

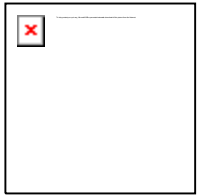
From: Committee on Rules 36GL <cor@guamlegislature.org>
Sent: Thursday, February 10, 2022 10:15 AM
To: Clerks; Rennae Meno
Cc: Speaker Therese M. Terlaje
Subject: Messages and Communications for Doc. No. 36GL-22-1655, 36GL-22-1656, 36GL-22-1657, 36GL-22-1658, 36GL-22-1659 & 36GL-22-1660
Attachments: 36GL-22-1655.pdf; 36GL-22-1656.pdf; 36GL-22-1657.pdf; 36GL-22-1658.pdf; 36GL-22-1659.pdf; 36GL-22-1660.pdf

Håfa Adai Clerks,

Please see attached M&C Doc. No. 36GL-22-1655, 36GL-22-1656, 36GL-22-1657, 36GL-22-1658, 36GL-22-1659 & 36GL-22-1660 for processing:

36GL-22-1655	SUBSTITUTE BILL NO. 162-36 (COR) nka P.L. 36-75 – An Act to Amend § 49107(f) of Chapter 49, § 50119 of Chapter 50, and § 51204(a) of Chapter 51, All of Title 10, Guam Code Annotated; and to Amend §§ 10109(g)(2) and (g)(3) of Chapter 10, Title 22, Guam Administrative Rules and Regulations, Relative to Authorizing the Continuous Appropriation of Funds for Program Funds Maintained by the Guam Environmental Protection Agency*.	Office of the Governor of
36GL-22-1656	SUBSTITUTE BILL NO. 229-36 (LS) nka P.L. 36-76 – An Act to Amend § 75A109(c) of Chapter 75A, Title 21, Guam Code Annotated, and Section 4 of Public Law 35-112; and to Add a New Chapter 6A of Title 18, Guam Administrative Rules and Regulations, Relative to Complying with Legislative and Administrative Changes Required Under the Settlement Agreement made by and between the United States of America and Government of Guam, Chamorro Land Trust Commission & Administrative Director of the Chamorro Land Trust Commission, in United States vs. Government of Guam, et al. (D.Guam), Civil No. 17-CV-001113, as Transmitted to I Liheslaturan Guahan by the Chamorro Land Trust Commission*.	Office of the Governor of
36GL-22-1657	BILL NO. 185-36 (COR) nka P.L. 36-77 – An Act to Transfer Lot No. 10122-14NEW-R1 in the Municipality of Dededo, Formerly Known as the Dededo Solid Waste Transfer Station, to the Guam Environmental Protection Agency for the Purpose of Developing and Constructing its Headquarters*.	Office of the Governor of
36GL-22-1658	BILL NO. 174-36 (LS) nka P.L. 36-78 – An Act to Amend §§ 15201 and 15206 of Article 2, Chapter 15 and § 6108 of Chapter 6, and Add a New § 3102.1(g) of Chapter 3, All of Title 3, Guam Code Annotated; and to Add a New § 3101.3(h) of Article 1, Chapter 3, Title 16, Guam Code Annotated, Relative to Addressing Election-Related Timelines Associated with the Primary Election, Nomination Petition, and Voter Registration*.	Office of the Governor of
36GL-22-1659	BILL NO. 142-36 (LS) nka P.L. 36-79 – An Act to Amend § 25.30 of Chapter 25, Title 9, Guam Code Annotated, Relative to Adding More Protection for Minor Victims Under the Offense of Fourth Degree Criminal Sexual Conduct and Ensuring that the Offense of Fourth Degree Criminal Sexual Conduct Against a Minor Cannot be Reduced from a Felony of the Third Degree to a Misdemeanor*.	Office of the Governor of
36GL-22-1660	VETOED SUBSTITUTE BILL NO. 173-36 (LS) – An Act to Amend § 9112 of Chapter 9, § 117 of Chapter 1, § 14105 of Chapter 14, and § 13103 of Chapter 13; and to Add a New § 15110 to Article 1 of Chapter 15, and to a New § 1124 to Chapter 1, All of Title 3, Guam Code Annotated, Relative to Addressing and Modernizing Election-Related Issues, to Include the Counting of Provisional Ballots, Electioneering at Polling Places, the Cancellation of the Primary Election in Certain Circumstances, and Vacancies*.	Office of the Governor of

Si Yu'os Ma'åse',



COMMITTEE ON RULES

Vice Speaker Tina Rose Muña Barnes
36th Guam Legislature
I Mina'trentai Sais Na Liheslaturan Guáhan
163 Chalan Santo Papa Hågatña Guam 96910
Email: cor@guamlegislature.org

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From: **Speaker Therese M. Terlaje** <speaker@guamlegislature.org>

Date: Wed, Feb 9, 2022 at 6:05 PM

Subject: Messages and Communications for 36GL-22-1655, 36GL-22-1656, 36GL-22-1657, 36GL-22-1658, 36GL-22-1659 & 36GL-22-1660

To: Legislative Secretary Amanda Shelton <officeofsenatorshelton@guamlegislature.org>, Committee on Rules 36GL <cor@guamlegislature.org>

Håfa Adai,

Please see attached M&C Doc. No. 36GL-22-1655, 36GL-22-1656, 36GL-22-1657, 36GL-22-1658, 36GL-22-1659 & 36GL-22-1660.

36GL-22-1655	SUBSTITUTE BILL NO. 162-36 (COR) nka P.L. 36-75 – An Act to Amend § 49107(f) of Chapter 49, § 50119 of Chapter 50, and § 51204(a) of Chapter 51, All of Title 10, Guam Code Annotated; and to Amend §§ 10109(g)(2) and (g)(3) of Chapter 10, Title 22, Guam Administrative Rules and Regulations, Relative to Authorizing the Continuous Appropriation of Funds for Program Funds Maintained by the Guam Environmental Protection Agency*.	Office of the Governor of
36GL-22-1656	SUBSTITUTE BILL NO. 229-36 (LS) nka P.L. 36-76 – An Act to Amend § 75A109(c) of Chapter 75A, Title 21, Guam Code Annotated, and Section 4 of Public Law 35-112; and to Add a New Chapter 6A of Title 18, Guam Administrative Rules and Regulations, Relative to Complying with Legislative and Administrative Changes Required Under the Settlement Agreement made by and between the United States of America and Government of Guam, Chamorro Land Trust Commission & Administrative Director of the Chamorro Land Trust Commission, in United States vs. Government of Guam, et al. (D.Guam), Civil No. 17-CV-001113, as Transmitted to I Liheslaturan Guahan by the Chamorro Land Trust Commission*.	Office of the Governor of
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36GL-22-1660	VETOED SUBSTITUTE BILL NO. 173-36 (LS) – An Act to Amend § 9112 of Chapter 9, § 117 of Chapter 1, § 14105 of Chapter 14, and § 13103 of Chapter 13; and to Add a New § 15110 to Article 1 of Chapter 15, and to a New § 1124 to Chapter 1, All of Title 3, Guam Code Annotated, Relative to Addressing and Modernizing Election-Related Issues, to Include the Counting of Provisional Ballots, Electioneering at Polling Places, the Cancellation of the Primary Election in Certain Circumstances, and Vacancies*.	Office of the Governor of

Si Yu'os Ma'åse',

Maria Abante
Legislative Assistant

Office of Speaker Therese M. Terlaje
Committee on Health, Land, Justice and Culture

I Mina'trentai Sais na Liheslaturan Guåhan
36th Guam Legislature

Address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 F: (671) 989-3590 Email: speaker@guamlegislature.org
website: www.senatorterlaje.com

----- Forwarded message -----

From: <june.borja@guam.gov>
Date: Wed, Feb 9, 2022 at 4:54 PM
Subject: Bill Nos. 142-36, 174-36, 186-36 and Substitute Bill Nos. 162-36, 229-36 nka P.L. Nos. 36-75 to 36-79 and, VETOED Substitute Bill No. 173-36
To: Speaker Therese M. Terlaje <speaker@guamlegislature.org>
Cc: GOVERNOR Lourdes A. Leon Guerrero <governor@guam.gov>, LT. GOVERNOR Joshua F. Tenorio <lt.governor@guam.gov>, <gcepeda@guamcourts.gov>, <guamcompiler@gmail.com>, <libanez@guamcourts.gov>, CHIEF OF STAFF Jon Junior Calvo <jon.calvo@guam.gov>, DEPUTY COS Alice Taijeron <alice.taijeron@guam.gov>, Legal <legal@guam.gov>, Stephanie G. Flores <stephanie.flores@guam.gov>, Krystal Paco-San Agustin <krystal.paco@guam.gov>, <lester.carlson@bbmr.guam.gov>, BERTHA <bertha.duenas@guam.gov>, Eliza G. Dames (Chamber) <eliza.dames@guam.gov>, Shamra L.A. Chargualaf (Chamber) <shamra.chargualaf@guam.gov>, Josephine C. Cepeda (Chamber) <josephine.cepeda@guam.gov>, Kathleen C. Cepeda (COS) <kathleen.cepeda@guam.gov>, Rhea Chang <rhea.chang@guam.gov>, Jessica Cruz (CF) <jessica.cruz@guam.gov>, <admin@bbmr.guam.gov>, <analyn.eustaquio@bbmr.guam.gov>, Michael D. Weakley <michael.weakley@guam.gov>, <rikki.orsini@guam.gov>

Hafa Adai Madame Speaker:

Please find a copy of the attached letters dated February 9, 2022 from the **Honorable Lourdes A. Leon Guerrero, I Maga'hågan Guåhan** regarding the following Bills and Substitute Bills. The original transmittals will be delivered to your office later today.

- **SUBSTITUTE BILL NO. 162-36 (COR) nka P.L. 36-75** – An Act to *Amend* § 49107(f) of Chapter 49, § 50119 of Chapter 50, and § 51204(a) of Chapter 51, All of Title 10, Guam Code Annotated; and to *Amend* §§ 10109(g)(2) and (g)(3) of Chapter 10, Title 22, Guam Administrative Rules and Regulations, Relative to Authorizing the Continuous Appropriation of Funds for Program Funds Maintained by the Guam Environmental Protection Agency;
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- **BILL NO. 185-36 (COR) nka P.L. 36-77** – An Act to Transfer Lot No. 10122-14NEW-R1 in the Municipality of Dededo, Formerly Known as the Dededo Solid Waste Transfer Station, to the Guam Environmental Protection Agency for the Purpose of Developing and Constructing its Headquarters;
- **BILL NO. 174-36 (LS) nka P.L. 36-78** – An Act to *Amend* §§ 15201 and 15206 of Article 2, Chapter 15 and § 6108 of Chapter 6, and Add a New § 3102.1(g) of Chapter 3, All of Title 3, Guam Code Annotated; and to *Add* a New § 3101.3(h) of Article 1, Chapter 3, Title 16, Guam Code Annotated, Relative to Addressing Election-Related Timelines Associated with the Primary Election, Nomination Petition, and Voter Registration;
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Thank you.

Respectfully,

June M.C. Borja

Administrative Services Officer

OFFICE OF THE GOVERNOR OF GUAM

Office of Legal Counsel

Ricardo J. Bordallo Governor's Complex

Adelup, Guam 96910

P.O. Box 2950, Hagåtña, Guam 96932

Office No.: (671) 473-1118

Fax No.: (671) 477-4826

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Bill Nos. 142-36, 174-36, 186-36 and Substitute Bill Nos. 162-36, 229-36 nka P.L. Nos. 36-75 to 36-79 and, VETOED Substitute Bill No. 173-36

june.borja@guam.gov <june.borja@guam.gov>

Wed, Feb 9, 2022 at 4:47 PM

To: "Speaker Therese M. Terlaje" <speaker@guamlegislature.org>

Cc: "GOVERNOR Lourdes A. Leon Guerrero" <governor@guam.gov>, "LT. GOVERNOR Joshua F. Tenorio" <lt.governor@guam.gov>, gcepeda@guamcourts.gov, guamcompiler@gmail.com, libanez@guamcourts.gov, CHIEF OF STAFF Jon Junior Galvo <jon.galvo@guam.gov>, DEPUTY COS Alice Taijeron <alice.taijeron@guam.gov>, Legal <legal@guam.gov>, "Stephanie G. Flores" <stephanie.flores@guam.gov>, Krystal Paco-San Agustin <krystal.paco@guam.gov>, lester.carlson@bbmr.guam.gov, BERTHA <bertha.duenas@guam.gov>, "Eliza G. Dames (Chamber)" <eliza.dames@guam.gov>, "Shamra L.A. Chargualaf (Chamber)" <shamra.chargualaf@guam.gov>, "Josephine C. Cepeda (Chamber)" <josephine.cepeda@guam.gov>, "Kathleen C. Cepeda (COS)" <kathleen.cepeda@guam.gov>, Rhea Chang <rhea.chang@guam.gov>, "Jessica Cruz (CF)" <jessica.cruz@guam.gov>, admin@bbmr.guam.gov, analyn.eustaquio@bbmr.guam.gov, "Michael D. Weakley" <michael.weakley@guam.gov>, rikki.orsini@guam.gov

Hafa Adai Madame Speaker.

Please find a copy of the attached letters dated February 9, 2022 from the **Honorable Lourdes A. Leon Guerrero, / Maga'hågan Guåhan** regarding the following Bills and Substitute Bills. The original transmittals will be delivered to your office later today.

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36GL-22-1655 / 36GL-22-1656 /
36GL-22-1657 / 36GL-22-1658 /
36GL-22-1659 / 36GL-22-1660

Thank you.

**OFFICE OF THE SPEAKER
THERESE M. TERLAJE**

Respectfully,

June M.C. Borja

Administrative Services Officer

OFFICE OF THE GOVERNOR OF GUAM

Office of Legal Counsel

Ricardo J. Bordallo Governor's Complex

Adelup, Guam 96910

P.O. Box 2950, Hagåtña, Guam 96932

Office No.: (671) 473-1118

Fax No.: (671) 477-4826

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4:47 pm

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6 attachments

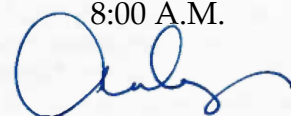
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COMMITTEE ON RULES

RECEIVED:

February 10, 2022

8:00 A.M.





UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

February 9, 2022

HONORABLE THERESE M. TERLAJE, Speaker

I Mina'trentai Sais Na Liheslaturan Guåhan

36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: SUBSTITUTE BILL NO. 173-36 (LS) – An Act to *Amend* § 9112 of Chapter 9, § 117 of Chapter 1, § 14105 of Chapter 14, and § 13103 of Chapter 13; and to *Add* a New § 15110 to Article 1 of Chapter 15, and to a New § 1124 to Chapter 1, All of Title 3, Guam Code Annotated, Relative to Addressing and Modernizing Election-Related Issues, to Include the Counting of Provisional Ballots, Electioneering at Polling Places, the Cancellation of the Primary Election in Certain Circumstances, and Vacancies

Hafa Adai Madame Speaker,

Bill No. 173-36 addresses a variety of important election-related issues, many of which received the support of the Guam Election Commission (GEC) and would aid the GEC in the performance of its duties. However, one of the proposed additions, which addresses the cancellation of primary elections in certain circumstances, contains language that, if signed into law, would have a substantial, unintended impact on existing Guam law regulating the conduct of elections.

Specifically, Section 1 of the Bill proposes to add §15110 to Title 3 Chapter 15 of the Guam Code Annotated. It provides in relevant part:

Notwithstanding any other provision of law, rule, or regulation to the contrary, if equal to or fewer than the maximum number of partisan, non-partisan, or independent candidates who can advance to the general election are running in their respective partisan, non-partisan, or independent contest in any election year, the primary election shall not take place for such contest for that election year.[]

The proposed section continues to describe the elections to which the section would apply, including the races for the Legislature, Governor/Lt. Governor, the Washington Representative, Mayor, Vice Mayor, the Public Auditor, and the Attorney General.

As written, the language appears to irreconcilably conflict with other statutes and the corresponding established policies and principles upon which the statutes are based. First, the section would eliminate a primary election if equal to or fewer than the maximum number of partisan, non-partisan or independent candidates who can advance to the general election are running in their respective contests, notwithstanding any other provision of law. 3 G.C.A. § 15404 (a) and (b) provides that independent candidates must receive a threshold twenty percent (20%) of total combined votes cast in order to be eligible for placement on the general election ballot for the Governor and Lt. Governor race. The threshold is ten percent (10%) in the legislative race. To the extent Bill No. 173-36 is read to eliminate a primary election where the two major parties have equal to or less than the maximum number of candidates who can advance to the general election, this reading yields two equally unacceptable alternative results: (1) an independent candidate is

To: Speaker Terlaje
Fr: Governor of Guam
Date: February 9, 2022
Re: Substitute Bill No. 173-36 (LS)

Page 2 of 2

no longer required to meet the established minimum threshold under Section 15404 to be placed on the general election ballot, or (2) an independent candidate is still required to meet the threshold but has no mechanism to do so, due to the cancellation of the primary election. If the Legislature intended either of these results, this intent is not reflected in the Legislative record.

Second, though the Legislative session for Bill No. 173-36 reflects that senators confirmed multiple times that a primary election would proceed if one party exceeded the maximum number of candidates who can advance to the general election, even if the other party did not (for example, if 18 Democratic candidates and 13 Republican candidates ran in a particular election year), that intent is not reflected in the language of the Bill. Specifically, the bill states that the primary election shall not take place for a particular *contest* if equal to or fewer than the maximum number of candidates who can advance to the general election are running their respective *contest*. In contrast, the GEC proposed language reflecting that the primary election should be canceled for an *office* if equal to or fewer than the maximum number of candidates who can advance to the general election for that particular *office* run. The distinction between the terms “contest” vs. “office” is not merely semantic – in a primary election, the “contest” is between candidates of the same party, and voters cannot cross party columns. The practical effect of adopting the term “contest” instead of the GEC’s proposed term “office” is that in the example provided above, a primary election could be canceled in the Republican column, with all candidates advancing to the general election, while the Democrats would proceed with their primary election. It does not appear from the Committee Report that this was the Legislature’s intent, and the change would present numerous opportunities to disadvantageously shift the results of the election for the party proceeding with its primary election.

Finally, 3 G.C.A. § 15109 provides that “[n]o person shall be deemed nominated in a primary election unless the candidate receives votes at least three (3) times greater than the required number of signatures needed for a nomination petition for candidacy of such election, or votes equal to four percent (4%) of the total number of persons who obtain ballots to vote in that primary election for all parties, whichever is less.” This threshold applies to all candidates, and would be impossible to meet in the event a primary election is canceled. To the extent the Legislature intended this result, again, the record does not so indicate.

I recognize that the remaining provisions of this Bill may merit further consideration in future legislation. However, due to the serious implications that are always associated with amending election statutes, and in light of the inadvertent issues caused by the language discussed above, I urge close scrutiny of the remaining sections of this Bill, including the definitions, to ensure consistency with other laws.

Elections are of paramount importance in every democracy, and amendments to the body of law governing elections must be undertaken delicately and deliberately. While periodic shifts in election law are necessary to maintain the integrity of the system, and to adjust to modern realities, we must scrutinize our proposed changes to ensure first, that they reflect the legislature’s intent, and second, that their relationship with existing statutes is understood, and where conflict arises, resolved. Because it fails to meet these standards, I *veto* Bill No. 173-36.

Senseremente,



LOURDES A. LEON GUERRERO

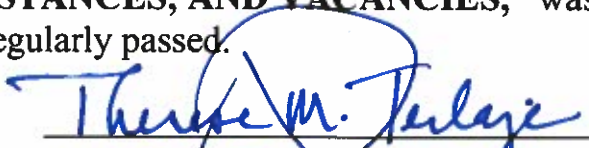
Maga'hāgan Guåhan
Governor of Guam

Enclosure: Vetoed Sub. Bill No. 173-36 (LS)
cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'lāhen Guåhan* / Compiler of Laws

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Substitute Bill No. 173-36 (LS), "AN ACT TO AMEND § 9112 OF CHAPTER 9, § 1117 OF CHAPTER 1, § 14105 OF CHAPTER 14, AND § 13103 OF CHAPTER 13; AND TO ADD A NEW § 15110 TO ARTICLE 1 OF CHAPTER 15, AND A NEW § 1124 TO CHAPTER 1, ALL OF TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO ADDRESSING AND MODERNIZING ELECTION-RELATED ISSUES, TO INCLUDE THE COUNTING OF PROVISIONAL BALLOTS, ELECTIONEERING AT POLLING PLACES, THE CANCELLATION OF THE PRIMARY ELECTION IN CERTAIN CIRCUMSTANCES, AND VACANCIES,"** was on the 28th day of January 2022, duly and regularly passed.



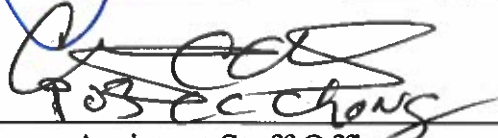
Therese M. Terlaje
Speaker

Attested:



Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 28th day of January
2022, at 7:28 o'clock P.M.



Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÁHAN
2021 (FIRST) Regular Session

Bill No. 173-36 (LS)

As substituted by the Committee on General Government
Operations, Appropriations, and Housing; and further
substituted on the Floor and amended in the Committee of the Whole.

Introduced by:

James C. Moylan
Joe S. San Agustin
Therese M. Terlaje
Christopher M. Dueñas
V. Anthony Ada
Frank Blas Jr.
Joanne Brown
Tina Rose Muña Barnes
Telena Cruz Nelson
Sabina Flores Perez
Clynton E. Ridgell
Amanda L. Shelton
Telo T. Taitague
Jose "Pedo" Terlaje
Mary Camacho Torres

**AN ACT TO *AMEND* § 9112 OF CHAPTER 9, § 1117 OF
CHAPTER 1, § 14105 OF CHAPTER 14, AND § 13103 OF
CHAPTER 13; AND TO *ADD* A NEW § 15110 TO
ARTICLE 1 OF CHAPTER 15, AND A NEW § 1124 TO
CHAPTER 1, ALL OF TITLE 3, GUAM CODE
ANNOTATED, RELATIVE TO ADDRESSING AND
MODERNIZING ELECTION-RELATED ISSUES, TO
INCLUDE THE COUNTING OF PROVISIONAL
BALLOTS, ELECTIONEERING AT POLLING PLACES,
THE CANCELLATION OF THE PRIMARY ELECTION
IN CERTAIN CIRCUMSTANCES, AND VACANCIES.**

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

2 **Section 1.** A new § 15110 is hereby *added* to Article 1 of Chapter 15, Title
3 3, Guam Code Annotated, to read as follows:

1 **“§ 15110. Cancellation of the Primary Election for Certain**
2 **Circumstances.**

3 Notwithstanding any other provision of law, rule, or regulation to the
4 contrary, if equal to or fewer than the maximum number of partisan, non-
5 partisan, or independent candidates who can advance to the general election
6 are running in their respective partisan, non-partisan, or independent contest
7 in any election year, the primary election shall not take place for such contest
8 for that election year. This Section shall only apply to the following elections;

9 (a) *I Liheslaturan Guåhan*;

10 (b) a team consisting of *I Maga'hågan/Maga'låhen Guåhan*
11 [Governor of Guam] and *I Sigundo Maga'hågan/Maga'låhen Guåhan*
12 [Lieutenant Governor of Guam];

13 (c) Washington Representative;

14 (d) Mayor;

15 (e) Vice Mayor;

16 (f) Office of the Public Auditor; and

17 (g) Office of the Attorney General.”

18 **Section 2.** § 9112 of Chapter 9, Title 3, Guam Code Annotated, is hereby
19 *amended* to read as follows:

20 **“§ 9112. Electioneering at Polling Place Prohibited.**

21 No person shall do any electioneering on election day within one
22 hundred (100) feet of any entrance and/or exit of any polling place. The
23 entrance or exit is defined as the entrance or exit gate, if the polling place is
24 fenced. The Commission may, on a case-by-case basis and limited to the
25 current election, make an exception to this Section through a Commission
26 Resolution if the GEC deems there to be a safety issue when conducting the
27 election. The GEC has sole discretion and responsibility to determine and

1 mark the one hundred (100) feet or other boundaries under this Section.
2 Notices identifying the newly-set perimeter also shall be posted at the entrance
3 and exit of the polling place(s) affected. In addition, the GEC or any election
4 official present at the polling place may seek the assistance of any law
5 enforcement officer to promptly assist in the enforcement of this Section,
6 including, but not limited to, removing any person from the polling place.”

7 **Section 3.** § 1117 of Chapter 1, Title 3, Guam Code Annotated, is hereby
8 *amended* to read as follows:

9 **“§ 1117. Same: District.**

10 Each district of Guam, as defined in Title 1 GCA § 403, shall constitute
11 a voting district.”

12 **Section 4.** A new § 1124 is hereby *added* to Chapter 1 of Title 3, Guam
13 Code Annotated, to read as follows:

14 **“§ 1124. Name.**

15 In the case of a candidate or a nominee, the word “name” shall mean
16 the name that appears on their United States birth certificate, United States
17 passport, certificate of naturalization, court-ordered name change, certificate
18 of marriage, or any identification meeting the REAL ID Act requirements
19 issued by a state. In any provision of this Title that the word “name” appears,
20 this definition shall apply.”

21 **Section 5.** § 14105 (a), (c) and (d) of Chapter 14, Title 3, Guam Code
22 Annotated, is hereby *amended* to read as follows:

23 **“§ 14105. Disposition.**

24 (a) Counting Provisional Ballots. Prior to the certification of any
25 election, the Commission shall count the provisional voter’s choices for every
26 race for which the voter was eligible to vote. When a provisional voter casts
27 a provisional ballot in the incorrect precinct, election officials shall count the

1 votes on that ballot in every race for which the voter would be entitled to vote
2 if he or she had been in the correct precinct.

3 (c) Provisional Ballots as a Remedy for Incomplete or Deficient
4 Registration Applications. Provisional ballots shall serve to remedy
5 incomplete or otherwise deficient voter registration applications. In the event
6 that a voter is denied the right to vote a regular ballot because of an incomplete
7 or otherwise deficient voter registration application, the provisional ballot
8 shall be used to complete said voter's application; provided, that the
9 provisions of 3 GCA §§ 3102 and 14104(j) have been met. The provisional
10 voter shall be deemed registered as of the date of the original application.
11 When the voter's application shall have been satisfactorily completed and
12 deemed valid, the provisional ballot shall be counted prior to the certification
13 of any election.

14 (d) Registration of Unregistered Provisional Voters. Election
15 officials shall register provisional voters, if they are not already registered or
16 who are eligible to be registered, based on the information provided on the
17 provisional ballot envelope; and provided, that the provisions of 3 GCA §§
18 3102 and 14104(j) have been met.”

19 **Section 6.** § 13103 of Chapter 13, Title 3, Guam Code Annotated, is hereby
20 *amended* to read as follows:

21 “§ 13103. **Election to Fill Vacancy in *I Liheslaturan Guåhan* (the**
22 **Guam Legislature) or the Seat of the Washington Representative.**

23 The Guam Election Commission shall call for and conduct a special
24 election on a Saturday on or about sixty (60) days of any vacancy whenever:

25 (a) one (1) or more vacancies occur therein prior to eight (8)
26 months before the date of the next general election of Members of *I*
27 *Liheslaturan Guåhan* (the Guam Legislature); or

1 (b) a vacancy occurs under 48 U.S.C. § 1712(a) relative to the
2 Washington Representative.

3 Candidates shall file their candidacies no later than forty (40) days prior
4 to the special election date. There shall be no primary election. For the vacant
5 seat as a Member of *I Liheslaturan Guåhan* (the Guam Legislature) the
6 highest vote getter or vote getters, if there is more than one (1) vacancy, shall
7 be certified by the Guam Election Commission as elected, and shall be
8 administered the oath of office immediately to fill the unexpired vacancy. For
9 the vacant seat of the Washington Representative, the candidate elected at
10 large and by a majority of the votes cast for the Office of Delegate shall be
11 certified by the Guam Election Commission as elected.”

12 **Section 7. Severability.** If any provision of this Act or its application to any
13 person or circumstance is found to be invalid or contrary to law, such invalidity shall
14 not affect other provisions or applications of this Act that can be given effect without
15 the invalid provision or application, and to this end the provisions of this Act are
16 severable.

17 **Section 8. Effective Date.** This Act shall be effective on January 1, 2023.

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

Doc Type: 36GL-22-1660
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

February 9, 2022

HONORABLE THERESE M. TERLAJE, *Speaker*

I Mina'trentai Sais Na Liheslaturan Guåhan

36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

-02-09 2022

Time: 5:06 pm
Received: [Signature]

Re: SUBSTITUTE BILL NO. 173-36 (LS) – An Act to *Amend* § 9112 of Chapter 9, § 117 of Chapter 1, § 14105 of Chapter 14, and § 13103 of Chapter 13; and to *Add* a New § 15110 to Article 1 of Chapter 15, and to a New § 1124 to Chapter 1, All of Title 3, Guam Code Annotated, Relative to Addressing and Modernizing Election-Related Issues, to Include the Counting of Provisional Ballots, Electioneering at Polling Places, the Cancellation of the Primary Election in Certain Circumstances, and Vacancies

Hafa Adai Madame Speaker,

Bill No. 173-36 addresses a variety of important election-related issues, many of which received the support of the Guam Election Commission (GEC) and would aid the GEC in the performance of its duties. However, one of the proposed additions, which addresses the cancellation of primary elections in certain circumstances, contains language that, if signed into law, would have a substantial, unintended impact on existing Guam law regulating the conduct of elections.

Specifically, Section 1 of the Bill proposes to add §15110 to Title 3 Chapter 15 of the Guam Code Annotated. It provides in relevant part:

Notwithstanding any other provision of law, rule, or regulation to the contrary, if equal to or fewer than the maximum number of partisan, non-partisan, or independent candidates who can advance to the general election are running in their respective partisan, non-partisan, or independent contest in any election year, the primary election shall not take place for such contest for that election year.[]

The proposed section continues to describe the elections to which the section would apply, including the races for the Legislature, Governor/Lt. Governor, the Washington Representative, Mayor, Vice Mayor, the Public Auditor, and the Attorney General.

As written, the language appears to irreconcilably conflict with other statutes and the corresponding established policies and principles upon which the statutes are based. First, the section would eliminate a primary election if equal to or fewer than the maximum number of partisan, non-partisan or independent candidates who can advance to the general election are running in their respective contests, notwithstanding any other provision of law. 3 G.C.A. § 15404 (a) and (b) provides that independent candidates must receive a threshold twenty percent (20%) of total combined votes cast in order to be eligible for placement on the general election ballot for the Governor and Lt. Governor race. The threshold is ten percent (10%) in the legislative race. To the extent Bill No. 173-36 is read to eliminate a primary election where the two major parties have equal to or less than the maximum number of candidates who can advance to the general election, this reading yields two equally unacceptable alternative results: (1) an independent candidate is

To: Speaker Terlaje
Fr: Governor of Guam
Date: February 9, 2022
Re: Substitute Bill No. 173-36 (LS)

Page 2 of 2

no longer required to meet the established minimum threshold under Section 15404 to be placed on the general election ballot, or (2) an independent candidate is still required to meet the threshold but has no mechanism to do so, due to the cancellation of the primary election. If the Legislature intended either of these results, this intent is not reflected in the Legislative record.

Second, though the Legislative session for Bill No. 173-36 reflects that senators confirmed multiple times that a primary election would proceed if one party exceeded the maximum number of candidates who can advance to the general election, even if the other party did not (for example, if 18 Democratic candidates and 13 Republican candidates ran in a particular election year), that intent is not reflected in the language of the Bill. Specifically, the bill states that the primary election shall not take place for a particular *contest* if equal to or fewer than the maximum number of candidates who can advance to the general election are running their respective *contest*. In contrast, the GEC proposed language reflecting that the primary election should be canceled for an *office* if equal to or fewer than the maximum number of candidates who can advance to the general election for that particular *office* run. The distinction between the terms “contest” vs. “office” is not merely semantic – in a primary election, the “contest” is between candidates of the same party, and voters cannot cross party columns. The practical effect of adopting the term “contest” instead of the GEC’s proposed term “office” is that in the example provided above, a primary election could be canceled in the Republican column, with all candidates advancing to the general election, while the Democrats would proceed with their primary election. It does not appear from the Committee Report that this was the Legislature’s intent, and the change would present numerous opportunities to disadvantageously shift the results of the election for the party proceeding with its primary election.

Finally, 3 G.C.A. § 15109 provides that “[n]o person shall be deemed nominated in a primary election unless the candidate receives votes at least three (3) times greater than the required number of signatures needed for a nomination petition for candidacy of such election, or votes equal to four percent (4%) of the total number of persons who obtain ballots to vote in that primary election for all parties, whichever is less.” This threshold applies to all candidates, and would be impossible to meet in the event a primary election is canceled. To the extent the Legislature intended this result, again, the record does not so indicate.

I recognize that the remaining provisions of this Bill may merit further consideration in future legislation. However, due to the serious implications that are always associated with amending election statutes, and in light of the inadvertent issues caused by the language discussed above, I urge close scrutiny of the remaining sections of this Bill, including the definitions, to ensure consistency with other laws.

Elections are of paramount importance in every democracy, and amendments to the body of law governing elections must be undertaken delicately and deliberately. While periodic shifts in election law are necessary to maintain the integrity of the system, and to adjust to modern realities, we must scrutinize our proposed changes to ensure first, that they reflect the legislature’s intent, and second, that their relationship with existing statutes is understood, and where conflict arises, resolved. Because it fails to meet these standards, I *veto* Bill No. 173-36.

Senseremente,



LOURDES A. LEON GUERRERO

Maga'hāgan Guāhan

Governor of Guam

Enclosure: Vetoed Sub. Bill No. 173-36 (LS)

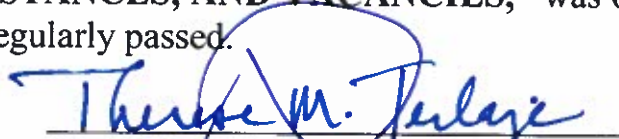
cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'lāhen Guāhan* / Compiler of Laws

RICARDO J. BORDALLO GOVERNOR'S COMPLEX
513 W. Marine Corps Drive Hagåtña, Guam 96910
governor.guam.gov | (671) 472-8931

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Substitute Bill No. 173-36 (LS), "AN ACT TO AMEND § 9112 OF CHAPTER 9, § 1117 OF CHAPTER 1, § 14105 OF CHAPTER 14, AND § 13103 OF CHAPTER 13; AND TO ADD A NEW § 15110 TO ARTICLE 1 OF CHAPTER 15, AND A NEW § 1124 TO CHAPTER 1, ALL OF TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO ADDRESSING AND MODERNIZING ELECTION-RELATED ISSUES, TO INCLUDE THE COUNTING OF PROVISIONAL BALLOTS, ELECTIONEERING AT POLLING PLACES, THE CANCELLATION OF THE PRIMARY ELECTION IN CERTAIN CIRCUMSTANCES, AND VACANCIES,"** was on the 28th day of January 2022, duly and regularly passed.




Therese M. Terlaje
Speaker

Attested:



Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 28TH day of January,
2022, at 7:28 o'clock P.M.



Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÁHAN
2021 (FIRST) Regular Session

Bill No. 173-36 (LS)

As substituted by the Committee on General Government
Operations, Appropriations, and Housing; and further
substituted on the Floor and amended in the Committee of the Whole.

Introduced by:

James C. Moylan
Joe S. San Agustin
Therese M. Terlaje
Christopher M. Dueñas
V. Anthony Ada
Frank Blas Jr.
Joanne Brown
Tina Rose Muña Barnes
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**AN ACT TO *AMEND* § 9112 OF CHAPTER 9, § 1117 OF
CHAPTER 1, § 14105 OF CHAPTER 14, AND § 13103 OF
CHAPTER 13; AND TO *ADD* A NEW § 15110 TO
ARTICLE 1 OF CHAPTER 15, AND A NEW § 1124 TO
CHAPTER 1, ALL OF TITLE 3, GUAM CODE
ANNOTATED, RELATIVE TO ADDRESSING AND
MODERNIZING ELECTION-RELATED ISSUES, TO
INCLUDE THE COUNTING OF PROVISIONAL
BALLOTS, ELECTIONEERING AT POLLING PLACES,
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1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** A new § 15110 is hereby *added* to Article 1 of Chapter 15, Title

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2 **Circumstances.**

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4 contrary, if equal to or fewer than the maximum number of partisan, non-
5 partisan, or independent candidates who can advance to the general election
6 are running in their respective partisan, non-partisan, or independent contest
7 in any election year, the primary election shall not take place for such contest
8 for that election year. This Section shall only apply to the following elections;

9 (a) *I Liheslaturan Guåhan*;

10 (b) a team consisting of *I Maga'hågan/Maga'låhen Guåhan*
11 [Governor of Guam] and *I Sigundo Maga'hågan/Maga'låhen Guåhan*
12 [Lieutenant Governor of Guam];

13 (c) Washington Representative;

14 (d) Mayor;

15 (e) Vice Mayor;

16 (f) Office of the Public Auditor; and

17 (g) Office of the Attorney General.”

18 **Section 2.** § 9112 of Chapter 9, Title 3, Guam Code Annotated, is hereby
19 *amended* to read as follows:

20 **“§ 9112. Electioneering at Polling Place Prohibited.**

21 No person shall do any electioneering on election day within one
22 hundred (100) feet of any entrance and/or exit of any polling place. The
23 entrance or exit is defined as the entrance or exit gate, if the polling place is
24 fenced. The Commission may, on a case-by-case basis and limited to the
25 current election, make an exception to this Section through a Commission
26 Resolution if the GEC deems there to be a safety issue when conducting the
27 election. The GEC has sole discretion and responsibility to determine and

1 mark the one hundred (100) feet or other boundaries under this Section.
2 Notices identifying the newly-set perimeter also shall be posted at the entrance
3 and exit of the polling place(s) affected. In addition, the GEC or any election
4 official present at the polling place may seek the assistance of any law
5 enforcement officer to promptly assist in the enforcement of this Section,
6 including, but not limited to, removing any person from the polling place.”

7 **Section 3.** § 1117 of Chapter 1, Title 3, Guam Code Annotated, is hereby
8 *amended* to read as follows:

9 **“§ 1117. Same: District.**

10 Each district of Guam, as defined in Title 1 GCA § 403, shall constitute
11 a voting district.”

12 **Section 4.** A new § 1124 is hereby *added* to Chapter 1 of Title 3, Guam
13 Code Annotated, to read as follows:

14 **“§ 1124. Name.**

15 In the case of a candidate or a nominee, the word “name” shall mean
16 the name that appears on their United States birth certificate, United States
17 passport, certificate of naturalization, court-ordered name change, certificate
18 of marriage, or any identification meeting the REAL ID Act requirements
19 issued by a state. In any provision of this Title that the word “name” appears,
20 this definition shall apply.”

21 **Section 5.** § 14105 (a), (c) and (d) of Chapter 14, Title 3, Guam Code
22 Annotated, is hereby *amended* to read as follows:

23 **“§ 14105. Disposition.**

24 (a) Counting Provisional Ballots. Prior to the certification of any
25 election, the Commission shall count the provisional voter’s choices for every
26 race for which the voter was eligible to vote. When a provisional voter casts
27 a provisional ballot in the incorrect precinct, election officials shall count the

1 votes on that ballot in every race for which the voter would be entitled to vote
2 if he or she had been in the correct precinct.

3 (c) Provisional Ballots as a Remedy for Incomplete or Deficient
4 Registration Applications. Provisional ballots shall serve to remedy
5 incomplete or otherwise deficient voter registration applications. In the event
6 that a voter is denied the right to vote a regular ballot because of an incomplete
7 or otherwise deficient voter registration application, the provisional ballot
8 shall be used to complete said voter's application; provided, that the
9 provisions of 3 GCA §§ 3102 and 14104(j) have been met. The provisional
10 voter shall be deemed registered as of the date of the original application.
11 When the voter's application shall have been satisfactorily completed and
12 deemed valid, the provisional ballot shall be counted prior to the certification
13 of any election.

14 (d) Registration of Unregistered Provisional Voters. Election
15 officials shall register provisional voters, if they are not already registered or
16 who are eligible to be registered, based on the information provided on the
17 provisional ballot envelope; and provided, that the provisions of 3 GCA §§
18 3102 and 14104(j) have been met.”

19 **Section 6.** § 13103 of Chapter 13, Title 3, Guam Code Annotated, is hereby
20 *amended* to read as follows:

21 “§ 13103. **Election to Fill Vacancy in *I Liheslaturan Guåhan* (the**
22 **Guam Legislature) or the Seat of the Washington Representative.**

23 The Guam Election Commission shall call for and conduct a special
24 election on a Saturday on or about sixty (60) days of any vacancy whenever:

25 (a) one (1) or more vacancies occur therein prior to eight (8)
26 months before the date of the next general election of Members of *I*
27 *Liheslaturan Guåhan* (the Guam Legislature); or

1 (b) a vacancy occurs under 48 U.S.C. § 1712(a) relative to the
2 Washington Representative.

3 Candidates shall file their candidacies no later than forty (40) days prior
4 to the special election date. There shall be no primary election. For the vacant
5 seat as a Member of *I Liheslaturan Guåhan* (the Guam Legislature) the
6 highest vote getter or vote getters, if there is more than one (1) vacancy, shall
7 be certified by the Guam Election Commission as elected, and shall be
8 administered the oath of office immediately to fill the unexpired vacancy. For
9 the vacant seat of the Washington Representative, the candidate elected at
10 large and by a majority of the votes cast for the Office of Delegate shall be
11 certified by the Guam Election Commission as elected.”

12 **Section 7. Severability.** If any provision of this Act or its application to any
13 person or circumstance is found to be invalid or contrary to law, such invalidity shall
14 not affect other provisions or applications of this Act that can be given effect without
15 the invalid provision or application, and to this end the provisions of this Act are
16 severable.

17 **Section 8. Effective Date.** This Act shall be effective on January 1, 2023.