

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
328-37 (COR)	Roy A. B. Quinata Dwayne T.D. San Nicolas Tina Rose Muña Barnes	AN ACT TO AMEND § 5707(a) OF ARTICLE 12, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED; AND TO AMEND § 1913(c) OF CHAPTER 19, TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO THE PROCEDURE FOR JUDICIAL REVIEW OF DECISIONS MADE BY THE PUBLIC AUDITOR IN PROCUREMENT APPEALS AND RELATED MATTERS.	7/17/24 10:52 a.m.	7/19/24	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	Request: 7/19/24 7/25/24			



COMMITTEE ON RULES

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

July 25, 2024

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

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

Subject: **Fiscal Note for Bill No. 328-37 (COR)**

Håfa Adai yan Biba Guåhan!

Find the attached, Fiscal Note for the following bill:

Bill No. 328-37 (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. 328-37 (COR)**

AN ACT TO AMEND § 5707(a) OF ARTICLE 12, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED; AND TO AMEND § 1913(c) OF CHAPTER 19, TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO THE PROCEDURE FOR JUDICIAL REVIEW OF DECISIONS MADE BY THE PUBLIC AUDITOR IN PROCUREMENT APPEALS AND RELATED MATTERS.

Department/Agency Appropriation Information		
Dept./Agency Affected: Office of Public Accountability	Dept./Agency Head: Benjamin J.F. Cruz	
Department's General Fund (GF) appropriation(s) to date:		\$2,030,737
Department's Other Fund appropriation(s) to date:		\$0
Total Department/Agency Appropriation(s) to date:		\$2,030,737

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify 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	1/	\$0	\$0	\$0	\$0	\$0
Special Fund	1/	\$0	\$0	\$0	\$0	\$0
Total	1/	\$0	\$0	\$0	\$0	\$0

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

Analyst: <u>ARof</u> Abigail R. Ofeciar, BMA Supervisor	Date: <u>7/25/2024</u>	Director: <u>[Signature]</u> Lester L. Carlson, Jr., Director	Date: <u>JUL 25 2024</u>
--	------------------------	--	--------------------------

Notes:
1/ See attached comments.

BUREAU OF BUDGET AND MANAGEMENT RESEARCH
COMMENTS ON BILL NO. 328-37 (COR)

The proposed legislation intends to amend §5707(a) of Article 12, Chapter 5, Title 5 of the Guam Code Annotated as well as §1913(c) of Chapter 19, Title 1 of the Guam Code Annotated relative to the procedure for judicial review of decisions made by the Public Auditor in procurement appeals and related matters. As stated in the Legislative Findings and Intent of the Bill, the current procurement appeals process treats the Office of the Public Accountability (OPA) as a defendant, similar to those in a regular civil action, when a party requests for a judicial review of OPA's decisions. It further states that this current procedure differs from the judicial review of other administrative decisions under Guam law.

As per the comments received from the Public Auditor, the current judicial review process causes the OPA to expend resources earmarked for personnel and operations for legal representations. The Public Auditor reported expenditures between \$15,000 to \$20,000 per year for the last three years due to only a few appeals of OPA decisions. This amount would have been a lot higher had the OPA not recused itself from a high profile procurement appeal that has been litigated for the past twelve years. The OPA further stated that the appeals process should be the same as in the courts where the trial judge renders decisions and are appealed to the Supreme Court without the trial judge hiring an attorney to defend his decision on appeal.

The proposed legislation does not contain revenue generating provisions, nor does it appropriate any additional funding source to the OPA. Further, the proposed legislation does not impose additional mandates to the affected entities as it only seeks to amend the procedure for judicial review of decisions made by the OPA in procurement appeals and related matters. Given the administrative nature of the proposed legislation, the Bureau does not anticipate a direct fiscal impact to the Government of Guam. However, the Bureau recognizes the benefits of this proposed legislation to include the potential cost containment afforded to the OPA. Due to several unknown factors to include the varying complexity of procurement appeals and the amount of time spent in judicial review, the Bureau is unable to determine an approximate cost savings at this time.