

I Mina'trentai Siette Na Lihelaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
203-37 (COR)	William A. Parkinson	AN ACT TO REPEAL CHAPTER 79, REPEAL AND REENACT §§ 14102, 14103, AND 14105 OF CHAPTER 14, REPEAL AND REENACT §§ 8102, 8103, AND 8107 OF CHAPTER 8, ALL OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ABOLISHING THE CONSOLIDATED COMMISSION ON UTILITIES, AND TO RESTORE THE BOARDS OF GUAM POWER AUTHORITY AND GUAM WATERWORKS AUTHORITY TO BOARDS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE LEGISLATURE PURSUANT TO THE GOVERNOR'S ORGANIC ACT POWERS.	11/20/23 2:56 p.m.	12/4/23	Committee on Fire, Agriculture, Power and Energy Utilities, Public Transit, Unemployment Insurance and Universal Health Insurance	Request: 12/4/23 12/18/23			Referred Version 12/4/23



COMMITTEE ON RULES

Senator Chris Barnett, Chairperson
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature

December 18, 2023

To: **Joaquin P. Taitague**
Substitute Clerk of the Legislature

From: **Senator Chris Barnett** 
Chairperson, Committee on Rules

Subject: **Fiscal Note for Bill No. 203-37 (COR)**

Håfa Adai yan Biba Guåhan!

Find the attached, Fiscal Note for the following bill:

Bill No. 203-37 (COR).

I also request that the same be sent to the respective Chairperson of the Standing Committee, to which this bill has been referred. Kindly forward the same to Management Information Services (MIS) for posting on our website.



**Bureau of Budget & Management Research
Fiscal Note of Bill No. 203-37 (COR)**

AN ACT TO ABOLISH THE CONSOLIDATED COMMISSION ON UTILITIES, AND TO RESTORE THE BOARDS OF GUAM POWER AUTHORITY AND GUAM WATERWORKS AUTHORITY TO BOARDS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE LEGISLATURE PURSUANT TO THE GOVERNOR'S ORGANIC ACT POWERS.

Department/Agency Appropriation Information

Dept./Agency Affected: Consolidated Commission on Utilities		Dept./Agency Head: Joseph T. Duenas, Board Chairman	
Department's General Fund (GF) appropriation(s) to date:			\$0
Department's Other Fund (Specify) appropriation(s) to date:			\$0
Total Department/Agency Appropriation(s) to date:			\$0

Fund Source Information of Proposed Appropriation

	General Fund:	Special Fund:	Total:
FY 2023 Unreserved Fund Balance	\$0	\$0	\$0
FY 2024 Adopted Revenues	\$0	0	0
FY 2024 Appro. (P.L. 37-42)	\$0	0	0
Sub-total:	\$0	0	0
Less appropriation in Bill	\$0	0	0
Total:	\$0	0	0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2024 (if applicable)	FY 2025	FY 2026	FY 2027	FY 2028
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Other Fund 1/	1/	1/	1/	1/	1/	1/
Total	1/	1/	1/	1/	1/	1/

- | | | | |
|---|-----------|---------|----------|
| 1. Does the bill contain "revenue generating" provisions?
If Yes, see attachment | / / N/A | / / Yes | / X / No |
| 2. Is amount appropriated adequate to fund the intent of the appropriation?
If no, what is the additional amount required? | / X / N/A | / / Yes | / / No |
| 3. Does the Bill establish a new program/agency?
If yes, will the program duplicate existing programs/agencies?
Is there a federal mandate to establish the program/agency? | / / N/A | / / Yes | / X / No |
| 4. Will the enactment of this Bill require new physical facilities? | / X / N/A | / / Yes | / / No |
| 5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason:
/ X / Requested agency comments not received by due date | / / Yes | / / Yes | / X / No |

Analyst: <u>Jasmine C. Tereas</u>	Date: <u>12/11/23</u>	Director: <u>Lester L. Carlson, Jr.</u>	Date: <u>DEC 18 2023</u>
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Notes:
1/ See attached comments.

Bureau of Budget & Management Research
Comments on Bill No. 203-37 (COR)

Bill No. 203-37 (COR) is an act to abolish the Consolidated Commission on Utilities (CCU), and to restore the Boards of Guam Power Authority and the Guam Waterworks Authority to Boards appointed by the Governor with the advice and consent of the Legislature pursuant to the Governor's Organic Act powers.

The bill intends to repeal Chapter 79 of Title 12 Guam Code Annotated and continue the existence of Guam Power Authority (GPA) and Guam Waterworks Authority (GWA) as public corporations. The purpose of the elected CCU is to exercise powers vested in them by the laws establishing the Guam Power Authority (GPA) and the Guam Waterworks Authority (GWA). The Commission is comprised of five (5) Commissioners elected at-large by the voters of Guam in a General Election. Commissioners are compensated at the rate of One Thousand Dollars (\$1,000.00) per month for their services. All funds required for the operations of the Commission shall be obtained by subscription from the Authorities administered by the Commission, pursuant to such formula as the Commission shall devise.

However, the Legislature finds that it is in the public interest to abolish the elected CCU, to terminate the CCU's ability to exercise authority over GPA and GWA and to restore the powers previously exercised by the respective boards of directors of said authorities, as Board of Directors appointed by the Governor with the advice and consent of the Legislature.

The Bureau had requested comments from the CCU relative to the proposed measure on November 29, 2023 but has received no official comments nor testimony as of the date of this fiscal note. However, the Bureau did receive personal comments from 2 of the 5 CCU members noting their concerns regarding the continued compliance with both the federal Clean Water Act and the Safe Drinking Act, and the possible violation of the Government of Guam's pledge on the current bond financing should the CCU be abolished. Copies of their comments are attached to this fiscal note for reference.

According to comments from the Guam Election Commission, the election expenses are fixed and removing the CCU from the ballot would not affect the cost of election. The Bureau does ascertain a cost savings to GPA and GWA in regards to the operations of the CCU and the stipends paid to the current CCU Commissioners versus stipends to be paid to both the Board of Directors of the GPA and GWA combined. However, absent official comments and information from the CCU, the Bureau is unable to provide an estimated fiscal impact of the proposed legislation.

December 5, 2023

I would recommend that you and BBMR contact GEDA and ask GEDA and their Bond Counsel if Bill #203-37 would pose a problem for the Government of Guam's pledge as contained in PL 28-71, section 14229 Pledge of the Government of Guam. Specifically that "...the government of Guam hereby pledges that while any bonds of the Authority issued under this Article remain outstanding and not fully performed or discharged (a) to maintain the rights, powers and duties of the Board and the Guam Public Utilities Commission,, or their respective successors in accordance with law , ...". I believe that this bill would violate this pledge of the government of Guam and I believe that the bondholders would consider this bill if it became law a violation of this pledge. The bondholders would have different options such as charging more interest on future bond financing not just for GWA but for all of the government of Guam bonds. GEDA may be able to give you better guidance as to the financial impact of this bill.

These comments are mine alone and do not represent the Commission, GWA or GPA.

Joey Duenas
CCU Chairman

December 4, 2023

For BBMR consideration...these thoughts are only mine and do not represent a formal response by CCU, GPA or GWA...I have been on the CCU since its inception, as the elected CCU replaced the two separate appointed boards overseeing GPA and GWA prior to Jan 2003.

GovGuam and GWA were sued in 2003 by USEPA/US DoJ for failure to comply with both the federal Clean Water Act and the Safe Drinking Water Act. During decades of politically appointed boards, GWA was releasing millions of gallons of improperly treated wastewater ("hanom taki") into the ocean and island water storage tanks were not meeting safe drinking water standards, putting our people at risk to drink our water. In the original complaint, USEPA/USDoJ "sought....the appointment of a receiver" ...

The elected CCU and GWA negotiated a Stipulated Order (SO) for Preliminary Relief in May 2003. The SO established over 45 requirements that would have to be met in order to achieve compliance with federal laws. By 2023, \$1B of infrastructure had been approved by the CCU and built and operated by GWA in order to avoid receivership and come into compliance with the SO.

While GovGuam is a party to the litigation, the onus has been on GWA to comply and fund the requirements of the Stipulated Order. However, if the elected CCU was removed and governance returned to an appointed Board, GovGuam runs the risk of being forced to fund/manage any failures of an appointed board to comply with federal law, the remaining requirements of the first SO and the new Consent Decree just imposed upon GWA to complete the remaining projects not addressed in the first SO.

Decades of appointed boards failed to have GWA comply with federal laws. Had the elected CCU failed to bring GWA into compliance, GovGuam would have been forced to contribute to the governance and funding of the compliance achieved by GWA and the elected CCU. The proposed legislation proposes to return GWA/GPA governance to an appointed board that placed GovGuam in a position where it would lose control of GWA to a more costly receiver and the federal Court.

There is no greater accountability in our system than to have voters directly elect who governs them. The proposed legislation would reduce accountability by taking away direct control of their utilities from the voter/ratepayers. Instead the elected CCU has governed and significantly improved GWA/GPA results over the past two decades.

I hope this narrative will assist BBMR in preparing their fiscal impact review.

Respectfully

Simon Sanchez

CCU member since 2003/former Senator/Ratepayer