



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

FEB 16 1998

Refer to
Legislative Secretary

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>Tom Dumatac</u>
Time	<u>4:16 p.m.</u>
Date	<u>2-17-98</u>

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

Dear Speaker Unpingco:

Enclosed please find a copy of Substitute Bill No. 63 (COR), "AN ACT TO REPEAL §17201 AND 17210 OF TITLE 3 OF THE GUAM CODE ANNOTATED, RELATIVE TO INITIATIVES", which I have signed into law today as **Public Law No. 24-132.**

This legislation makes it easier for initiatives to be filed with the Election Commission. Current law requires those who circulate petitions for initiatives to obtain signatures equal to 20% of all votes counted for all candidates for Governor at the last preceding general election where a Governor was elected. This legislation requires **bona fide** signatures equal in number to 10% of all registered voters at the time that the initiative petition is submitted. It makes it clear that the signatures must be genuine, and makes it easier to count how many are needed.

Current law requires petitions to be submitted to the Election Commission not later than 90 days after the official summary date. This legislation lengthens that time period to 120 days after the official summary date. In other words, when a summary of the initiative is filed with the Election Commission, the time starts to run for submission of signatures. This time is now doubled.

Very truly yours,

Carl T. C. Gutierrez

Attachment 00652

cc: The Honorable Joanne M. S. Brown
Legislative Secretary

Office of the Speaker
ANTONIO R. UNPINGCO
Date: 2/17/98
Time: 1:45 pm
Rec'd by: [Signature]
Print Name: Janice Bese

TWENTY-FOURTH GUAM LEGISLATURE
1998 (SECOND) Regular Session

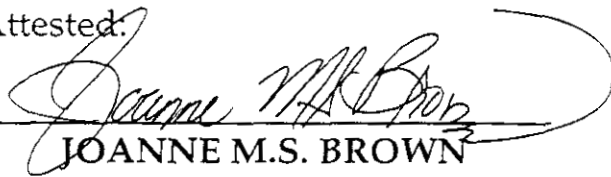
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No 63 (COR), "AN ACT TO REPEAL AND REENACT §§17201 AND 17210 OF TITLE 3 OF THE GUAM CODE ANNOTATED, RELATIVE TO INITIATIVES," was on the 4th day of February, 1998, duly and regularly passed.



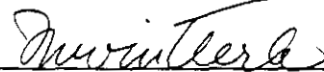
ANTONIO R. UNPINGCO
Speaker

Attested:




JOANNE M.S. BROWN
Senator and Legislative Secretary

.....
This Act was received by the Governor this 11th day of February, 1998, at
1:20 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 2-16-98

Public Law No. 24-132

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

Bill No. 63 (COR)

As substituted on the Floor and amended.

Introduced by:

Mark Forbes
T. C. Ada
F. B. Aguon, Jr.
E. Barrett-Anderson
A. C. Blaz
J. M.S. Brown
Felix P. Camacho
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
L. F. Kasperbauer
A. C. Lamorena, V
C. A. Leon Guerrero
L. Leon Guerrero
V. C. Pangelinan
J. C. Salas
A. L.G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO REPEAL AND REENACT §§17201 AND
17210 OF TITLE 3 OF THE GUAM CODE
ANNOTATED, RELATIVE TO INITIATIVES.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1.** Section 17201 of Title 3 of the Guam Code Annotated is
2 hereby repealed and reenacted to read as follows:

3 **“Section 17201. Initiative: Proposal of.** Initiative measures
4 may be proposed by presenting to the Election Commission petitions, as
5 set forth in this Chapter with *bona fide* signatures of voters equal in
6 number to ten percent (10%) of all registered voters as of the time the
7 proposed initiative measure is submitted to the Election Commission
8 prior to circulation.”

9 **Section 2.** Section 17210 of Title 3 of the Guam Code Annotated is
10 hereby repealed and reenacted to read as follows:

11 **“Section 17210. Official Summary Date for Proposed Initiative;**
12 **Time for Circulation and Filing of Petitions.** The date a summary of a
13 proposed initiative measure is delivered or mailed by the Election
14 Commission to the proponents is designated the ‘official summary date’
15 for proposed initiative measure.

16 No petitions for a proposed initiative shall be circulated for
17 signature prior to the official summary date. Petitions with signatures
18 on a proposed initiative measure shall be filed with the Election
19 Commission not later than one hundred twenty (120) days after the
20 official summary date, and the Election Commission shall not accept
21 petitions on the proposed initiative measure after that period.”

24-132

24th Guam Legislature
Committee on Rules, Government
Reform and Federal Affairs
Senator Mark Forbes, Chairman



JAN 22 1998

Speaker Antonio R. Unpingco
Twenty-fourth Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

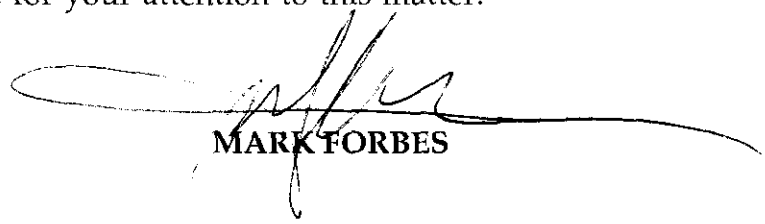
The Committee on Rules, Government Reform and Federal Affairs, to which Bill No. 63 was referred, wishes to report back to the Legislature its recommendation **TO DO PASS BILL NO. 63** "An act to repeal Section 17204 of 3GCA and add a new Section 17107 to 3GCA to change the number of votes necessary to pass an initiative in the territory of Guam and ensure that the voice of the people of Guam is heard, the voters of Guam are empowered and the wishes of the people of Guam are respected."

The voting record is as follows:

TO PASS	<u>7</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached.

Thank you and si Yu'os ma'ase for your attention to this matter.


MARK FORBES

Attachments

24th Guam Legislature
Committee on Rules, Government
Reform and Federal Affairs
Senator Mark Forbes, Chairman



JAN 2 1998

MEMORANDUM

TO: Committee Members

FROM: Chairman *[Signature]*

SUBJECT: Committee Report - Bill No. 63 "An act to repeal Section 17204 of 3GCA and add a new Section 17107 to 3GCA to change the number of votes necessary to pass an initiative in the territory of Guam and ensure that the voice of the people of Guam is heard, the voters of Guam are empowered and the wishes of the people of Guam are respected."

Transmitted herewith for your information and action is the report on Bill No. 63 from the Committee on Rules, Government Reform and Federal Affairs.

The Committee Report is accompanied by the following:

1. Bill No. 63
2. Committee Voting Sheet
3. Testimony
4. Sign-in Sheet
5. Fiscal Note/ Fiscal Note Waiver
6. Public Hearing Notice

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

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

Thank you and si Yu'os ma'ase.

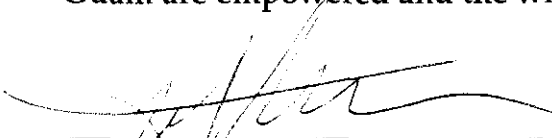


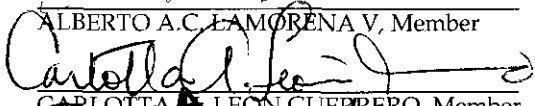
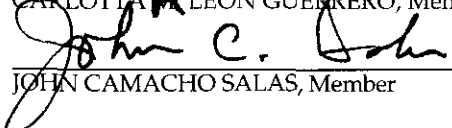
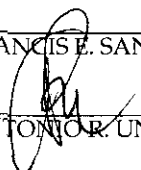
MARK FORBES

Attachments

COMMITTEE ON RULES, GOVERNMENT REFORM AND FEDERAL AFFAIRS
TWENTY-FOURTH GUAM LEGISLATURE

Voting Record

Bill No. 63 "An act to repeal Section 17204 of 3GCA and add a new Section 17107 to 3GCA to change the number of votes necessary to pass an initiative in the territory of Guam and ensure that the voice of the people of Guam is heard, the voters of Guam are empowered and the wishes of the people of Guam are respected."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK FORBES, Chairman	✓			
ANTHONY C. BLAZ, Vice-Chairman				
ELIZABETH BARRETT-ANDERSON, Member				
 JOANNE M.S. BROWN, Member	✓			
PELIX PÉREZ CAMACHO, Member				
 EDUARDO J. CRUZ, M.D., Member	✓			
LAWRENCE F. KASPERBAUER, Member				
ALBERTO A.C. LAMORENA V, Member				
 CARLOTTA LEON GUERRERO, Member	✓			
 JOHN CAMACHO SALAS, Member	✓			
MARK C. CHARFAUROS, Member				
FRANCIS E. SANTOS, Member				
 ANTONIO R. UNPINGCO, Ex-Officio Member				

TWENTY-FOURTH GUAM LEGISLATURE

**COMMITTEE ON RULES,
GOVERNMENT REFORM & FEDERAL AFFAIRS
SENATOR MARK FORBES, CHAIRMAN**

**Committee Report
on**

Bill No. 63

“An act to repeal Section 17204 of 3GCA and add a new Section 17107 to 3GCA to change the number of votes necessary to pass an initiative in the territory of Guam and ensure that the voice of the people of Guam is heard, the voters of Guam are empowered and the wishes of the people of Guam are respected.”

I. OVERVIEW

On February 4, 1997 the Committee on Rules, Government Reform and Federal Affairs conducted a public hearing on Bill No. 63 "An act to repeal Section 17204 of 3GCA and add a new Section 17107 to 3GCA to change the number of votes necessary to pass an initiative in the territory of Guam and ensure that the voice of the people of Guam is heard, the voters of Guam are empowered and the wishes of the people of Guam are respected." The hearing took place at 9:00 a.m. in the Public Hearing Room of the Guam Legislative Building. Public notice was given through an announcement in the January 30, 1997 issue of the Pacific Daily News.

Senators in attendance were:

- Senator Mark Forbes, Chairman
- Senator Tony Blaz, Vice Chairman
- Senator Joanne Brown, Member
- Senator Edwardo Cruz, Member
- Senator Larry Kasperbauer, Member
- Senator John Salas, Member
- Senator Tom Ada
- Senator Frank Aguon, Jr.
- Senator Angel Santos
- Senator Ben Pangelinan

Appearing before the Committee to testify on the bill were:

- Elizabeth P. Arriola, former Senator, read testimony on behalf of Joaquin C. Arriola, Jr. (attached)
- Mr. Norbert Perez, President, Republic of Guahan
- Ms. Patricia U. Garrido
- Mr. Ben Garrido

Providing written testimony to the Committee on the bill:

- Dr. Jose Q. Cruz, Vice President, Linala Sin CasiNo (attached)
- Mr. Charles Troutman, Compiler of Laws (attached)

II. SUMMARY OF TESTIMONY

Mrs. Elizabeth P. Arriola, former Senator, read testimony prepared by Jay Arriola **not in favor** of Bill No. 63. In her testimony Senator Arriola stated that the current law makes it difficult for "special interest groups" to pass legislation. She gave the example of the recent Gambling Initiative.

Ms. Patricia Garrido gave testimony **in favor** of Bill No. 63. Ms. Garrido stated that she highly supports the bill. She said the bill speaks about the freedom to vote and abstentions, in the form of not marking a ballot should not be

counted. Only the will of the majority of those voting should decide the outcome.

Mr. Ben Garrido testified **in favor** of Bill No. 63

Mr. Norbert, President of the Republic of Guahan, testified **in favor** of Bill No. 63. Mr. Perez stated that the initiative process gives people the incentive to vote and state their position on a particular issue and those votes should be respected.

Mr. Charles H. Troutman, Compiler of Laws, Office of the Attorney General provided written testimony on Bill No. 63 (attached). Mr. Troutman's testimony outlined the reasons he is **not in favor** of Bill No. 63. He stated that requiring a "supermajority" for the passage of initiatives is not a unique to Guam and prevents overwhelming of the polls by special interests.

Dr. Jose Q. Cruz, Vice President of Linala Sin CasiNo, provided written testimony **not in favor** of Bill No. 63 (attached). Dr. Cruz stated that the initiative process, unlike the legislative process, does not allow an issue intermediate process for changes based on findings or responses. It is simply a yes or no decision. He stated that the current law is protective of the lack of perimeter for change of an initiative proposal.

III. FINDINGS AND RECOMMENDATIONS

The Committee finds that the initiative process is the one way the voters of Guam are allowed to give direct input on proposed legislation. By simple practice, an initiative becomes the province of thousands of voters. Historically, every initiative brought forth on Guam has received volumes of widespread attention throughout the media and has been the subject of lengthy discussion. Initiatives receive the ultimate public hearing as they are presented to every voter on election day.

The entire process of the initiative brings the people directly to an issue and thus, it receives more of a public hearing and gathers more public input than any other issue decided through the legislative process. Bill No. 63 preserves the will of the people and respects their decision.

Accordingly, the Committee on Rules, Government Reform and Federal Affairs, to which Bill No. 63 was referred, does hereby submit its findings and recommendations to the Twenty-fourth Guam Legislature **TO DO PASS BILL NO. 63** "An act to repeal Section 17204 of 3GCA and add a new Section 17107 to 3GCA to change the number of votes necessary to pass an initiative in the territory of Guam and ensure that the voice of the people of Guam is heard, the voters of Guam are empowered and the wishes of the people of Guam are respected."

24th Guam Legislature
Committee on Rules, Government
Reform and Federal Affairs
Senator Mark Forbes, Chairman



JAN 24 1997

MEMORANDUM

TO: Chairman
Committee on Rules Government Reform and Federal Affairs

FROM: Chairman
Committee on Rules, Government Reform and Federal Affairs

SUBJECT: Referral-Bill No. 63

The above Bill is referred to your Committee as the principal committee. It is recommended you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.



MARK FORBES

Attachment

**SUBMITTED ON BEHALF OF
JOAQUIN C. ARRIOLA, JR.
AND READ BY ELIZABETH P. ARRIOLA**

VIA HAND DELIVERY

MARK FORBES
Senator
24th Guam Legislature
155 Hesler Street
Agana, Guam 96910

Re: Bill No. 63, an Act to Repeal the Santos Amendment

Dear Senator Forbes:

The initiative process is a method of writing laws; there is also the referendum and legislature. With the referendum, the Legislature has already "approved" or "screened" the proposed law and voted with at least 14 votes to put it out to public vote. And as well all know, it is the Legislature's job to write laws, elected as representatives, qualified and capable. The initiative process, however, involves direct public. There is no public hearing on the proposal, and an initiative may be written by whomever is interested.

There are sound policy reasons for requiring a "true majority" of votes to pass or adopt an initiative: "Approval by 50% + 1 of all voters who go to the polls in the general election" reflects a true majority. Simply determine how many sign the roster, and require 50% + 1 of that. Doesn't that truly reflect a majority of the whole electorate? The argument that an abstention counts as a no vote is simply wrong. The formula reflects, instead, a true majority. It is a majority of everyone who goes to vote, not just those who choose to vote on a certain initiative.

There are sound policy reasons for this true majority. Like people who want their vote counted as a yes or no and who actually cast a vote either way, people also have the right to abstain and not cast a vote. Initiatives must pass through the majority of the people, as determined by the registered voters who go to the polls to vote: that's the base for the enactment of legislation by initiative. Sure, it has made it tougher for initiatives to pass. But this restriction is a good thing. As the late Senator Frank Santos always argued, it protects the people. Without the Santos Amendment, a minority is able to speak for the true majority.

Reasons for making it more difficult to enact laws through an initiative:

1. To limit the number of initiatives presented (i.e. California, booklets, hours to review and vote, expense of campaigns, literature, etc.).

2. To prevent special interest groups from introducing frivolous initiatives (i.e., only serious, meritorious laws will pass with true majority). Floodgates will open if only simple majority is required. People with money, like the gaming industry, can easily hand over a draft initiative document, pay for the lawyers and hype up a major media campaign, and attempt to fool the people into putting money into their pockets. Special interests are prevented from abusing the popular trust. 50% + 1 of only those who cast a yes or no vote does not represent the true majority will of the people.
3. Initiative measures cannot be changed or modified until after certain time period.
4. Initiative process takes away the work of the legislature, are the Basic form of representative government. Senators are employed to make laws, screen laws, provide public hearing and input. They are supposedly qualified and capable of making laws. Although you trust the electorate to cast intelligent votes, you also should trust the electorate to determine representative lawmakers to do this job. Even the legislature requires 11 out of 21 to pass a law. With the recent reduction of senators to 15, and opening floodgates to initiatives with this measure, why even have a legislature?
5. Perhaps most importantly, although it is the prerogative of the legislature, the law-making body, to determine how many votes it takes to pass a law through initiative; that decision must be exercised cautiously. You can make it a simple majority or require a supermajority. You can even require a majority of all registered voters. Different jurisdictions have different requirements for passing initiatives. Most are restrictive. Guam's is no different. Nothing unconstitutional about it, and my participation in the current Superior Court case defending the Santos Amendment confirm such restrictions have been upheld by the Supreme Court, in light of the policy considerations discussed above.
6. I urge cautious, careful consideration before such drastic action affecting government is taken.

**Linala Sin CasiNo
P.O. Box 438
Agana, Guam 96910**

Position on Bill 63 by Dr. Jose Q. Cruz, Vice President

Mr. Chairman and members of the Committee. My name is Dr. Jose Q. Cruz, Vice President of Linala Sin CasiNo. I come here to state our opposition to Bill 63, which will reduce the required yes votes to any initiative or referendum put before the people of Guam.

I believe the election of 1996 demonstrated that our people can vote without much equivocation when presented with a clear challenge. I believe the opposition to casinos resulted from the vigilance of the community in regard to an issue of grave importance and one which was followed up with sustained education. In this instance, it was Linala's opposition which alerted the people of the initiative which they were trying to decide on. And it was a joined community effort with a Coalition of business and community leaders which secured a better than 50% plus one no votes not counting the so-called problem, defective, and blank votes.

The standard of which we have, 51% plus one of defined yeses is a very good standard. This was made evident by our experience in the Casino debate. The initiative process has only a print and decide procedure. Those proposing an issue for decision submits a document from which the public is to vote upon. There is no intermediate process for changes based on findings or responses. It is only a yes or no decision. I believe the standard of 50% plus one of the voters needing to have a clear yes is protective of the lack of perimeter for change of a initiative proposal.

In the legislative process, we find a lot of room for changes as bills are proposed. This is so different from the initiative process that the present standard should be upheld for its rigor and demand. Those proposing an initiative must have good research and much educating before presenting to the people. To do otherwise will allow for charlatans of change and the easy way out.

Again, the experience of the last election make this proposed Bill 63 a lowering of present Guam democratic standards. We should support the Santos Amendment as it is presently worded in our Guam Statutes.



OFFICE OF THE ATTORNEY GENERAL
TERRITORY OF GUAM
Compiler of Laws Division
238 F.C. Flores Street, Suite 701
Agaña, Guam 96910-5185

CHARLES H. TROUTMAN
COMPILER OF LAWS

PHONE: +671 475 3309
FAX: +671 472 6992
E-MAIL: troutman@ns.gu

February 21, 1997

Honorable Mark Forbes
Chairman
Committee on Rules, Governmental Reform & Federal Affairs
Twenty-fourth Guam Legislature
Agaña, Guam

Re: Bills No. 63, 64, 65

Dear Senator Forbes,

I wish to oppose Bill No. 63 - repeal the "Santos Amendment". Guam is not unique in setting something more than a bare majority required to pass an initiative. Vermont requires a majority similar to the Guam law for certain municipal initiatives in non-urban areas. This, according to the court that upheld it, was to prevent overwhelming of the polls by special interests. Other states require 60% of registered voters to pass a bond issue. The Supreme Court said that this was easier than passing a constitutional amendment to do the same thing. Other states have other forms of "supermajorities".

I believe that Guam has the same interests in insuring that a true majority - of everyone who shows up at the polls - is what is required to pass laws. I do not think that there is undue discrimination between initiatives and legislative submissions. IN the latter, public hearings and deliberation by the Legislature can clean up problems in the measure before the people vote on it. In an initiative, the people at large have no input in the actual wording of the measure. Thus, a greater majority should be required for initiatives.

Much as the policy may be good, I must oppose Bill No. 64 - the disposal of Compact Impact money - because it is inorganic. The Organic Act. §1423j(a), provides that "except such appropriations as shall be made from time to time by the Congress of the United States," the Legislature may appropriate funds. Thus, when Congress appropriates the Compact impact funds, the Legislature has no power of appropriation unless that power is contained in the Congressional law making the appropriation. In the past various grants have been given subject to some Legislative action, but not always. Indeed, the District Court ruled, in the 1970s, that the Legislature has no power, generally, over 100% federal funds.

I must also oppose Bill No. 65 on both policy and legal grounds. My parents lived in Tucson, Arizona, a city which required voter approval of school bonds. It was well known there that Tucson had a very poor educational system because it was underfunded. The citizenry, consisting of many retirees with no children, regularly voted against such bond issues and their consequent increase in tax rates.

While individual legislative submissions are almost certainly permitted under the Organic Act, a general law requiring voter approval in all cases of tax increases is, I believe, a wrongful delegation of legislative powers. When I tried to suggest a similar limitation on legislative power over judicial appointments, the late Judge Raker told the Committee Chair, the late Gene Ramsey, that he, Judge Raker, thought that such a general limitation is contrary to the Organic Act. I now agree.

For the above reasons, I must oppose the passage of these Bills.

Sincerely yours,


CHARLES H. TROUTMAN

P.S. The views expressed here are my own and are not necessarily those of the Attorney General or of the Administration.



BUREAU OF BUDGET & MANAGEMENT RESEARCH

OFFICE OF THE GOVERNOR, Post Office Box 2950, Agaña, Guam 96910

CARL T.C. GUTIERREZ
GOVERNOR

MADELEINE Z. BORDALLO
LT. GOVERNOR

FEB 20 1997

JOSEPH E. RIVERA
DIRECTOR

FRANCES J. BALAJADIA
DEPUTY DIRECTOR

The Bureau requests that Bill No(s). 63 be granted a waiver pursuant to Public Law 12-229 for the following reasons:

Bill No. 63 proposes to repeal section 17204 of 3 GCA and add a new section 17107 to 3 GCA to change the number of votes necessary to pass an initiative in the Territory of Guam and ensure that the voice of the people of Guam is heard, the voters of Guam are empowered and the wishes of the people of Guam are respected. The bill appears administrative in nature and should pose no fiscal impact on the General Fund.

Frances J. Balajadia
for **JOSEPH E. RIVERA**
Acting



COMMONWEALTH NOW!