

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

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
<b>Senator V. Anthony Ada</b>	✓					
<b>Senator Frank Blas Jr.</b>	✓					
<b>Senator Joanne Brown</b>	✓					
<b>Senator Christopher M. Dueñas</b>	✓					
<b>Senator James C. Moylan</b>	✓					
<b>Vice Speaker Tina Rose Muña Barnes</b>	✓					
<b>Senator Telen Cruz Nelson</b>	✓					
<b>Senator Sabina Flores Perez</b>	✓					
<b>Senator Clynton E. Ridgell</b>	✓					
<b>Senator Joe S. San Agustin</b>	✓					
<b>Senator Amanda L. Shelton</b>	✓					
<b>Senator Telo T. Taitague</b>	✓					
<b>Senator Jose "Pedo" Terlaje</b>	✓					
<b>Speaker Therese M. Terlaje</b>	✓					
<b>Senator Mary Camacho Torres</b>	✓					

Speaker Antonio R. Unpingco Legislative Session Hall  
Guam Congress Building  
December 16, 2022

**TOTAL**

**15**

**0**

Aye

Nay


Not  
Voting/  
Abstained

Out  
During  
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:

  
\_\_\_\_\_  
RENNAE V. C. MENO  
Clerk of the Legislature

I = Pass

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

**Bill No. 298-36 (LS)**

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

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Introduced by:

Telena Cruz Nelson  
Jose "Pedo" Terlaje

**AN ACT TO *AMEND* SECTION 4(a) AND *ADD* A NEW SECTION 4(f) OF PUBLIC LAW 34-70, AS AMENDED BY SECTION 2 OF PUBLIC LAW 35-44, RELATIVE TO THE FINANCING OR REFINANCING IMPROVEMENTS AND CAPITAL IMPROVEMENTS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT (PORT), AND OTHER RELATED FACILITIES AND OPERATIONS OF THE PORT, THROUGH REVENUE BOND PROCEEDS.**

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that the Jose D. Leon Guerrero Commercial Port's modernization program is designed to meet the island's growth, including the expansion of the U.S. military and the growing tourism market, with the key project initiatives as justified to the bond market investors, as follows:

(a) expansion of wharf space to accommodate larger vessels and increase vessel handling capacity;

(b) upgrade terminal operating system to allow for automated invoicing cargo and container tracking, financial management, and maintenance management;

1 (c) expansion of the existing facilities to support fishing and cruise  
2 line industries; and

3 (d) replacement of gantry cranes at the end of its useful life to  
4 maintain uninterrupted cargo movement.

5 As part of the modernization program, the Port through Public Law 34-70  
6 obtained Seventy-one Million Four Hundred Forty-five Thousand Dollars  
7 (\$71,445,000) in revenue bonds to finance certain capital improvements and to  
8 refinance all or a portion of outstanding loans of the Port Authority.

9 *I Liheslaturan Guåhan* finds that on July 20, 2018, Pro Marine Technology  
10 submitted its findings in an Underwater Assessment and Inspection Services of F-1,  
11 F-3, F-4, F-5, and F-6; and based on their assessment, found that the waterfront  
12 facilities were in dire need of repair and provided recommendations for such repair.

13 Moreover, *I Liheslaturan Guåhan* finds that to ensure the uninterrupted flow  
14 in the deployment of fuel products which could be obtained in F-1 Fuel Pier or Golf  
15 Fuel Pier, a connectivity line would need to be installed at F-1 to allow discharged  
16 or loaded fuel to be routed to and from other petroleum fuel companies' storage  
17 tanks.

18 To enhance the Port's invoicing to ensure one hundred percent (100%) cost  
19 recovery per the established tariffs, the Terminal Operating and Financial  
20 Management systems must be integrated, along with an upgrade of the Ports' current  
21 information technology system for accurate financial data on the expenses rendered  
22 to vessels and related services versus revenues.

23 The 2007 Master Plan included a recommendation for the current Port  
24 Administration Building to be extended with an annex and a bridge connecting the  
25 building to the existing building for compliance with the Americans with Disabilities  
26 Act (ADA), but such project was changed in the 2013 Master Plan Update which

1 endorsed that a large new building be constructed, and the current administration  
2 building be demolished.

3 In 2019, the Port presented to Governor Lourdes A. Leon Guerrero and  
4 members of the 35<sup>th</sup> Guam Legislature that if the Port pursues the 2007 Master Plan  
5 recommendation to construct an annex with a bridge connecting to the existing  
6 administration building, a portion of the funding originally earmarked for the  
7 construction of the new administration building could otherwise be used to address  
8 the deficiencies of the Port's revenue-generating waterfront facilities, a connectivity  
9 fuel line between Golf Pier and F-1 Pier, and improvements needed for the Port's  
10 information technology systems.

11 The 35th Guam Legislature unanimously agreed that an amendment to  
12 Section 4(a) of Public Law 34-70 would allow for the reprogramming of such bond  
13 proceeds needed to address the deficiencies of the Port's revenue-generating  
14 facilities, the connectivity fuel line between Golf Pier and F-1, and improvements  
15 needed for the Port's information systems, and all remaining balances, if any, shall  
16 be allocated to provide for supplemental funding for the procurement of a new gantry  
17 crane.

18 On October 16, 2019, Governor Leon Guerrero signed Bill No. 149-35(COR)  
19 into law as Public Law 35-44, which authorized the reprogramming of the Port  
20 Authority revenue bond proceeds and amended the capital improvement projects in  
21 Section 4(a) of Public Law 34-70.

22 The Port issued a procurement on the architectural and engineering (A&E)  
23 designs for the Port revenue bond projects; and in the A&E designs the construction  
24 cost associated with the repairs exceeded those outlined in Section 4(a) of Public  
25 Law 34-70, as amended by Section 2 of Public Law 35-44. The engineering cost  
26 estimates outlined in the revenue bond mandates obtained back in 2014 are now  
27 severely underfunded. Because the mandates specifically identified the revenue

1 bond project costs to be funded by the revenue bond, it did not allow the Port to  
2 reallocate revenue bond proceeds to address the anticipated shortfalls of the  
3 construction costs for which has specific costs associated in the mandates.

4 To address these shortfalls, Port management actively submitted requests for  
5 federal grants to fund some of the revenue bond projects, and they were awarded  
6 Two Million Four Hundred Thousand Dollars (\$2,400,000) from the U.S. Economic  
7 Development Administration for the fuel connectivity line, freeing up a portion of  
8 the revenue bond proceeds for that project. The Board of Directors also authorized  
9 the General Manager to use other funding sources for the payment of the cost of  
10 construction or improvement or any part thereof or any available money or funds of  
11 the Port Authority made available by a federal grant to be expended. The Port held  
12 procurement solicitation openings for several of the revenue bond projects resulting  
13 in either no offers being submitted, or procurement construction bid submittal costs  
14 exceeded between ten percent (10%) to one hundred fifty-six percent (156%) of the  
15 legislative funding cap of the respective project.

16 A review of other revenue bond mandates for other autonomous agencies was  
17 made and it is noted that the Port's revenue bond legislation is the only legislation  
18 which specifically states the proceeds are to "finance certain Authority capital  
19 improvements, including, but not limited to..." and each project has an associated  
20 funding cap versus other autonomous agencies' revenue bond legislations which  
21 simply stated the project(s) and total amount authorized to borrow. Although the  
22 Board of Directors authorized management to use other funding sources, it appears  
23 the revenue bond legislations may disallow the Port from exceeding the cost  
24 associated with the projects as outlined in Section 4(a) of Public Law 34-70, as  
25 amended by Section 2 of Public Law 35-44.

26 *I Liheslaturan Guåhan* finds that an amendment to Section 4(a) of Public Law  
27 34-70, as amended by Section 2 of Public Law 35-44, to remove the legislative

1 funding caps strictly tied to the 2018 Revenue Bond funds is necessary in order for  
2 the Port to accomplish its commitment of ensuring the modernization program is  
3 neither further delayed nor jeopardized.

4 It is, therefore, the intent of *I Liheslaturan Guåhan* to amend Section 4(a) of  
5 Public Law 34-70, as amended by Section 2 of Public Law 35-44, and remove the  
6 legislative funding caps associated with the capital improvement projects to be  
7 funded by the revenue bonds and authorize the reprogramming of the Port Authority  
8 of Guam revenue bond proceeds to fund the shortfalls.

9 **Section 2.** Section 4(a) of Public Law 34-70, as amended by Section 2 of  
10 Public Law 35-44, is hereby further *amended* to read:

11 “(a) to finance certain Authority capital improvements, including, but  
12 not limited to:

13 (1) local match for the Transportation Investment Generating  
14 Economic Recovery (TIGER) grant program funding for rehabilitation  
15 of “H” Wharf and access road;

16 (2) construction of an annex building with the construction of  
17 a bridge attached to the current Administration Building and upgrade  
18 of infrastructure. Any remaining balance resulting from this reset to the  
19 Port Modernization Plan shall be prioritized by the Port’s Board of  
20 Directors in order to shore up the Port’s current related revenue-  
21 generating facilities and financial management systems, specifically for  
22 repair of F-1 Fuel Pier; repairs of F-3, F-4, F-5, and F-6 of the  
23 waterfront facilities; installation of a connectivity fuel line connecting  
24 Golf Pier and F-1 Fuel Pier; and an upgrade to the Port’s information  
25 technology system and integration of the Terminal Operating System  
26 and Financial Management System;

27 (3) replacement and relocation of waterline(s);

- 1                   (4) repair and expansion of the Equipment Maintenance &  
2                   Repair Building (EQMR);  
3                   (5) repair of Warehouse 1;  
4                   (6) repair of Golf Pier; and  
5                   (7) all remaining balances, if any, shall be allocated to provide  
6                   for supplemental funding for the procurement of a new gantry crane.”

7           **Section 3.** A new Subsection (f) is *added* to Section 4 of Public Law 34-70  
8 to read:

9                   “(f) Reporting Requirements for Status of Bond Funded Projects.  
10                  Notwithstanding any other provision of law, rule, or regulation, the Authority,  
11                  shall, no later than the fifth (5<sup>th</sup>) day following the end of each month  
12                  beginning on January 31, 2023, submit a report to the Speaker of *I*  
13                  *Liheslaturan Guåhan* detailing information regarding the status of bond  
14                  funded projects. The report shall include, but not be limited to, information  
15                  relating to reprogrammed projects, obligated, de-obligated, encumbered,  
16                  unencumbered and or expended revenue bonds or proceeds of the Port  
17                  Authority of Guam.”

18           **Section 4. Effective Date.** This Act shall be effective upon enactment.

19           **Section 5. Severability.** If any provision of this Act or its application to any  
20 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
21 not affect other provisions or applications of this Act that can be given effect without  
22 the invalid provision or application, and to this end the provisions of this Act are  
23 severable.