of Guam Retirement Fund shall accept and approve for retirement any eligible employee of the Department of Education or the Guam Memorial Hospital Authority upon the condition that the respective agency's employer and employee contributions to the Fund for the applicable fiscal year are current and paid in full as provided in P.L. 27-106, Chapter VI, Section 13, including interest and penalties pursuant to 4 GCA §8137(c) and interest at the actuarial rate determined in the latest completed actuarial valuation prepared for the Board of Trustees by the actuary appointed by the Board, which is seven and one half percent (7.5%). If the Treasurer of Guam fails to make current payments as required by this Section or if DOE or GMH fails to make current payments for the applicable fiscal year, the Fund shall cease processing applications from employees of that agency until payment is made

in full.

Section 2. A new Subsection (h) is hereby *added* to Title 4 GCA §8137 to read as follows:

“§8137(h). 1. Board’s Power to Enforce. The Board of the Government of Guam Employees’ Retirement Fund may file in Superior Court a Petition for Writ of Mandate to compel any government official who is so obligated to pay or transfer money to the Retirement Fund for employee or employer contributions to the Fund.

2. Remedies. At the court’s discretion, failure to comply with a Writ of Mandate issued pursuant to this Section after notice and a hearing shall be subject to contempt of court proceedings.

3. Costs and Attorney’s Fee. If the Board’s petition is granted, the court shall award costs and a reasonable attorney’s fee, which shall be paid from funds of the official’s agency.

4. Dismissal after Payment. If payment of the delinquent amount is made within fifteen (15) days after filing the petition for Writ, the petition shall be dismissed.”



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

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

Date: 11/6/06
Time: 3:50
Rec'd by: [Signature]
Print Name: [Signature]
28-06 1173

06 NOV 2006

The Honorable Mark Forbes
Speaker
Mina' Bente Ocho Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 332(LS), "AN ACT TO PROVIDE FOR COLA PAYMENTS TO GOVERNMENT OF GUAM RETIREES AS ORDERED BY THE SUPERIOR COURT IN SP0206-93 BY AUTHORIZING I MAGA'LAHEN GUÅHAN TO EXPEND FUNDS FROM CERTAIN ACCOUNTS; BY AMENDING TITLE 4 G.C.A. §7101; BY ADDING NEW §§20101.1 AND 20101.2 TO TITLE 5 G.C.A.; BY ADDING §§8140.2 AND 8140.3 TO TITLE 4 G.C.A.; BY ADDING A NEW §3101.1 TO TITLE 15 G.C.A.; AND TO ADD A NEW CHAPTER 44 TO TITLE 11 G.C.A. TO PROVIDE FOR TAX REBATES FOR COLA AWARDEES" which I signed into law on October 31, 2006, as Public Law 28-151.

Sinseru yan Magåhet,

[Signature of Felix P. Camacho]

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

Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo
Senator and Legislative Secretary

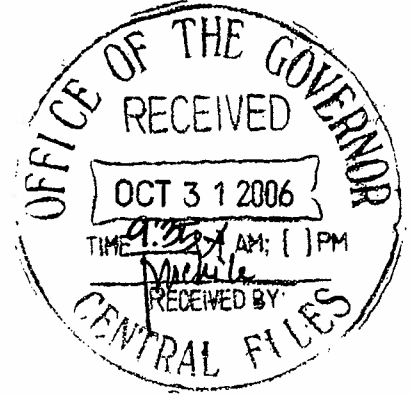
1076

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE
ACKNOWLEDGEMENT RECEIPT
Rcv'd by: Nikele
Print Name & Initial
Time: 1:40 Date: 11-13-06



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

October 30, 2006



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

Dear *Maga'lahi* Camacho:

Transmitted herewith is Substitute Bill No. 332(LS), which was passed by *I Mina' Bente Ocho Na Liheslaturan Guåhan* on October 30, 2006.

Sincerely,


EDWARD J.B. CALVO
Senator and Secretary of the Legislature

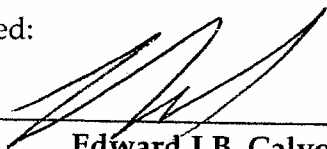
Enclosure (1)

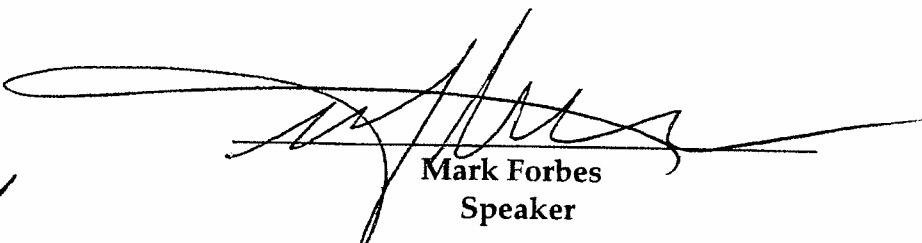
I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

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

This is to certify that Substitute Bill No. 332 (LS), "AN ACT TO PROVIDE FOR COLA PAYMENTS TO GOVERNMENT OF GUAM RETIREES AS ORDERED BY THE SUPERIOR COURT IN SP0206-93 BY AUTHORIZING I MAGA'LAHEN GUÅHAN TO EXPEND FUNDS FROM CERTAIN ACCOUNTS; BY AMENDING TITLE 4 G.C.A. §7101; BY ADDING NEW §§20101.1 AND 20101.2 TO TITLE 5 G.C.A.; BY ADDING NEW §§8140.2 AND 8140.3 TO TITLE 4 G.C.A.; BY ADDING A NEW §3101.1 TO TITLE 15 G.C.A.; AND TO ADD A NEW CHAPTER 44 TO TITLE 11 G.C.A. TO PROVIDE FOR TAX REBATES FOR COLA AWARDEES," was on the 30th day of October, 2006, duly and regularly passed.

Attested:


Edward J.B. Calvo
Senator and Secretary of the Legislature


Mark Forbes
Speaker

This Act was received by I Maga'lahaen Guåhan this 31 day of Oct., 2006, at 9:35 o'clock A.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahaen Guåhan

PL 28-151

Public Law No. 10/31/06

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

Bill No. 332(LS)

As substituted and amended
in the Committee of the Whole.

Introduced by:

Committee on Calendar
by request of *I Maga'lahaen*
Guåhan, the Governor of
Guam, in accordance with the
Organic Act of Guam.

AN ACT TO PROVIDE FOR COLA PAYMENTS TO GOVERNMENT OF GUAM RETIREES AS ORDERED BY THE SUPERIOR COURT IN SP0206-93 BY AUTHORIZING *I MAGA'LAHEN GUÅHAN* TO EXPEND FUNDS FROM CERTAIN ACCOUNTS; BY AMENDING TITLE 4 G.C.A. §7101; BY ADDING NEW §§20101.1 AND 20101.2 TO TITLE 5 G.C.A.; BY ADDING NEW §§8140.2 AND 8140.3 TO TITLE 4 G.C.A.; BY ADDING A NEW §3101.1 TO TITLE 15 G.C.A.; AND TO ADD A NEW CHAPTER 44 TO TITLE 11 G.C.A. TO PROVIDE FOR TAX REBATES FOR COLA AWARDEES.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Authorization to Access Funds.** Notwithstanding any other
3 provision of law, *I Maga'lahaen Guåhan* is authorized to access and expend funds from
4 the executive branch accounts listed in Attachment "A" for the purpose of making
5 payments for the Cost of Living Adjustment to government of Guam retirees as set
6 forth in *Rios v. Camacho, et al.*, Superior Court Case No. SP0206-93, provided that *no*
7 funds appropriated for the operations of agencies responsible for education, health or
8 public safety pursuant to P.L. 28-149 and P.L. 28-150 shall be expended. The
9 payments authorized by this Section shall *not* be considered a new appropriation. All

1 cash expended from executive branch accounts identified in Attachment "A" shall be
2 reimbursed promptly as cash becomes available. Upon disbursement, *I Maga'laha*
3 *Guåhan* shall provide *I Liheslaturan Guåhan* with a report detailing the total amount
4 paid to retirees and the remaining balance owed.

5 **Section 2.** Title 4 G.C.A., Chapter 7, §7101 is *amended* to read:

6 **"§7101. Definitions.** For purposes of this Chapter:

7 (1) Employee means all employees of the government of Guam.

8 (2) Money due means the pay and allowances due on account of the
9 services of a deceased employee of the government of Guam. It includes the
10 following:

11 (A) Per diem and amounts due in reimbursement of travel
12 expenses;

13 (B) Overtime or premium pay;

14 (C) Payments for accrued annual and sick leave;

15 (D) Amounts of checks drawn for pay which were not delivered to
16 the employee during his lifetime;

17 (E) Amounts of unnegotiated checks returned to the Government
18 because of the death of the employee.

19 (F) COLA AWARDS.

20 It does *not* include amounts the disposition of which is otherwise
21 expressly prescribed by law.

22 (3) COLA AWARDS means Cost of Living Adjustment payments made
23 pursuant to Superior Court Case No. SP0206-93.

24 (4) COLA AWARDEE means a government retiree entitled to receive a
25 Cost of Living Adjustment payment pursuant to Superior Court Case No.
26 SP0206-93."

27 **Section 3.** A new §20101.1 is *added* to Chapter 20 of Title 5 G.C.A. to read:

1 **“§20101.1. Director of Administration to Pay COLA AWARDS.**
2 *Unless* the Superior Court orders otherwise, the Director of Administration shall
3 serve as agent for payment of COLA AWARDS as defined by Title 4 G.C.A.
4 §7101(3). The Director shall pay COLA AWARDS to:

- 5 (1) COLA AWARDEES as defined by Title 4 G.C.A. §7101(4);
6 (2) their beneficiaries designated pursuant to Title 4 G.C.A. §7102;
7 (3) their personal representatives or their heirs pursuant to a Decree of
8 Final Distribution;
9 (4) pursuant to Title 15 G.C.A. §3101.1.”

10 **Section 4.** A new §20101.2 is *added* to Chapter 20 of Title 5 G.C.A. to read:

11 **“§20101.2. Duties of Director of Administration Regarding COLA**
12 **AWARDS.**

13 (a) When a COLA AWARDEE dies before receiving his award, a
14 beneficiary designated pursuant to Title 4 G.C.A. Chapter 7, §7202 may submit
15 to the Director of Administration:

- 16 (1) the AWARDEE’s death certificate;
17 (2) an affidavit stating (i) that the decedent was entitled to the
18 award; (ii) that he died before receiving it; and (iii) the name, age
19 and mailing address of every beneficiary entitled to receive the
20 award pursuant to Title 4 G.C.A. §7202.

21 (b) If the Director determines that the affidavit is correct and that §7202
22 applies, he shall pay over the COLA AWARD to the designated beneficiaries.

23 (c) The Director shall develop a form affidavit to assist applicants for
24 COLA AWARDS.”

25 **Section 5.** A new §8140.2 is *added* to Article 1 of Chapter 8 of Title 4 G.C.A.
26 to read:

1 **“§8140.2. Duties of the Director of the Retirement Fund Regarding COLA**
2 **AWARDS.** The Director of the Government of Guam Employees’ Retirement Fund
3 shall provide the Director of Administration with any information he requires to
4 determine the amount of COLA AWARD per AWARDEE and appropriate
5 beneficiaries of COLA AWARDS pursuant to Title 5 G.C.A. §§20101.1 and
6 20101.2.”

7 **Section 6.** A new §8140.3 is *added* to Article 1 of Chapter 8 of Title 4 G.C.A.
8 to read:

9 **“§8140.3. Assistance for COLA AWARDEES.** The Government of Guam
10 Employees’ Retirement Fund shall provide, to any person seeking payment of a
11 COLA AWARD as defined by Title 4 G.C.A. §7101(3), assistance in preparing the
12 documents required by Title 5 G.C.A. §§20101.1 and 20101.2 or Title 15 G.C.A.
13 §3101.1.”

14 **Section 7.** A new §3101.1 is *added* to Title 15 G.C.A. to read:

15 **“§3101.1. Estates of Deceased COLA AWARDEES; Summary**
16 **Administration or Probate; Affidavit.** When a COLA AWARDEE as defined by
17 Title 4 G.C.A. §7101(4) dies before receiving the award and the Director of
18 Administration determines that Title 4 G.C.A. §7102 does not apply, the Director
19 shall pay over the COLA AWARD as defined by Title 4 G.C.A. §7101(3) as follows:

- 20 (a) If no proceeding regarding the AWARDEE’s estate was brought pursuant
21 to Title 15 G.C.A., a person who has a right to succeed to the AWARDEE’s
22 property may, without bringing such a proceeding, submit to the Director
23 the COLA AWARDEE’s death certificate and an affidavit showing the
24 name, age and address of every person entitled to the COLA AWARD
25 pursuant to the laws of intestate succession. If the Director determines that
26 the affidavit is correct, he shall distribute the COLA AWARD accordingly.

1 (b) If a proceeding regarding the COLA AWARDEE's estate pursuant to Title
2 15 G.C.A. is pending, the court in said proceeding shall order the Director
3 to pay over the award to the decedent's personal representative.

4 (c) If a proceeding regarding the COLA AWARDEE's estate was brought
5 pursuant to Title 15 G.C.A. but is closed, the personal representative or an
6 heir of the COLA AWARDEE may request payment of the COLA
7 AWARD and present the Director of Administration with a certified copy
8 of the Final Decree of Distribution. The Director shall pay over the COLA
9 AWARD according to said Decree in the appropriate amounts to the heirs
10 named therein or to their personal representatives or successors in interest.

11 The Director shall develop form affidavits to assist applicants for COLA
12 AWARDS."

13 **Section 8. Tax Rebates for COLA Awardees.** A new Chapter 44 is *added* to
14 Title 11 G.C.A. to read:

15 **"CHAPTER 44.**

16 **The COLA Settlement Awardee Appreciation Act**

17 **TAX REBATES FOR COLA Settlement Awardees**

18 **§44101. Definitions.**

19 **§44102. Tax Rebate for COLA Settlement Awardees.**

20 **§44103. Procedure to Claim Rebated Taxes.**

21 **§44104. Rebate Fund.**

22 **§44105. Implementation by Tax Commissioner.**

23 **§44101. Definitions.** As used in this Chapter:

24 (a) '*COLA AWARDEE*' means a government retiree or eligible survivor
25 (pursuant to Title 4 G.C.A. §7102) entitled to receive a Cost of Living
26 Adjustment pursuant to Superior Court Case No. SP0206-93.

27 (b) '*COLA Award Qualifying Certificate (CQC)*' means the declaration of

1 a COLA AWARDEE, made pursuant to Title 6 GCA §4308, of the
2 personal income tax due from a COLA AWARD received pursuant to
3 Superior Court Case No. SP0206-93.

4 **§44102. Tax Rebate for COLA Settlement Awardees.** A tax rebate in
5 an amount equal to the total personal income tax due regarding Cost of Living
6 Adjustment payments received pursuant to Superior Court Case No. SP0206-93
7 by 'COLA AWARDEES' is hereby established and declared.

8 **§44103. Procedure to Claim Tax Rebates.** When a tax return is
9 accompanied by a CQC, the amount of tax due prior to the rebate shall be
10 deposited with the government of Guam when the return is filed. Alternatively,
11 if no payment is due when the tax return is filed, the Tax Commissioner of
12 Guam shall credit the amount of the CQC to the Rebate Fund from taxes paid
13 by the taxpayer. Unless the Tax Commissioner finds that the rebate is not
14 payable, the rebate shall be withdrawn from the deposit and returned to the
15 taxpayer within one hundred eighty (180) days of the deposit without interest.

16 **§44104. Rebate Fund.** Deposits made pursuant to §44103 of this
17 Chapter shall be covered and deposited into the fund created by Title 12 G.C.A.
18 §58138.

19 **§44105. Implementation by Tax Commissioner.** The Tax
20 Commissioner of Guam shall, *no later than* ninety (90) days after the enactment
21 hereof, develop necessary procedures to implement this Chapter, and to that end
22 shall:

- 23 (a) enact such rules and regulations as he finds necessary;
24 (b) promulgate forms and publications to assist eligible taxpayers to
25 take advantage of this Chapter; and
26 (c) develop a procedure to allow the set off of an unpaid tax rebate
27 from a prior year against a current year's tax liability. ”

1 **Section 9.** *I Maga'lahen Guåhan* is hereby authorized to enter into a structured
2 settlement with the class of retirees entitled to receive COLA AWARDS as defined by
3 Title 4 G.C.A. §7101(3) pursuant to Superior Court Case No. SP0206-93 upon such
4 terms as *I Maga'lahi* determines to be just, to include interest up to seven percent
5 (7%) per annum on sums paid over pursuant to the settlement. *I Maga'lahi* may
6 pledge up to Ten Million Dollars (\$10,000,000) per year from payments received by
7 the government of Guam pursuant to Section 30 of the Organic Act as collateral for
8 said settlement, subject to the approval of *I Liheslaturan Guåhan*.

9 **Section 10.** This Act shall be repealed and cease to be of any further force and
10 effect upon the Superior Court's determination in SP0206-93 that all COLA
11 AWARDS have been paid over.

Attachment "A"

1. GTA Privatization Fund
2. Interim Transition Office Account
3. THF Construction Fund
4. TAF Construction Fund

DOOLEY ROBERTS & FOWLER LLP
 Suite 201, Orlean Pacific Plaza
 865 South Marine Drive
 Tamuning, Guam 96913
 Telephone: (671) 646-1222
 Facsimile: (671) 646-1223



FILED
 SUPERIOR COURT
 OF GUAM

2006 OCT 25 PM 3:16

CLERK OF COURT

RECEIVED

BY

Attorneys for Government of Guam Retirement Fund Defendants **OCT 25 2006**

IN THE SUPERIOR COURT
 OF GUAM

CANDELARIA TAITANO RIOS,
 Individually and on behalf of all those
 similarly situated,

Plaintiff,

vs.

FELIX P. CAMACHO, et al.,

Defendants.

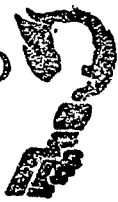
) SPECIAL PROC. CASE NO.
) SP206-93
)
)
)
)

) GOVERNMENT OF GUAM
) RETIREMENT FUND DEFENDANTS'
) RECALCULATION OF COLA
)
)
)

The Retirement Fund previously asked this court to clarify its October 5, 2006 decision and order because the decision seemed to have two internal contradictions. While waiting for clarification, and in order to assist in the speedy resolution of this case, the Retirement Fund has recalculated the COLA as if the following language which is contained on page 28 of the court's order does not exist:

... The court rules the specific amount due the COLA Class shall be the amount calculated by the Retirement Fund, and filed with this court on August 23, 2006.

The Law Offices of
PHILLIPS & BORDALLO



RECEIVED BY: [Signature]
 DATE: 10/25/06
 TIME: 3:40p



OFFICE OF THE
 GOVERNOR
 25 OCT 2006
 3:35pm DATE [Signature]
 LEGAL OFFICE

The new calculation includes payment to persons who retired in 1994 and 1995. And, the new calculations have an annual calculation of the rate of inflation which applies uniformly regardless of when a person may have retired.

Attached hereto is a chart which summarizes the calculations. The first column represents the year for which annuities were paid. The second column represents the total amount of annuity which was paid each year. The third column shows the rate of inflation which is used to calculate each year's COLA. The fourth column represents the gross amount of each year's COLA. The fifth column represents the COLA which was already paid and which the court ordered to be deducted from the gross amount of each year's COLA. The sixth column reflects overpayments made each year due to the various annual COLA appropriations which were previously paid. The seventh column shows the COLA which remains to be paid. Because of the overpayments, various retirees will not receive a COLA for the year on which they were overpaid. The total COLA to be paid is \$118,263,027.83.

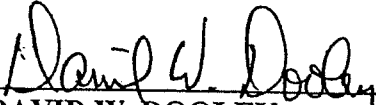
Pursuant to the Fund's understanding of the court's decision and order, these calculations include persons who retired in 1994 and 1995. The Fund feels compelled to point out, however, that the Complaint was filed in late 1993 and the Class was certified in early 1994. Therefore, persons who retired after class certification were necessarily never made parties to the litigation. Nonetheless, the Retirement Fund has made a calculation of the COLA for these persons as the Fund understands that the court intended to grant relief for these people. And, the complaint filed in this matter merely sought recovery of COLA which was due in July 1991, July 1992 and July 1993. Thus, it would appear that the complaint did not seek recovery of any COLA for 1994 and 1995. Nonetheless, pursuant to the Fund's understanding of the court's decision and order, the calculation includes COLA for persons who retired in 1994 and 1995 and also includes

a calculation of additional COLA for calendar years 1994 and 1995 for persons who had retired prior to 1994 even though the complaint did not seek this relief. Certainly these people and claims could have been added to the complaint many years ago, but they weren't.

DOOLEY ROBERTS & FOWLER LLP

Dated: October 25, 2006

By:



DAVID W. DOOLEY
Attorneys for the Government of Guam
Retirement Fund Defendants

CERTIFICATE OF SERVICE

I, **DAVID W. DOOLEY**, hereby certify that on the 25th day of October, 2006, I caused a copy of Respondent Government of Guam Retirement Fund Defendants' Recalculation of COLA to be served upon the following via hand delivery:

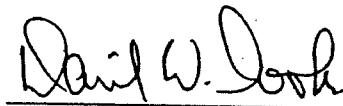
Michael F. Phillips, Esq.
PHILLIPS AND BORDALLO, P.C.
410 West O'Brien Drive, Suite 102
Hagåtña, Guam 96910

Rodney Jacob, Esq.
Daniel Benjamin, Esq.
CALVO & CLARK
Second Floor, First Savings and Loan Building
655 S. Marine Drive
Tamuning, Guam 96913

Shannon J. Taitano, Esq.
OFFICE OF THE GOVERNOR OF GUAM
Ricardo J. Bordallo Governor's Complex
Adelup, Guam 96910

Douglas Moylan, Esq.
OFFICE OF THE ATTORNEY GENERAL
247 West O'Brien Drive (corner of San Ignacio Way)
Hagåtña, Guam 96910

Dated: October 25, 2006



DAVID W. DOOLEY

Government Of Guam Retirement Fund
 Cola Due - 10.25.06

COLA Year	Annuity Paid	Rate	Computed COLA	COLA Paid	Cola OverPaid	COLA Due
1990	36,147,606.48	24.02%	8,682,655.08	5,377,050.00	(368,779.03)	3,674,384.11
1991	41,698,366.13	39.59%	16,508,383.16	5,855,250.00	(94,655.39)	10,747,788.55
1992	49,344,193.20	49.46%	24,405,637.66	6,215,400.00	(45,499.22)	18,235,736.88
1993	56,463,995.50	65.49%	36,978,270.46	7,151,850.00	(86,728.32)	29,913,148.78
1994	66,445,280.16	87.63%	58,225,998.79	7,584,750.00	(17,929.20)	50,659,177.99
1995	6,518,580.46	87.63%	5,712,231.78	683,000.00	(3,559.74)	5,032,791.52
	256,618,021.93		150,513,176.93	32,867,300.00	(617,150.90)	118,263,027.83



Felix P. Camacho
Governor
Kaleo S. Moylan
Lieutenant Governor

DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON ATMENESTRASION)
DIRECTOR'S OFFICE
(Ufisinan Direktot)

Post Office Box 884 * Hagatna, Guam 96932
TEL: (671) 475-1101/1250 * FAX: (671) 477-6788



Lourdes M. Perez
Director
Joseph C. Manibusan
Deputy Director

HRD No. 06-0970

SEP 07 2006

Memorandum

To: Fire Chief, Guam Fire Department
From: Director, Department of Administration
Subject: Enforcement of Grievance Review Board Decision

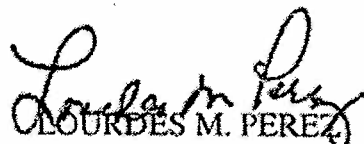
Buenas! Pursuant to the Department of Administration's Grievance Procedures, Step 4, the Grievance Review Board conducted a hearing on October 27, 2005, to review the grievance appeal of Mr. Douglas Sherwin, Fire Fighter I.

On December 19, 2005, the Grievance Review Board rendered a decision and recommended that Mr. Sherwin be compensated for duties he had performed as an Emergency Medical Technician. The Grievance Review Board also recommended that all other fire personnel who were affected with this same issue file a compensation request with the Fire Chief of the Guam Fire Department for processing. According to an August 1, 2006 letter from the Guam Federation of Teachers, who represents Mr. Sherwin, he has yet to be compensated.

Since you failed to appeal the Grievance Review Board's decision to the Civil Service Commission at Step 5 within 5 days of receipt of that decision, the Step 4 decision becomes final and enforceable.

My office would like to remind you that pursuant to Executive Order 2001-01 and the Grievance Review Board decision, your department is obligated to pay Mr. Sherwin and any other employee who has justified a similar claim with your office. Failure to do so would be in violation of said Executive Order and the Department of Administration's Personnel Rules and Regulations 12.802 (A), which states, "...the Director of Administration shall appoint a Grievance Review Board, which has the responsibility and authority to resolve the grievance." [cited in part]

If you have any questions, please do not hesitate to call Tony Aguon, Personnel Management Analyst III, at the Human Resources Division at 475-1138 or 475-1249. Si Yu'os Ma'ase.


LOURDES M. PEREZ

cc: President, Guam Federation of Teachers

10/30/06
substituted

Passed FA No. 1
Date: 10/30 Time: 10:05 A

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 332 (LS)

Mike Cruz

*SB 332 (LS) amended
as substituted in the Com*

Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

To substitute the entire Bill 332 (LS) as follows:

Section One. Authorization to Access Funds. Notwithstanding any other provision of law, *I Maga'lahaen Guahan* is authorized to access funds from the executive branch accounts as per Attachment "A", for the purpose of making payments for the Cost of Living Allowance as set forth in the *Rios v. Camacho, et al.*, Superior Court Case No. SP0206-93, provided that no funds appropriated for the operations of agencies responsible for education, health or public safety pursuant to P.L. 28-149 and P.L. 28-150 shall be available. The payments authorized by this section shall not be considered a new appropriation. All cash utilized from executive branch accounts identified pursuant to Attachment "A" shall be reimbursed promptly as cash becomes available. Upon disbursement, *I Maga'lahaen Guahan* shall provide *I Liheslaturan Guahan* with a report detailing the total amount paid to retirees and the remaining balance owed.

Section Two. Title 4 G.C.A., Chapter 7, §7101 is amended to read:

§ 7101. Definitions.

For purposes of this Chapter:

(1) Employee means all employees of the government of Guam.

(2) Money due means the pay and allowances due on account of the services of a deceased employee of the government of Guam. It includes the following:

(A) Per diem and amounts due in reimbursement of travel expenses;

(B) Overtime or premium pay;

(C) Payments for accrued annual and sick leave;

(D) Amounts of checks drawn for pay which were not delivered to the employee during his lifetime;

①

10/30/06

COW Panel - B332

Carlos Gardallo - BMR

George Bamba - Gov. Office

Mike Phillips - atty. for
retirees re: COLA

(E) Amounts of unnegotiated checks returned to the Government because of the death of the employee.

(F) COLA AWARDS.

It does not include amounts the disposition of which is otherwise expressly prescribed by law.

(3) COLA AWARDS means Cost of Living Adjustment payments made pursuant to Superior Court Case No. SP0262-93.

(4) COLA AWARDEE means a government retiree entitled to receive a Cost of Living Adjustment pursuant to Superior Court Case No. SP0262-93.

Section 3
A new §20101.1 is added to Chapter 20 of Title 5 G.C.A. to read:

+ 20101.2
§20101.1. Director of Administration to Pay COLA AWARDS. Unless the Superior Court orders otherwise, the Director of Administration shall serve as agent for payment of COLA AWARDS as defined by Title 4 G.C.A. §7101(3). The Director shall pay COLA AWARDS to: 1) COLA AWARDEES as defined by Title 4 G.C.A. §7101(4); 2) their beneficiaries designated pursuant to Title 4 G.C.A. §7102; 3) their personal representatives or their heirs pursuant to a Decree of Final Distribution; 4) pursuant to Title 15 G.C.A. §3101.1.

A new §20101.2 is added to Chapter 20 of Title 5 G.C.A. to read:

§20101.2. Duties of Director of Administration Regarding COLA AWARDS (a) If a COLA AWARDEE dies before receiving his award, a beneficiary designated pursuant to Title 4 G.C.A. Chapter 7, §7202 may submit to the Director of Administration: 1) the AWARDEE's death certificate; 2) an affidavit stating (i) that the decedent was entitled to the award; (ii) that he died before receiving it; and (iii) the name, age and mailing address of every beneficiary entitled to receive the award pursuant to Title 4 G.C.A. §7202. (b) If the Director determines that the affidavit is correct and that §7202 applies, he shall pay over the COLA award to the designated beneficiaries. (c) The Director shall develop a form affidavit to assist applicants for COLA AWARDS.

Section 4
A new §8140.1 is added to Article 1 of Chapter 8 of Title 4 G.C.A. to read:

§8140.1. Duties of the Director of the Retirement Fund Regarding COLA Awards. The

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FA 4

Director of the Government of Guam Employees' Retirement Fund shall provide the Director of Administration with any information he requires to determine the appropriate beneficiaries of COLA AWARDS pursuant to Title 5 G.C.A. §§20101.1 and 20101.2.

A new §3101.1 is added to Title 15 G.C.A. to read:

Section 5

§ 3101.1. Estates of Deceased COLA AWARDEES; Summary Administration or Probate; Affidavit.

If a COLA AWARDEE as defined by Title 4 G.C.A. §7101(4) dies before receiving the award and the Director of Administration determines that Title 4 G.C.A. §7102 does not apply, the Director shall pay over the COLA AWARD defined by Title 4 G.C.A. §7101(3) as follows:

- (a) If no proceeding regarding the AWARDEE's estate was brought pursuant to Title 15 G.C.A., a person who has a right to succeed to the AWARDEE's property may, without bringing such a proceeding, submit to the Director the COLA AWARDEE's death certificate and an affidavit showing the name, age and address of every person entitled to the COLA AWARD pursuant to the laws of intestate succession. If the Director determines that the affidavit is correct, he shall distribute the COLA AWARD accordingly.
- (b) If a proceeding regarding the COLA AWARDEE's estate pursuant to Title 15 G.C.A. is pending, the court in said proceeding shall order the Director to pay over the award to the decedent's personal representative.
- (c) If a proceeding regarding the COLA AWARDEE's estate was brought pursuant to Title 15 G.C.A. but is closed, the personal representative or an heir of the COLA AWARDEE may request payment of the COLA AWARD and present the Director of Administration with a certified copy of the Final Decree of Distribution. The Director shall pay over the COLA AWARD according to said Decree in the appropriate amounts to the heirs named therein or to their personal representatives or successors in interest.

The Director shall develop form affidavits to assist applicants for COLA AWARDS.

Section 6

A new §11104.2 is added to Chapter 11 of Division 1 of Title 12 G.C.A. to read:

Passed FA No. 5
Date: 10/30 Time: _____

I MINA'BENTE OCHO NA LIHESLATURAN GUAHAN
FLOOR AMENDMENTS/CHANGES
Bill No. 332(LS)
Senator Proposing Amendment: JWP

Describe proposed amendment and/or change here:

~~Amend 1/1/1~~

Amend Section 2, §8140.1 as follows:

“§8140.1. Duties of the Director of the Retirement Fund Regarding COLA Awards. The Director of the Government of Guam Employees’ Retirement Fund shall provide the Director of Administration with any information he requires to determine the amount of COLA Award per awardee and appropriate beneficiaries of COLA AWARDS pursuant to Title 5 G.C.A. §§20101.1 and 20101.2.”

(Below for Clerk of Legislature’s use and processing)

Date: 10/30 2006

Floor Amendment No. 6 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: ✓

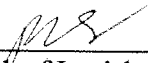
AMENDMENT FAILED: _____

AMENDMENT WITHDRAWN: _____

APPROVED AS TO FORM PASSED



AUTHOR OF AMENDMENT



Clerk of Legislature

Ass’t Amend. Clerk

Engrossment Staff

Speaker

FA 4
8140.2

Passed FA No. _____
Date: _____ Time: _____

§11104.2. Duties of the Public Defender Service Corporation Regarding COLA AWARDS.

The Public Defender Service Corporation shall provide, to any person seeking payment of a COLA AWARD as defined by Title 4 G.C.A. §7101(3), assistance in preparing the documents required by Title 5 G.C.A. §§20101.1 and 20101.2 or Title 15 G.C.A. §3101.1.

This act shall be repealed and cease to be of any further force and effect upon the Superior Court's determination in SP0262-93 that all COLA AWARDS have been paid over.

for FA 3 Add new Section
FA 5

(Below only for Clerk of Legislature's use and processing))

Date 10/30/06

Floor Amendment No. 2 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED:

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

Ull
AUTHOR OF AMENDMENT

Concur (initial)

[Signature]
Clerk of Legislature

Speaker

Ass't. Amend. Clerk
Engrossment Staff

Attachment "A"

1. GTA Privatization Fund
2. Interim Transition Office Account
3. THF Construction Fund
4. TAF Construction Fund

Passed FA No. 2

Date: 10/30 Time: 4:40?

I MINA'BENTE OCHO NA LIHESLATURAN GUAHAN
FLOOR AMENDMENTS/CHANGES
Bill No. 332(LS)
Senator Proposing Amendment: FBA

Describe proposed amendment and/or change here:

Add a New Section to Bill No. 332 as follows:

Section ____. **Tax Rebates for COLA Awardees.** A new Chapter 44 is added to Title 11 of the Guam Code Annotated is hereby added to read:

"CHAPTER 44.

**The COLA Settlement Awardee Appreciation Act
TAX REBATES FOR COLA Settlement Awardees**

- §44101. Definitions.**
- §44102. Tax Rebate for COLA Settlement Awardees.**
- §44103. Procedure to Claim Rebated Taxes.**
- §44104. Rebate Fund.**
- §44105. Implementation by Tax Commissioner.**

§44101. Definitions. The definitions set forth herein shall govern the construction and interpretation of this Chapter;

- (a) 'COLA Awardee' means a government retiree or eligible survivor (pursuant to §7102 of Chapter 7, 4 GCA) entitled to receive a Cost of Living Adjustment pursuant to Superior Court Case No. SP0262-93.
- (b) 'COLA Award Qualifying Certificate (CQC)' means the declaration of a COLA Awardee, made pursuant to 6 GCA §4308, of the personal income tax due from the Cost of Living Adjustment received pursuant to Superior Court Case No. SP0262-93.

§44102. Tax Rebate for COLA Settlement Awardees. A rebate in an amount equal to the total personal income tax due from Cost of Living Adjustment received pursuant to Superior Court Case No. SP0262-93 by resident individual taxpayers, who are 'COLA Awardees' is hereby established and declared.

§44103. Procedure to Claim Rebated Taxes. When a tax return is accompanied by an CQC(s), the amount of tax due prior to the rebate shall be deposited with the government of Guam at the time of filing the income tax return. Alternatively, if no payment is due at the time the tax return is filed, the Tax Commissioner of Guam shall

credit the amount of the CQC to the Rebate Fund from taxes paid by the taxpayer. Absent a finding by the Tax Commissioner that the rebate is not payable, the rebate shall be withdrawn from the deposit and returned to the taxpayer(s) within one hundred and eighty (180) days of the deposit without interest.

§44104. Rebate Fund. Deposits made pursuant to §44103 of this Chapter shall be covered over and deposited into the fund created by 12 GCA §58138.

§44105. Implementation by Tax Commissioner. The Tax Commissioner of Guam shall, *no later than* ninety (90) days after the effective date hereof, develop necessary procedures to implement this Chapter, and to that end shall:

- (a) issue such rules and regulations as he or she may deem necessary to implement this Chapter;
- (b) promulgate such forms and publications as are necessary to assist eligible taxpayers to take advantage of this Chapter; and
- (c) develop a procedure to allow the set off of an unpaid tax rebate from a prior year against a current year's tax liability. "

(Below for Clerk of Legislature's use and processing)

Date: 10/30, 2006

Floor Amendment No. 3 of a total of _____ changes on above Bill.

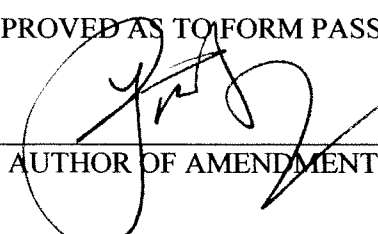
Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: ✓


AMENDMENT FAILED: _____

AMENDMENT WITHDRAWN: _____

APPROVED AS TO FORM PASSED



AUTHOR OF AMENDMENT



Clerk of Legislature
Ass't Amend. Clerk
Engrossment Staff

Speaker

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES
Bill No. 332 (LS)

Ray Tenorio

Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

On the last page to change "§11104.2" to the following:

"To add a new §8140.2 to Article 1 of Chapter 8 of Title 4 G.C.A. to read:

§8140.2. **Assistance for COLA AWARDEES.** The Government of Guam Employees' Retirement Fund shall provide, to any person seeking payment of a COLA AWARD as defined by Title 4 G.C.A. §7101(3), assistance in preparing the documents required by Title 5 G.C.A. §§20101.1 and 20101.2 or Title 15 G.C.A. §3101.1.

(Below only for Clerk of Legislature's use and processing)

Date 10/30/06

Floor Amendment No. 4 of a total of changes on above Bill.

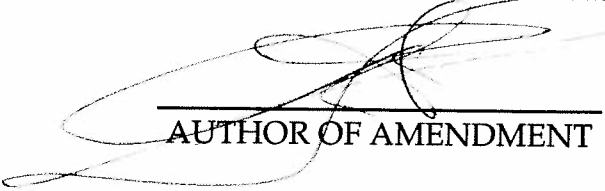
Votes For Amendment: Votes Against Amendment:

AMENDMENT PASSED:

Amendment Failed:

Amendment Withdrawn:

APPROVED AS TO FORM PASSED



AUTHOR OF AMENDMENT

Concur *(initial)*



Clerk of Legislature

Speaker

Ass't. Amend. Clerk
Engrossment Staff

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 332(LS)

ME
Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

To add a new section to read:

"Section _____. *I Maga'lahaen Guahan* is hereby authorized to enter into a structured settlement with the class of retirees entitled to receive COLA awards as defined by Title 4 G.C.A. §7101(3) pursuant to Superior Court Case No. SP0206-93 upon such terms as *I Maga'lahaen* determines to be just to include interest up to seven percent (7%) per annum on sums paid over under the settlement. *I Maga'lahaen* may pledge up to Ten Million Dollars (\$10,000,000.00) per year from payments received by the government of Guam pursuant to Section 30 of the Organic Act as collateral for said settlement."

for 5a subject to the approval of I. Libalaban Guahan "

(Below only for Clerk of Legislature's use and processing)

Date 10/30/06

Floor Amendment No. 5, 5a of a total of ____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: _____

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM/PASSED

[Signature]
AUTHOR OF AMENDMENT

Concur *(initial)*

[Signature]
Clerk of Legislature

Speaker

Ass't. Amend. Clerk
Engrossment Staff

10/27/06
Friday

Committee of the Whole on B 332

1) George Gamba

2) ~~Philip~~ Carlos Bardallo

Ind
10/27/06
1 COW

I MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

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Bill No. 332 (LS)

Introduced by:

Committee on Calendar
by request of *I Maga'lahren Guahan*
the Governor of Guam in accordance with the
Organic Act of Guam

FA2
MC
Replace
all bill text

AN ACT TO AMEND §1512 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GOVERNOR OF GUAM, *I MAGA'LAHEN GUÅHAN*, TO ISSUE GOVERNMENT OF GUAM BONDS FOR THE PURPOSE OF PAYING CERTAIN GENERAL FUND EXPENSES

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* hereby finds that the accumulated General Fund deficit has resulted in current revenues available in the General Fund being insufficient to pay certain obligations of the General Fund and that a mechanism is needed to provide the necessary cash to the General Fund to pay such obligations until a surplus of current revenues over current expenditures can retire the deficit. *I Liheslaturan Guåhan* hereby also finds that through the issuance of bonds as provided herein the government can fund its current needs while retiring the deficit over time. *I Liheslaturan Guåhan* therefore hereby authorizes the issuance of bonds as provided herein, provides for the proceeds of said bonds to be used to pay certain General Fund expenditures so that the General Fund deficit may be reduced over time, and adds and amends certain related provisions of law to put the General Fund on a sound financial course and, over time, to reduce the remaining unfunded General Fund deficit and the unfunded liability of the government to the Government of Guam Retirement Fund.

Section 2. Subsection (a) of Section 1512 of Title 5, Guam Code Annotated, is hereby amended to read as follows:

“(a) Authorization of Issuance of Bonds. *I Maga'lahren Guåhan* is authorized to issue one or more series of bonds of the government of Guam as provided in this Section, in an aggregate principal amount not to exceed the amount necessary to provide Three Hundred

1 ~~Million Dollars (\$300,000,000) Two Hundred Eighteen Million Three Hundred Nine Thousand~~
2 ~~Eight Hundred Fifty Seven Dollars (\$218,309,857)~~ for the payment of the General Fund
3 expenses listed in subsection (m) ~~(other than subsection (m)(vii) of this Section)~~ and in an
4 aggregate principal amount necessary to provide ~~Two Hundred Million Dollars (\$200,000,000)~~
5 for the payment of the General Fund expenses listed in subsection (m)(vii), and, in addition, each
6 ease to fund necessary reserves and pay expenses incurred in connection with the issuance of
7 such bonds not already included in an existing appropriation for or the regular budget of any
8 government agency or instrumentality or public corporation providing any service in connection
9 with the issuance of such bonds; *provided, however*, that bonds may not be issued in an amount
10 that would cause a violation of the debt limitation provisions of 48 USC 1423a (§11 of the
11 Organic Act of Guam).”

12 **Section 3.** Subsection (c) of Section 1512 of Title 5, Guam Code Annotated, is hereby
13 amended to read as follows:

14 “(c) **Terms and Conditions Determined by Certificate or Indenture.** The terms
15 and conditions of the bonds shall be as determined by *I Maga'lahañ Guåhan* by the execution of
16 a certificate or indenture authorizing the issuance of the bonds upon or prior to the issuance of
17 the bonds; provided, however, that such terms and conditions shall be consistent with this
18 Section, and that the bonds shall mature not later than the date thirty (30) years after their date of
19 issuance year 2024, and shall bear interest at such rates and be sold for such price or prices as
20 shall result in a yield to the bondholders not exceeding seven and one-half percent (7.5%) ~~six and~~
21 ~~one-half percent (6.5%)~~ per annum.”

22 **Section 4.** Subsection (d) of Section 1512 of Title 5, Guam Code Annotated, is hereby
23 amended to read as follows:

24 “(d) **Valid and Binding Limited Obligations.** ~~Except as may be determined by~~
25 ~~*I Maga'lahañ Guåhan* [the Governor] in accordance with this subsection (d), any~~ The bonds authorized
26 by this Section shall constitute the valid and legally binding general limited obligations of the
27 government of Guam, additionally payable from and secured by a pledge of the revenues described in
28 subsection (e) of this Section. ~~Any notes authorized by this Section may also be payable from and~~

1 secured by a pledge of the proceeds of the bonds authorized by this Section. As determined by ~~I~~
2 ~~Maga'lahaen Guåhan~~ [the Governor], any bonds authorized by this Section may constitute the valid and
3 binding general obligations of the government of Guam. To the extent ~~I Maga'lahaen Guåhan~~ [the
4 Governor] makes such a determination (i) ~~the~~ The government of Guam pledges its full faith and credit
5 for the punctual payment of both principal of and interest on the bonds and covenants that there shall be
6 collected annually in the same manner and at the same time as government revenue for other purposes is
7 collected, such sum as is required to pay the principal of and interest on the bonds. (ii) ~~such pledge shall~~
8 ~~be valid and binding from the time the pledge is made, and there~~ (iii) There are hereby appropriated
9 from the General Fund such sums as may be necessary will equal in each year in addition to the amounts
10 appropriated under subsection (e) of this Section to equal the amount of money necessary to pay the
11 principal and interest on such bonds. All officers charged by law with any duty in the collection of the
12 revenues of the government from which debt service on the bonds will be payable shall do every lawful
13 thing necessary to collect such sum. The validity of any such bonds shall not be affected by the validity
14 or regularity of any proceedings for the payment of the General Fund expenses paid or to be paid with
15 the proceeds of ~~funded by~~ the bonds.

16 **Section 5.** Subsection (e) of Section 1512 of Title 5, Guam Code Annotated, is hereby
17 amended to read as follows:

18 **“(e) Source of and Security for Payment.** ~~Except as may be determined by I~~
19 ~~Maga'lahaen Guåhan~~ [the Governor] ~~in accordance with subsection (d) of this Section, the~~ The bonds
20 ~~shall be made payable solely from, and shall also be secured solely by a first lien pledge of any or all of~~
21 the revenues derived by the government of Guam from taxes against persons on account of their
22 businesses and other activities in Guam ~~whether~~ now or hereafter imposed or levied by the government
23 pursuant to Section 26201 of Chapter 26 of Division 2 of Title 11, Guam Code Annotated or any
24 successor ~~other~~ provision of law (the “Revenues”) ~~and shall not be payable from or secured by any~~
25 ~~other source or sources of revenue except as may be authorized by statute, except that the notes may also~~
26 ~~be payable from and secured by a pledge of the proceeds of the bonds. Any~~ Such pledge made
27 hereunder shall be valid and binding from the time the bonds are issued ~~the pledge is made~~. The
28 Revenues pledged and thereafter received by the government of Guam or by any trustee, depository or

1 custodian shall be deposited in a separate account and shall be immediately subject to the lien of such
2 pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and
3 binding against all parties having claims of any kind in tort, contract or otherwise against the
4 government of Guam or such trustee, depository or custodian, irrespective of whether the parties have
5 notice thereof. The indenture or certificate by which the bonds are issued and such pledge is created
6 need not be recorded. Any such pledge shall be a first lien, and shall not be subordinate to any other use
7 of Revenues. Any such pledge may be made subordinate to the use of Revenues to pay existing general
8 obligation debts of the government of Guam.”

9 **Section 6.** Subsection (j) of Section 1512 of Title 5, Guam Code Annotated, is hereby
10 amended to read as follows:

11 “(j) **Form of Bonds; Covenants; Appointment of Fiduciaries.** The technical form
12 and language of the bonds, including provisions for execution, exchange, transfer, registration, paying
13 agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions not inconsistent
14 with this Section, including covenants relating to the collection of Revenues, shall be as specified in the
15 certificate or indenture executed by *I Maga’lahen Guåhan* authorizing the issuance of the bonds. The
16 certificate or indenture shall appoint one or more trustees, co-trustees or other fiduciaries authorized to
17 receive and hold in trust the proceeds of the bonds, the Revenues and other moneys relating thereto, to
18 protect the rights of bondholders and to perform such other duties as may be specified in the indenture. *I*
19 *Maga’lahen Guåhan* is also authorized to execute, on behalf of the government of Guam, any
20 appropriate agreements, certificates or other instruments relating to the bonds and the sale of bonds.”

21 **Section 7.** Subsection (k) of Section 1512 of Title 5, Guam Code Annotated, is hereby
22 amended to read as follows:

23 “(k) **Authorization for Credit Enhancement.** *I Maga’lahen Guåhan* is authorized to
24 enter into such contracts or agreements with such banks, insurance companies or other
25 financial institutions as he determines are necessary or desirable to improve the security
26 and marketability of the bonds issued under this Section. Such contracts or agreements
27 may contain an obligation to reimburse, with interest, any such banks, insurance
28 companies or other financial institutions for advances used to pay principal of or interest

1 on the bonds and to indemnify any such banks, insurance companies or other financial
2 institutions for costs and expenses incurred in connection with any such advance. Any
3 such reimbursement obligation and any other obligations of the government under such
4 contracts or agreements shall be ~~payable solely from, and secured solely by a pledge of,~~
5 ~~revenues or in the case of any such obligations related to bonds determined by *I*~~
6 ~~*Maga'lahañ Guåhan* to be general obligations of the government of Guam in accordance~~
7 ~~with subsection (d) of this Section, may be general obligations of the government of~~
8 ~~Guam as determined by *I Maga'lahañ Guåhan*, general obligations of the government of~~
9 ~~Guam and shall additionally be secured by a pledge of, Revenues, and any such advance,~~
10 if necessary, shall be treated for Organic Act purposes as creating an obligation issued to
11 refund the bonds.”

12 **Section 8.** Subsection (l) of Section 1512 of Title 5, Guam Code Annotated, is hereby
13 amended to read as follows:

14 “(l) **Use of Proceeds from the Sale of the Bonds.** The proceeds from the sale of the
15 bonds shall be used and are hereby appropriated to ~~(i) to retire any previously issued notes authorized~~
16 ~~under Subsection (b) of this § 5112, (i) (ii) pay the General Fund expenses described in subsection (m)~~
17 ~~of this Section 1512 and which are otherwise appropriated by the Legislature, *I Liheslaturan Guåhan* ,~~
18 ~~(ii) (iii) establish necessary reserves, (iii) (iv) pay expenses relating to the authorization, sale and~~
19 issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents,
20 credit enhancement fees, underwriting, legal, financial advisory and accounting fees and charges, fees
21 paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and
22 other costs, charges and fees in connection with the issuance, sale and delivery of the bonds, and ~~(iv) (v)~~
23 fund capitalized interest on the bonds for a period ending not later than thirty (30) months.”

24 **Section 9.** Subsection (m) of Section 1512 of Title 5, Guam Code Annotated, is hereby
25 amended to read as follows:

26 “(m) **General Fund Expenses.** The General Fund expenses authorized to be paid with
27 the proceeds of the bonds are as follows:

28 (i) 2004 and prior year individual and corporate tax refunds \$119,600,000

1	(ii) <u>Deposit to Income Tax Refund Reserve Fund</u>	<u>\$18,750,000</u>
2	(iii) <u>Earned Income Tax Credit</u>	<u>\$80,000,000</u>
3	(iv) <u>Payments to the Government of Guam Retirement Fund</u>	
4	<u>for Guam Public School System and Guam Memorial</u>	
5	<u>Hospital</u>	<u>\$34,900,000</u>
6	(v) <u>Government of Guam past due payable to Guam Power</u>	
7	<u>Authority for Guam Public School System, Guam</u>	
8	<u>Memorial Hospital, and the Department of Public Works</u>	<u>\$25,300,000</u>
9	(vi) <u>General Fund Vendor payables</u>	<u>\$15,450,000</u>
10	(vii) <u>MIP and Medicaid billings</u>	<u>\$6,000,000</u>
11	<u>Total</u>	<u>\$300,000,000</u>

12 The payments authorized in this subsection (m) shall, when paid, apply to any existing
13 appropriation for the same items in the FY2006 or prior year appropriations acts, and shall not constitute
14 double appropriations.

15 The net proceeds from the sale of the notes (after the payment of the items described in
16 subsections (m)(i) through (vii) of this Section 1512 and the funding of any capitalized interest on the
17 notes) shall be to make income tax refund payments.

18	(i) <u>Income tax refund payments</u>	<u>\$139,200,000</u>
19	<i>2001 individual income tax refund</i>	
20	<i>\$39,500,000; 2000 and prior years</i>	
21	<i>Estimated individual income tax refund</i>	
22	<i>\$2,700,000 and estimated corporate</i>	
23	<i>Refund \$25,000,000; 2002-estimated</i>	
24	<i>Individual and corporate tax refund</i>	
25	<i>\$72,000,000;</i>	
26	(ii) <u>utility payments to Guam Power</u>	
27	<u>Authority</u>	<u>\$ 30,450,800</u>
28	<i>Payments owed by Department</i>	
	<i>Of Education \$15,284,200; payments</i>	
	<i>Owed by Department of Public Works</i>	
	<i>\$13,324,650; payments owed by Guam</i>	
	<i>Memorial Hospital Authority \$1,841,950*</i>	
	<i>(denotes amounts to be offset against</i>	
	<i>Monies owed for the Medically Indigent</i>	
	<i>Program to GMH);</i>	

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2	(iii) retirement fund payments	\$25,285,057
3	<i>Payments owed by the General Fund for</i>	
4	<i>Supplemental Annuities \$5,086,734;</i>	
5	<i>Payments owed by the General</i>	
6	<i>Fund for retirement contributions</i>	
7	<i>For line agency employees \$10,088,437;</i>	
8	<i>Payments owed by the General</i>	
9	<i>Fund for retirement contributions for Guam</i>	
10	<i>Public School System</i>	
11	<i>\$10,109,886;</i>	
12	(iv) withholding tax payments	\$15,398,763
13	<i>2002 payroll obligations for line</i>	
14	<i>Agencies</i>	
15	(v) General Fund Vendor payables	
16	<i>Thru 09/30/02</i>	\$ 5,263,609
17	<i>Payments owed by line agencies</i>	
18	<i>For vendor payables \$2,519,750;</i>	
19	<i>Payments owed by Department of</i>	
20	<i>Administration to MIP/Medicaid</i>	
21	<i>Vendors \$2,219,524; payments owed</i>	
22	<i>By the Guam Public School System for</i>	
23	<i>Vendor payables \$524,335;</i>	
24	(vi) public school repairs	\$ 2,711,628
25	<i>Southern High School air conditioning</i>	
26	<i>System replacement \$1,000,000;</i>	
27	<i>Jose Rios Middle School earthquake</i>	
28	<i>Repair \$164,000; school repairs \$1,547,628;</i>	
	Total	\$218,309,857

21 ~~(vii) to fund an escrow to pay debt service on all or a portion of the~~
22 ~~Government of Guam General Obligations Bonds, 1993 Series A at a~~
23 ~~matched maturity.~~
24 ~~(viii) The payments authorized in this subsection (m) shall, when paid, apply to~~
25 ~~any existing appropriation for the same items in the FY2003 or prior year~~
26 ~~Appropriations Acts, and shall not constitute double appropriations.~~

25 The net proceeds from the sale of the notes (after the payment of the items
26 described in subsections (l)(iii) and (iv) of this Section and the funding of any capitalized interest on the
27 notes) shall be used first, to make past due utility payments to the Guam Power Authority in an amount
28 up to Ten Million Dollars (\$10,000,000), second, to make income tax refund payments.

Section 10. Local Sales of Bonds. I Maga'lahaen Guåhan shall undertake his best efforts to

1 cause a portion of any bonds issued pursuant to Section 2 of this Act (Section 1512, Title 5, Guam Code
2 Annotated), to be offered for sale to residents of Guam, as well as to residents of other jurisdictions, if
3 and to the extent that such offer and any sales resulting from such offer do not increase the costs to the
4 government of Guam of issuing and repaying such bonds.

5 **Section 11. Approval of Bonds.** *I Liheslaturan Guåhan* pursuant to §50103(k), Title 12, Guam
6 Code Annotated, hereby approves the issuance and sale by the government of Guam of bonds for the
7 purposes and in the principal amounts not to exceed the purpose and limits set forth in Section 2 of this
8 Act; *provided* that the conditions to the issuance of such bonds shall have been met, such bonds have a
9 final maturity date not later than thirty (30) years after their date of issuance, bear interest at such rate
10 and are sold for such price or prices as shall result in a yield to the bondholders not exceeding seven and
11 one-half percent (7.5%) per annum, and are issued and sold in the manner, for the purposes and subject
12 to the requirements and limitations provided in Section 1512, Title 5, Guam Code Annotated. This
13 approval shall supersede the approval for the bonds contained in Public Law 27-19:4 and the terms and
14 conditions of Public Law 27-19:4 as it pertains to the approval of bonds shall not apply. The Approval
15 for the Bond Anticipation Notes in Public Law 27-19:4 remain in effect.

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1 **Section 12. Approval of Indenture.** Public Law 27-42 is hereby repealed in its entirety. The
2 indenture pursuant to which the bonds approved by Section 4 of this Act shall be issued in substantially
3 the form appended to this Act as “**Attachment A**”. In accordance with Section 1512, Title 5, Guam
4 Code Annotated, the terms and conditions of such bonds shall be as determined by *I Maga’lahen*
5 *Guåhan* by execution of the indenture, subject to the requirements of said Section 1512 and Section 11
6 of this Act.

7 **Section 13. Deposit of Bond Proceeds to be Used to Pay Income Tax Refunds.** The proceeds
8 of the bonds approved by Section 4 of this Act that are authorized by Section 1512(m)(i) to be used to
9 pay tax refunds shall be transferred immediately after receipt thereof by the bond trustee into the Income
10 Tax Refund Reserve Fund.

11 **Section 14. Bond Proceeds Not Subject to Transfer Authority.** The proceeds of the bonds
12 approved by Section 4 of this Act shall not be subject to any transfer authority of *I Maga’lahen Guåhan*.

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Bureau of Budget & Management Research
Fiscal Note of Bill No. 332 (LS)

Bill Title (Preamble): AN ACT TO AMEND §512 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GOVERNOR OF GUAM, I MAGA'LAHEN GUAHAN, TO ISSUE GOVERNMENT OF GUAM BONDS FOR THE PURPOSE OF PAYING CERTAIN GENERAL FUND EXPENSES

Department/Agency Appropriation Information	
Dept./Agency Affected: Government of Guam	Dept./Agency Head: N/A
Department's General Fund (GF) appropriation(s) to date:	\$435,092,898
Department's Other Fund (specify): <u>Various Special Funds</u> appropriation(s) to date:	\$111,737,093
Total Department/Agency Appropriation(s) to date:	\$546,829,991

Fund Source Information of Proposed Appropriation			
	General Fund:	Other (specify):	Total:
FY 2006 Adopted Revenues	\$435,092,898	\$0	\$435,092,898
FY Appro. to <u>P.L. 28-68</u>	(\$435,092,898)	\$0	(\$435,092,898)
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 Current FY (if applicable)	Second Year 2007	Third Year 2008	Fourth Year 2009	Fifth Year 2010
General Fund	1/	\$0	\$0	\$15,780,652	\$26,773,064	\$26,774,198
Other Fund:	\$0	\$0	\$0	\$0	\$0	\$0
Total	1/	\$0	\$0	\$15,780,652	\$26,773,064	\$26,774,198

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

Analyst: Glenn Diaz Date: 7/19/06 Director: Carlos P. Bordallo Date: 7/19/06

Footnotes: See attached note 1/

Senator Edward J.B. Calvo
ACKNOWLEDGEMENT RECEIPT
 Rcv'd by: Nikole
 Print Name & Initial

1/ Bill No. 332 (LS)

The intent of the bill is to amend P.L. 27-19 codified as Section 1512 of Title 5 of the Guam Code Annotated and authorize I Maga'lahaen Guahan to issue one or more series of bonds of the Government of Guam in an aggregate principal amount not to exceed the amount necessary to provide Three Hundred Million Dollars (\$300,000,000.00) for the payment of General Fund expenses. The terms and conditions of the bonds shall be as determined by I Maga'lahaen Guahan by execution of certificate(s) or indenture(s) authorizing the issuance of the bonds upon or prior to the issuance of the bond(s). However, such terms and conditions shall be consistent with this Section, and that the bonds shall mature not later than thirty (30) years after their date of issuance, and shall bear interest at such rates and be sold for such price as shall result in a yield to the bondholders not exceeding seven and one-half percent (7.5%) per annum.

The total amount necessary for the Deficit Bond Financing is as follows;

Sources:

Bond Proceeds:

Par Amount \$363,240,000.00

Total **\$363,240,000.00**

Uses:

Project Fund Deposits:

PROJ \$300,000,000.00

Other Fund Deposits:

Debt Service Reserve Fund \$28,036,508.00

Capitalized Interest Fund \$31,546,074.40

\$59,582,582.40

Delivery Date Expenses:

Cost of Issuance \$750,000.00

Underwriter's Discount \$2,905,920.00

\$3,655,920.00

Other Uses of Funds:

Additional Proceeds \$1,497.60

Total **\$363,240,000.00**

Source: Bank of America

The Project Fund Deposits of \$300,000,000.00 shall be used to pay the following General Fund expenses;

2004 and prior individual and corporate tax refunds	\$119,600,000.00
Deposit to Income Tax Refund Reserve Fund	\$18,750,000.00
Earned Income Tax Credit	\$80,000,000.00
Payments to the Government of Guam Retirement Fund for Guam Public School System and Guam Memorial Hospital	\$34,900,000.00
Government of Guam past due payable to Guam Power Authority for Guam Public School System, Guam Memorial Hospital, and the Department of Public Works	\$25,300,000.00
General Fund vendor payables	\$15,450,000.00
MIP and Medicaid billings	<u>\$6,000,000.00</u>
Total	<u>\$300,000,000.00</u>

The financial impact on this bill would gradually reduce the General Fund deficit starting in fiscal year 2006 assuming the aforementioned General Fund expenses are part of the deficit amounting to \$343,985,643.00 as cited in the independent auditor's report for fiscal year 2005. By fiscal year 2012, the debt service for Limited Obligation Bonds Series 2001A & 2002 Short Term Financing would have matured providing an aggregate amount of \$11,000,000.00 of Section 30 Funds starting in fiscal year 2013. In addition, the Limited Obligation Highway Refunding Bonds, 2001 Series A, is also maturing in fiscal year 2012, providing additional funding from the Territorial Highway Fund of \$6,000,000.00 to be reflected in fiscal year 2013. Payments for principal & interest will be capitalized in fiscal year 2008 in the amount of \$15,780,652.00, and an average of \$26.7 million dollars for each subsequent fiscal year as calculated by Bank of America.

CERTIFICATE OF THE GOVERNOR OF GUAM
DETERMINING, SPECIFYING AND AUTHORIZING
CERTAIN MATTERS IN CONNECTION WITH
THE ISSUANCE OF CERTAIN
GOVERNMENT OF GUAM
GENERAL OBLIGATION BONDS,
2006 SERIES A

WHEREAS, pursuant to Section 22435 of Title 5 of the Guam Code Annotated (the "Act"), the Legislature of Guam has authorized the Governor of Guam (the "Governor") to issue one or more series of general obligation bonds for the purposes of refunding the Government of Guam General Obligation Bonds, 1993 Series A, and implementing certain Capital Projects, as that term is defined herein;

WHEREAS, the Legislature of Guam has, by P.L. No. _____ of the Twenty-Eighth Guam Legislature, 2006 (SECOND) Regular Session, approved the terms and conditions of the issuance of not to exceed _____ Dollars (\$ _____) principal amount of Government of Guam General Obligation Bonds, 2006 Series A, the proceeds of which are to be used for such purposes;

WHEREAS, the Guam Economic Development Authority has approved the issuance and sale of said bonds as provided by the Act and by 12 Guam Code Annotated § 50103(k); and

WHEREAS, the Act authorizes the Governor to execute this certificate (this "Certificate") to determine certain matters with respect to the issuance of such bonds;

NOW, THEREFORE, I, Felix Perez Camacho, Governor of Guam, hereby certify as follows:

ARTICLE I

DEFINITIONS; CERTIFICATES

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section shall for all purposes of this Certificate, and of any certificate supplemental hereto and of any certificate, opinion or other document herein mentioned, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined.

Account

"Account" means each account established and given a designation pursuant to this Certificate or any Supplemental Certificate.

Accreted Value

"Accreted Value" means, with respect to any particular Bonds as of any given date of calculation, an amount equal to the sum of the principal amount of such Bonds plus accrued and unpaid interest on such Bonds as of such date, but not including interest payable on a current basis at least annually.

Act

“Act” means Section 22435 of Title 5, Guam Code Annotated.

Annual Debt Service

“Annual Debt Service” means, for any Bond Year, the sum of (1) the interest falling due on then Outstanding Bonds (assuming that all then Outstanding Serial Bonds are retired on their respective maturity dates and that all then Outstanding Term Bonds are retired at the times of and in amounts provided for by the Mandatory Sinking Account Payments applicable to such Term Bonds), (2) the principal amount of then Outstanding Serial Bonds falling due by their terms, and (3) the aggregate amount of all Mandatory Sinking Account Payments required with respect to such Bonds; all as calculated for said Bond Year.

Authorized Officer

“Authorized Officer” of the Trustee means and includes the chairman of the board of directors, the president, every vice president, every trust officer and any other officer or assistant officer of the Trustee, other than those specifically above mentioned, designated by a certificate of an Authorized Officer of the Trustee, as an Authorized Officer for purposes of this Certificate.

Authorized Representative

“Authorized Representative” means the Governor or any other person or office designated and authorized as an Authorized Representative by a Statement of the Governor and filed with the Trustee.

Bond Counsel

“Bond Counsel” means, initially, Orrick, Herrington & Sutcliffe LLP, San Francisco, California. Any successor Bond Counsel thereto shall be an attorney or firm of attorneys having a national reputation for expertise in matters relating to governmental obligations, the interest on which is excluded from gross income for federal income tax purposes under Section 103 of the Code, and familiar with the laws of Guam and procedures of the Government.

Bond Fund

“Bond Fund” means the fund by that name established pursuant to Section 5.01.

Bond Year

“Bond Year” means the period of twelve consecutive months ending on [November 15] in any year in which Bonds are or will be Outstanding.

Bonds, Serial Bonds, Term Bonds

“Bonds” means the Government of Guam General Obligation Bonds, 2006 Series A, authorized by, and at any time Outstanding pursuant to, this Certificate.

“Serial Bonds” means the Bonds, falling due by their terms on specified dates, for which no Mandatory Sinking Account Payments are provided.