

Office of the Governor of Guam

P.O. Box 2950 Hagåtña, GU 96932
Tel: (671) 472-8931 • Fax: (671) 477-4826 • Email: governor@guam.gov

Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

Office of the Speaker
Judith T. Won Pat, Ed.
Date 10/12/2010
Time 5:10pm
Received by [Signature]

2010 OCT 13 AM 9:43

OCT 11 2010

30-10-0827

The Honorable Judith T. Won Pat, Ed.D.
Speaker
Mina' Trenta Na Liheslaturan Guahan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Substitute Bill 345-30 (LS) "AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 30 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE OFFICE OF THE ATTORNEY GENERAL TO RECOVER COSTS ASSOCIATED WITH PROVIDING STATUTORILY MANDATED LEGAL SERVICES TO AGENCIES AND PROGRAMS THAT ARE NOT SUPPORTED BY THE TAX-BASE OF THE GOVERNMENT OF GUAM," which I signed into law on August 28, 2010 as **Public Law 30-188**.

The legislation authorizes the office of the Attorney General ("OAG") to recover costs for providing mandated legal services to autonomous government agencies and other agencies not funded by the General Fund. This ability to recover the costs would enable the OAG to manage its mandates. However, the legislation sets a flat rate of \$200.00 per hour rather than establish a maximum rate of \$200.00 per hour. Law firms charge agencies a rate of \$150-\$300 per hour. The salaries of senior attorneys at the OAG range around \$40.00 per hour. Attorney salaries and benefits, support staff and other costs would still be lower than private firms. Thus, the OAG will receive a profit at the expense of government agencies that charge a rate to the people of Guahan for the services provided, which is inconsistent with the law's authorization to reimburse costs. Therefore, I request §30202 of Section 1 be amended to read as follows:

"The Office of the Attorney General is authorized to bill and recover from agencies, autonomous and semi-autonomous instrumentalities and public corporations of the government of *Guahan* its legal services and related costs (1) for the review of contracts where public law and/or federal law require the review and approval of the Attorney General as to form and legality; and (2) for its legal services and costs involving related administrative hearings or litigation and review of the procedures, documents and instruments relating to the requirements of Title 5 GCA §5150; provided that for both (1) and (2) the sources of funding for the contract

or procurement, or for reimbursing the legal services and costs of the Office of the Attorney General, are not the General Fund or a Special Fund of the government of Guahan line agencies. The billable hourly rate of the Office of the Attorney General for recovery of its legal services and costs shall ~~be~~ not exceed Two Hundred Dollars (\$200.00) per hour.”

Sinseru yan Magâhet,

A handwritten signature in black ink, appearing to read 'F. Camacho', with a long horizontal flourish extending to the right.

FELIX P. CAMACHO

I Maga'lâhen Guahan

Governor of Guahan

Attachment: copy of Bill

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 345-30 (LS), "AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 30 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE OFFICE OF THE ATTORNEY GENERAL TO RECOVER COSTS ASSOCIATED WITH PROVIDING STATUTORILY MANDATED LEGAL SERVICES TO AGENCIES AND PROGRAMS THAT ARE NOT SUPPORTED BY THE TAX-BASE OF THE GOVERNMENT OF GUAM", was on the 16th day of August, 2010, duly and regularly passed.

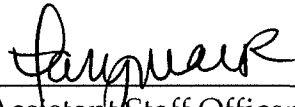


Judith T. Won Pat, Ed. D.
Speaker


Attested:


Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 17th day of Aug., 2010, at
4:40 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED


FELIX P. CAMACHO
I Maga'lahaen Guåhan

AUG 28 2010

Date: _____

Public Law No. P.L. 30-188

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

Bill No. 345-30 (LS)

As substituted by the Committee on Appropriations,
Taxation, Banking, Insurance Retirement & Land,
and amended on the Floor.

Introduced by:

Telo Taitague
B. J.F. Cruz
Adolpho B. Palacios, Sr.
T. C. Ada
V. Anthony Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
v. c. pangelinan
R. J. Respicio
Ray Tenorio
Judith T. Won Pat, Ed.D.

**AN ACT TO *ADD* A NEW ARTICLE 2 TO CHAPTER 30
OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE
TO AUTHORIZING THE OFFICE OF THE ATTORNEY
GENERAL TO RECOVER COSTS ASSOCIATED WITH
PROVIDING STATUTORILY MANDATED LEGAL
SERVICES TO AGENCIES AND PROGRAMS THAT
ARE NOT SUPPORTED BY THE TAX-BASE OF THE
GOVERNMENT OF GUAM.**

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

2 **Section 1.** A new Article 2 is *added* to Chapter 30 of Title 5, Guam Code

3 Annotated, to read as follows:

1 programs that are *not* supported by the tax-base of the government of Guam.
2 This model includes *billable hours* for legal services and *legal cost* billing
3 for definable external expenses, such as postage, copying, notary fees and
4 process service. In recent hearings before *I Liheslaturan Guåhan*, witnesses
5 have testified that private law firms currently bill their clients from Two
6 Hundred Dollars (\$200) to Three Hundred Fifty Dollars (\$350) per hour.

7 It is the intent of *I Liheslatura* to provide the Office of the Attorney
8 General with the means to recover the cost of providing statutorily mandated
9 services to agencies and programs that are *not* funded by the General Fund
10 and Special Fund revenues of the government of Guam.

11 **§30202. Legal Fees for Certain Non-General Fund/ Special Fund**
12 **Supported Activities.** The Office of the Attorney General is authorized to
13 bill and recover from agencies, autonomous and semi-autonomous
14 instrumentalities and public corporations of the government of Guam its
15 legal services and *related costs* (1) for the review of contracts where public
16 law and/or federal law require the review and approval of the Attorney
17 General as to form and legality; and (2) for its legal services and costs
18 involving related administrative hearings or litigation and review of the
19 procedures, documents and instruments relating to the requirements of Title
20 5 GCA §5150; provided that for both (1) and (2) the sources of funding for
21 the contract or procurement, or for reimbursing the legal services and costs
22 of the Office of the Attorney General, are *not* the General Fund or a Special
23 Fund of the government of Guam line agencies. The billable hourly rate of
24 the Office of the Attorney General for recovery of its legal services and costs
25 *shall* be Two Hundred Dollars (\$200.00) per hour.

26 **§30203. Legal Services and Related Costs.** The Office of the
27 Attorney General is authorized to bill agencies for the actual costs related to

1 the legal services rendered under the provisions of §30202 of this Article.
2 Such legal services and costs include, but are *not* limited to, work conducted
3 by the staff of the Office of the Attorney General, such as an attorney,
4 paralegal, legal secretary and/or investigator, as well as postage, copying and
5 reproduction charges, transcription, notary fees, process service and other
6 actual costs necessary in performing the tasks required by the provisions of
7 §30202 of this Article.

8 **§30204. Agency Obligation.** An agency or autonomous or semi-
9 autonomous instrumentality or public corporation of the government of
10 Guam billed pursuant to this Article by the Attorney General *shall* make
11 payments within sixty (60) days after receipt of the invoice. The Attorney
12 General and each agency or autonomous or semi-autonomous
13 instrumentality or public corporation of the government of Guam may create
14 a Memorandum of Understanding (MOU) or Memorandum of Agreement
15 (MOA) to govern the relationship created by this Article.

16 **§30205. Special Fund Created.** Notwithstanding any law to the
17 contrary, there *shall* be established a fund called “The Office of the Attorney
18 General Special Fund” (the Fund). The Fund *shall* be maintained separate
19 and apart from other funds of the government of Guam by the Department of
20 Administration. All funds generated under this Article *shall* be deposited
21 into the Fund. The Fund *shall* be used by the Attorney General for the
22 reimbursement or recovery of the costs of its legal services and other related
23 costs, including, but *not* limited to, funding the employment and assignment
24 of an assistant attorney general and other staff to an agency, autonomous or
25 semi-autonomous instrumentality or public corporation of the government of
26 Guam. The Fund *shall not* be subject to *I Maga’lahi’s* transfer authority,
27 and any lapses in the Fund will carry over into the next fiscal year.”

6

I MINA' TRENTA NA LIHESLATURAN GUAHAN

2010 (SECOND) Regular Session

Date: 8/16/10

VOTING SHEET

SBill No. 345-30(LS)

Resolution No. _____

Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
ADA, V. Anthony	✓				
AGUON, Frank B., Jr.	✓				
BLAS, Frank F., Jr.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J. F.	✓				
ESPALDON, James V.	✓				
GUTHERTZ, Judith Paulette	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓				
RESPICIO, Rory J.	✓				
TAITAGUE, Telo	✓				
TENORIO, Ray	✓				
WON PAT, Judith T.	✓				

TOTAL

15

CERTIFIED TRUE AND CORRECT:



Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



Mina'Trenta Na Liheslaturan Guåhan

Senator vicente (ben) c. pangelinan (D)

July 9, 2010

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trenta na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

Chairman
Committee on Appropriations,
Taxation, Banking, Insurance,
Retirement, and Land

Member
Committee on Education

Member
Committee on
Municipal Affairs,
Aviation, Housing, and
Recreation

Member
Committee on Labor, the
Public Structure,
Public Libraries, and
Technology

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules

RE: Committee Report on Bill No. 345-30 (LS) As Substituted

2010 AUG -3 PM 3:17
WVA

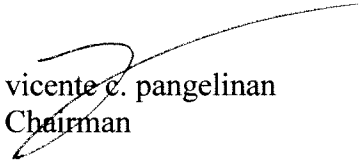
Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 345-30 (LS) As Substituted: “An act to add a new Article 2 to Chapter 30 of 5GCA relative authorizing the Office of the Attorney General to recover costs associated with providing statutorily mandated legal services to agencies and programs that are not supported by the tax-base of the Government of Guam.”, which was referred to the Committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land.

Committee votes are as follows:

- 6 TO PASS
- NOT TO PASS
- TO REPORT OUT ONLY
- TO ABSTAIN
- TO PLACE IN INACTIVE FILE

Si Yu'us Ma'ase,


vicente c. pangelinan
Chairman

**COMMITTEE REPORT
ON**

Bill No. 345-30 (LS) As Substituted

**An act to add a new Article 2 to Chapter 30 of
5GCA relative authorizing the Office of the
Attorney General to recover costs associated with
providing statutorily mandated legal services to
agencies and programs that are not supported by
the tax-base of the government of Guam.**



Mina'Trenta Na Liheslaturan Guåhan

Senator vicente (ben) c. pangelinan (D)

July 9, 2010

MEMORANDUM

To: All Members
Committee on Appropriations, Taxation, Banking, Insurance,
Retirement, and Land

From: Senator vicente "ben" c. pangelinan
Committee Chairperson

Subject: Committee Report on Bill No. 345-30 (LS) As Substituted

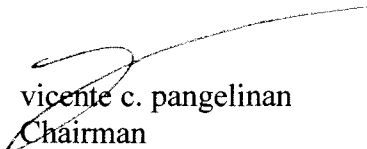
Transmitted herewith for your consideration is the Committee Report on Bill No. 345-30 (LS) As Substituted "An act to add a new Article 2 to Chapter 30 of 5GCA relative authorizing the Office of the Attorney General to recover costs associated with providing statutorily mandated legal services to agencies and programs that are not supported by the tax-base of the Government of Guam." sponsored by Senator Telo Taitague

This report includes the following:

1. Committee Voting Sheet
2. Committee Report Narrative
3. Copy of Bill No. 345-30 (COR)
4. Copy of Bill No. 345-30 (COR) As Substituted
5. Public Hearing Sign-in Sheet
6. Copies of Submitted Testimony & Supporting Documents
7. Copy of COR referral Bill No. 345-30 (COR)
8. Notices of Public Hearing
9. Copy of the Public Hearing Agenda
10. Fiscal Notes

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact my office.

Si Yu'us Ma'ase,



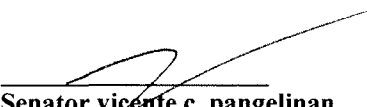

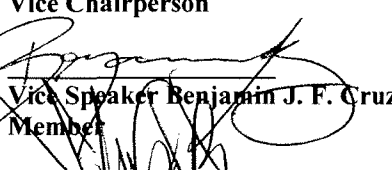

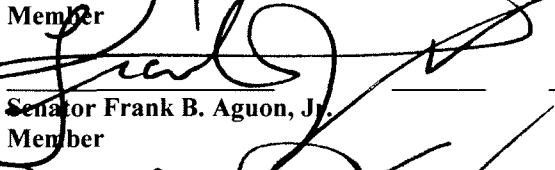

vicente c. pangelinan
Chairman

I MINA' TRENTA NA LIHESLATURAN GUÁHAN

Committee Voting Sheet

Committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land

Bill No. 345-30 (COR) As Substituted: "An act to add a new Article 2 to Chapter 30 of 5GCA relative authorizing the Office of the Attorney General to recover costs associated with providing statutorily mandated legal services to agencies and programs that are not supported by the tax-base of the government of Guam."

Committee Members	To Pass	Not To Pass	Report Out	Abstain	Inactive Files
 Senator vicente c. pangelinan Chairperson	✓				
 Speaker Judith T. Won Pat, Ed.D Vice Chairperson	✓				
 Vice Speaker Benjamin J. F. Cruz Member	✓				
 Senator Tina Rose Muña-Barnes Member	✓				
 Senator Frank B. Aguon, Jr. Member	✓				
 Senator Judith P. Guthrie Member	✓				
Senator Frank F. Blas, Jr. Member					
Senator Telo T. Taitague Member					
Senator James V. Espaldon Member					



Mina'Trenta Na Liheslaturan Guåhan

Senator vicente (ben) c. pangelinan (D)

Committee Report

Bill No. 345-30 (COR) An act to add a new Article 2 to Chapter 30 of 5GCA relative authorizing the Office of the Attorney General to recover costs associated with providing statutorily mandated legal services to agencies and programs that are not supported by the tax-base of the government of Guam.

Chairman
Committee on Appropriations,
Taxation, Banking, Insurance,
Retirement, and Land

Member
Committee on Education

Member
Committee on
Municipal Affairs,
Aviation, Housing, and
Recreation

Member
Committee on Labor, the
Public Structure,
Public Libraries, and
Technology

I. OVERVIEW

The Committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land convened a public hearing on April 7, 2010 at 9:00 am in *I Liheslatura's* Public Hearing Room.

Public Notice Requirements

Notices were disseminated via hand-delivery and e-mail to all senators and all main media broadcasting outlets on March 31 (5-Day Notice), and again on April 5 (48 Hour Notice).

(a) Committee Members and Senators Present

Senator vicente "ben" pangelinan, Chairman
Speaker Judith Won Pat, Vice-Chair
Senator Tina Rose Muña-Barnes, member
Senator Telo Taitague, member
Senator James Espaldon, member
Senator Adolpho B. Palacios, Sr.
Senator Tony Ada

(b) Appearing before the Committee

Graham Botha, GPA in-house legal counsel
Phil Tydingco, Deputy Attorney General
Florencio Ramirez, aka Larry Ramirez

(c) Written Testimonies Submitted

Carlos Salas
Phillip J. Tydingco, Office of the Attorney General

II. COMMITTEE PROCEEDINGS

(a) Bill Sponsor Summary

Chairman Pangelinan: Good Morning everyone thank you all for coming to this committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land.

At this time I would like to go ahead and give the author of the bill the opportunity to give a general overview of the intent of the bill and then we'll receive the testimony. Senator Taitague?

Senator Taitague: Thank you Mr. Chairman. Bill 345 basically is a bill that its intent is to provide the office of the Attorney General with the means to recover the cost of providing statutory mandate service agencies and programs that are not funded by the general fund and the special fund revenues of the Government of Guam. Recently a bill was passed and became public law 30-72 which requires that the agencies that are going into procurement over \$500,000.00 will require the AG's office assistance. Like most of the contracts requires the Governor's signature also requires that the AG view these documents before they proceed. Now with this bill that was passed recently into public law it puts a burden on the shoulder of the Attorney General's office with the additional work that's required for this and being that the Attorney General's office is basically burdened with other things like most agencies underfunded this would help recover those cost.

I read some of the testimonies and one of which the Airport Authority which I was hoping would be here who was saying they were opposed to this but basically it is the opposing would not stop them from going to the Attorney General's office for assistance in all their contracts. That does not exempt the agency autonomous or line agencies from the public law 30-72 from going forward so I am looking forward with their concerns with regards to this and look forward to the support of my colleagues.
Thank you Mr. Chairman.

Chairman Pangelinan: Thank you very much Senator Taitague. We will proceed with Mr. Botha.

(b) Testimony

1. Graham Botha, GPA in-house legal counsel

Graham Botha: Thank you Mr. Chairman, Madame Speaker and senators. My name is Graham Botha I am the GPA in house legal counsel. I'm here today to provide some oral comments. First of all I want to express my apologies to the senators that my bosses cannot be

present today. Unfortunately there is a mandated district court hearing with Judge Gatewood and U.S. EPA so Mr. Benavente , Dr. Olive and GWA counsel are there present and Mr. Flores, the GPA General Manager, is at a family funeral and he does send his regrets.

With that in mind however I would like to make some brief comments and we will supplement that with those with written testimonies within the 10 days. First of all up until recently since 2004 both GWA and GPA have had in house staff counsels. By law we did not require it because the statute allowed both of those utilities the authority to handle their own procurement and the advise on the procurement was rendered by in house counsel like myself. Attorney Sam Taylor for the Waterworks. The opinions of both the CCU and the agency heads have provided a cost effective, timely and is proven successful with the enactment of 30-72 it now requires the A.G. to provide contractor review for any contracts over \$500,000.00.

Since that is a mandate and Senator Taitague indicated no agency is exempt. Obviously we would like to note that there certain cost that obviously have to be passed onto the rate payers to the extent that their additional cost imposed. At some point they will transfer over to the rate payers because we have things in the budget for that. We do not as a normal practice budget for outside for outside counsel. I can recall that there was one that we had an insurance claim in New York and we had to hire counsel for that. That's an off-island arbitration process but for the most part all matters are handled by in house counsel and as I said the record and protest and other things have been good for those agencies.

We also note that there was a Bill 192 that was recently vetoed. To our extent support the public corporations or autonomous agencies having in house counsel. With the AG's office certainly not an unknown fact that their understaffed and over worked. We believe that the in house model is proven effective for GPA and GWA and could be used at either the airport or the port and other entities like that. We currently have on the GPA side six contracts pending review with the AG's office so we are fairly new to the process. We can't comment like in the port as far as timeliness we have no experience to render with that. We trust that the AG's office will proceed with that. With that in mind we just like to say that we feel that the in house model is best one for that. If the senators are willing to exert exemption that's fine. If not then we just ask them to be mindful of the cost associated with these things.

Thank you senators. I am subject to questions if you have any.

Chairman Pangelinan: We'll hear from the Attorney General's office and then open up the panel to questions. Mr. Tydingco?

2. Phil Tydingco, Deputy Attorney General.

Phil Tydingco: Good morning Mr. Chairman, Senator Muna-Barnes, Speaker Won Pat, Senator Palacios, Senator Taitague, Senator Ada thank you on behalf of Attorney General Alicia Limtiaco she sends here regrets. She had to open up the National District Attorney's association training on human trafficking, sexual assault and domestic violence training that started today at GCC for law enforcement and social service providers and prosecutors. I hope you don't mind that the second string is here to comment on the bill and give you inputs. I'll do my best.

A quick comment though to Mr. Botha. I hope that that means that they would at least disagree with the Governor's veto of Bill 192 as an in house legal model adding some of the technical issues that might be there but conceptually believe that.

Graham Botha: And we do actually support that and we think that's a good model.

Phil Tydingco: I'm glad to hear that. This is also along the lines of that. I'll be it differently from the perspective of having the AG recover some cost. Of course we support that concept. I have just quickly read the airports opposition on that and I think we've hear this before. For us we support the concept. As you know the mandate places a little work upon us. I'd like to turn it into a positive effect, the fact that we are understaffed and overworked and this is an opportunity to help use fund the recruiting or recovery. As you know we have a model in place in which we do recover cost for hiring attorneys. We have the DPW model and we are in the process of trying to finalize the MOU on the port on some other legal matters so that we can hire additional attorneys and they could provide the pay for it.

I can't comment on the effects that it may have on the rate payers and we don't oppose and in house models either. For those agencies for whatever the reason do not have in house legal council to handle the routine legal matters that do not require outside counsel. I think that if we are trying to recover from those agencies that are not covered under the general fund unlike the line agencies of do not have federal grants like DPW that allows them to pay for legal services and additional views. Another example there are EPA grants that also allow for the review of regulations for the cost recovery. My input is more technical than some of the bills and I'll just read into the record and we'll submit something written in the next ten days.

Just for the record I think we wanted to point out sections 30-202 and section 30-203 rather than just saying review and approve with signature, review and approve is sufficient on that language there. (Check for submitted testimony from Phil Tydingco 15:20)

As you know our attorneys and even out senior attorney's earnings right now is maybe running at forty something an hour plus benefits plus the cost of secretaries. As I've said in our MOU's that cost is all included. I assume that that was intended as opposed to just mandating a \$200.00 flat fee. Because depending on what attorney is working on it the cost recovery is what every their rate happens to be working on the particular matter. If an attorney makes \$35.00 an hour that would be the cost recovery. That should be done \$50.00 or whatever it happens to be.

We would also propose and we will get this in writing that they'll be a new section added to make clear that these issue mentalities, autonomous agencies, semi autonomous agencies, public corporations are required to enter to an MOU in order for us to make certain that we are actually paid because there is no language that says they have to pay, it says that we can charge it.

We also submit another section. It would be entire agency obligations, for example instrumentalities pursuant to this article the Attorney General shall pay 60 days from date of the invoice. As you know many times our local fund budget to try to cover some of these costs up front, that impacts on the other services that should be primarily pay for the local fund that we've

had to cover with local funds that when in fact that federal funding or that autonomous agency should pay that reimbursement and promptly and we would submit that piece of language to statutory authority that makes it clear whether this reimbursement go straight to the general fund or into a special fund so we can pay for that attorney that's hired.

An example is what you folks have done on the compact impact. I'm just giving you an example of how that can be done under the law. I don't think that the bill precludes the autonomous agencies for hiring other counsel for their special services if need be I think the intent here was to provide some statutory language and make clear that we recover this cost from the autonomous agencies and needs some tweaking to make sure the needs of those autonomous agencies to maintain their in house counsel who are doing good work. That saves money on the government for those agencies as well as specialized counsel that's required by certain autonomous agencies and public corporations that are not in the necessary matters like some contract reviews, procurement or civil service things of that sort that don't need outside counsel to handle these matters.

That's our input in the Bill 345-30. We will submit further written testimony. Thank you very much and I'll answer any questions you have.

Panel Comments and Questions

Chairman Pangelinan: Thank you very much Mr. Tydingco. I will go ahead and give the author the opportunity to ask some questions and panel. Senator Taitague?

Senator Taitague: Thank you Mr. Chairman and thank you Graham for coming today and especially thank you Phil for being here today in favor of this bill. There's sometimes these contracts or things that you have to review from other agencies to sometimes use more than one attorney.

Phil Tydingco: That could happen depending on the complexity of the contract or the procurement process if it's a rather large complex one then that is possible. Ordinarily they would try to do that. They try to work in a first in first out basis. There's no doubt that Public Law 72-30 especially with the autonomous agencies tend to have a sizeable , \$500,000.00 contract is not necessarily a big contract for some of these agencies . They have deadlines, they have needs and with the first in first out. As you know traditionally we really did not have to review them except for a handful of autonomous agencies like the hospital.

The rest of the autonomous agencies that tend to be self supporting without subsidies we have not have to review their procurement contract or procurement from ground zero as required by that bill so that will cut into the time and effort of lawyer time that would dedicate to the line agency and so one way is to introduce MOU's to the autonomous agencies or defer a lot of the work done by in house counsel and try to streamline it there.

Senator Taitague: Graham you have six contracts currently at the Attorney General's office and that it's crucial that some of these are time sensitive. Do you feel that Attorney General was manned with the staff needed to review them that this won't be so critical as far as the time line is concerned?

Graham Botha: I would certainly support, historically the Attorney General's office never had sufficient attorneys to assess the volume. It's just a matter of these additional agencies and corporations being added I believe that the AG's office needs the ability to funding obviously to hire more counsel to support that. I know Pat Mesa had some division and I have spoken with him. They don't exist just to provide procurement review they have other tasks and jobs that they need to do and think there aren't enough people and I know Mr. Tydingco would support that effort.

Funding is crucial and hiring additional attorneys to handle the workload I think would be crucial ensuring the success and certainly we have discussed with both deputy AG Tydingco and AG Limtiaco entering MOU to the extent of that the cost and benefit of the attorneys that handle that. It sounds a lot better than the maximum amount down here. I support that and we can work with the AG's office.

Senator Taitague: So you do feel that with this funding, at least on your end the time sensitive issues that you deal with in your agency that it's important that the AG be funded that you get these out in time. So you do support that then?

Graham Botha: Absolutely.

Senator Taitague: You do realize that it's basically only for those that require AG's assistance. You can continue using inside counsel. There's nothing inside here saying that you have to use the Attorney General, by law, when it pertains to law that your required to go to the Attorney General's office. You do realize that?

Graham Botha: Right. I think the difficulty is, and I can speak for both water and power, that unfortunately our contracts are over half a million dollars to be honest. Just for clarification, the threshold for review by the Public Utilities Commission is for GPA is one and a half million dollars and \$1,000,000.00 for water works. Even the Public Utilities Commission certain threshold which they need to review so even the performance managers I think the port is looking in that direction as well. Those are substantial amounts of money involved with that. We just have large contracts to review. We support helping the AG's office anyway possible for the staffing to handle those.

Senator Taitague: Thank you gentlemen. Thank you Mr. Chair.

Panel Comments and Questions

Chairman Pangelinan: Thank you very much Senator Taitague. Speaker Won Pat?

Vice Chair Won Pat: Thank you very much. I have a couple of questions for the AG's office. You've indicated that you have currently six contracts that are pending. What was the date that you received that? How long has it been in the AG's office? What I am trying to ascertain here is...

Graham Botha: We have six and...

Panel Comments and Questions

Vice Chair Won Pat: You have six at the AG's office to be \$500,000.00 contracts to be reviewed?

Graham Botha: To be fair to Mr. Tydingco those were submitted in the last two weeks that's why when I first expressed my concerns, I've been working for GPA since 2004, we never had to go to the AG's office. The only time the AG's involved is when we float bonds and GPA has not floated any bonds so only waterworks has.

We just haven't dealt with the AG in terms of delegating mitigation and originally we discussed whether it would be possible to delegate the review and after review of PL 30-72 we concluded there was no authority on the AG to delegate that. What is done as far as litigation is that if a case comes in and GPA is sued the AG has the authority to delegate that in house counsel. The AG's office has done that regularly with both government claims and pending litigation.

Vice Chair Won Pat: So what is the time frame to process these contracts? In your experience.

Graham Botha: Well that's the difficulty we have no experience with that to be honest. Once the law was put out in the last two weeks we submitted these contracts we don't have any experience at all.

Vice Chair Won Pat: What I mean is prior to PL 30-72 what is the time frame.

Graham Botha: Prior to that the only things we had with the AG's office was the delegation and that was quite easy. A case comes in, we provide a copy to the AG's office, a letter comes out two days later saying that your delegated to handle litigation. Thank you. Please keep us advised of settlement of any government claims over \$5,000.00. That has worked very well. We're still handling the case.

Vice Chair Won Pat: You've indicated in your testimony that there will be some cost to be associated with this bill. What are they? How would they be translated to the consumers affected by this?

Graham Botha: Well at the original reading of the bill \$200.00 an hour, we're not clear how many hours would be billed or the rest like that. To the extent like that it could be substantial. That would be an impact that is shouldered by the agency. I'm certainly urged by the discussion by Mr. Tydingco that it would be billed more at the cost of those agencies and that seems to be a reasonable approach. Madam Speaker we have no in either billing or review of these contracts. It's a new model for us.

Vice Chair Won Pat: Mr. Tydingco I know its not fair because the Airport Authority is not here but their concerns are autonomous agencies, I'm sure it might be the same as the others is that the authority based on, they have critical deadlines and by having them go to the AG's

office and the turnaround time will be critical if indicated that it would then instead hurt them rather than help them, what would be the AG's response to ensure that the agencies would need to crank these contract out at the soonest time that would not be impaired?

Phil Tydingco: Well I think it reading their letter they speculate or they anticipate, and they use words like "could cause real harm" if we weren't to meet the deadline. That's always there whether you're autonomous or line, nobody appreciates if we don't make your deadline. I'm here to tell you that we have 50 screaming line agencies, the Governor's office and other entities when there's a deadline coming that let us know that "can you put that to the front of the line and prioritize that because we'll lose our federal funding." or "we have to get this done so" and it is maddening in terms of not having control over not getting your deadlines met because we're not in house counsel. Of course you'll be more comfortable having in house counsel and private counsel, you know they're focusing on your work. It would make anyone nervous to know that our office is handling all these agencies.

Yes it would be problematic if we missed deadlines for anybody whether it's the autonomous agencies or not. Having said that I don't think this bill precludes the hiring of outside counsel for them. Again to procurement the threshold right now is \$500,000.00 requiring our involvement for procurement purposes there are some policy reasons why it became law. I will say that when Attorney General Limtiaco came in there were only 7 attorneys in the civil/solicitors division. I think its double I think we're up to 14 or 15. Historically they say that the golden age of the AG was in the early 90's when we had 20 solicitors and 10 litigators so about 30 and up to 23 prosecutors just for those two divisions not counting the family, juvenile or child support.

The demand for the 21st century were a lot more then the late turn of the 20th century in the early 90's. I think what we have been trying to meet this challenge are looking to having 1 or 2 attorneys dedicated to service the autonomous agencies require it especially for procurement and contract so that we don't take away from line agencies. For the line agencies we review everything from non-procurement MOU's and contracts all the way beginning with \$1,500.00 and up to half a billion dollar bonds.

You know our range is there and we still manage to meet what we can there and one way for all of us to be creative and to try and make certain that we can meet these mandates and also not cause any delays and problems for these autonomous or public corporations is to find a way to find that. From common sense perspective for those autonomous agencies that are able to support themselves on rates and do not have in house counsel and if their required to use the services of the Attorney General they should reimburse for the cost of that or at least help to fund having an attorney dedicated to servicing them.

Some autonomous agencies like the port interested in the DPW model which is for us to hire an Assistant Attorney General have them over at the agency. The only difference between them and in house is they are considered Assistant Attorney Generals and there's no issue about delegating review and this other matter. There are ways to try and address it so I think that the airport does have some real concerns but the same time we're all trying to meet it because the

law is under PL 32-30 and so it mandates that right now. We'd like to provide these services to those agencies without slowing down the line agencies who are also in need of our review.

Vice Chair Won Pat: You've given several scenarios, what will be the best recommendation in this case to assist at the AG's office to fulfill the mandate and to also not delay the process.

Phil Tydingco: Well I think this bill is one manor but I think with some of the technical amendments I don't think we should mandate the fee at \$200.00. Every attorney is a different step and we are under the civil service system and the cost recovery there I think it is intended to just say maximum as opposed to mandate a specific amount. We're not there to compete against the private counsel as I say there is not a need for it. Just that in the event that we're called upon or mandated to participate in the review of PL30-72 procurement then to not take away from the line agencies we should be able to hire attorneys that can be funded by the autonomous agencies which would be no different than paying for the outside counsel. I suspect that it would be a lot lower although I see their saying that its \$175.00.

Again I didn't think that the author or anyone and didn't think that this body would mandate that flat rate of say a maximum. Especially out salaries are set out on the statutes. You can confirm what the cost would be right there for an attorney.

Vice Chair Won Pat: So you feel that the current number of attorneys you have 100 would be sufficient.

Phil Tydingco: Oh with the current I do not.

Vice Chair Won Pat: Ok because you see that's why I asked you that question so that you would be able to, based on your invoice, based on the rate that it would be with your current members that you have and that's what this bill calls for verses further down the line that we should consider increasing the number of attorneys so that there won't be any delay.

Phil Tydingco: If I understand you correctly I welcome, since we're coming in the budget our new budget time and meeting our vacancies then I can adjust it this way, If you want general funding to provide me more bias, which I would need for the line agencies, I just saw this as following the DPW model. That agency said "look I have a zillion dollars worth of federal funding coming in for contracts and we need some attorneys to review it and we can fund it, you hire the attorneys for us and assign them to us.

I thought that this model would allow us to do plus it gives us statutory authority to do that and turn to MOU's. So if we knew we had this mechanism more directly in the law then I can say to these agencies "Hey let's do this. You commit to this and you could feel protected that this is in the statute.

I will take the risk of hiring the attorney so I can service these agencies. In terms of right now, no. It is extremely difficult that's why we're trying to be creative in entering these MOU's

to meet the demands especially under Public Law 30-72 and other laws that are wanting us to be more involved.

Panel Comments and Questions

Chairman Pangelinan: Thank you very much Mr. Tydingco. Senator Palacios?

Senator Palacios: Thank you Mr. Chairman. Currently of course just about that mandate that you review contracts and projects I mean even without this bill you still have to do this and remember the provisions. I read the concerns of the Airport Authority you would have presented at that point when that provision was being considered. Nevertheless this bill can only help then what has already been mandated on the AG which is to review so that perhaps maybe what funds can be recovered probably at some point in time it would be sufficient at least hire a part time attorney just for that because right now of course. The general funds pay for the AG's office and that's general funds paying for services provided to the autonomous agencies which generate their own funds. So I think the concept of just recovering cost is a good idea but I just want to emphasize, you still have to review it even if you're reimbursed because that's law.

Phil Tydingco: Correct.

Senator Palacios: That's what I observed. Thank you Mr. Chairman. I just wanted to point that out. I think this bill can help out the AG's office.

Panel Discussion and Questions

Chairman Pangelinan: Thank you very much Senator Palacios. Senator Ada?

Senator Tony Ada: Good morning Mr. Tydingco.

Phil Tydingco: Good morning Senator.

Senator Tony Ada: What is the average length of review for a simple contract?

Phil Tydingco: Well a simple contract like a three page MOU shouldn't take more than 15 to 20 minutes depending on what the RP documents look like behind it or invitation for bid documents. If we're talking on procurement context it could take an hour or two depending on if there's a phone call, you'd be surprised notwithstanding the boiler plates, I think that sometimes the computer age has made use a little less careful including us lawyers with paste and cut things that go on. Unlike the old days some of us had to use the Smith Corona or IBM. You had to make sure you didn't make mistakes so a real simple shouldn't take more than an hour. If there's accompanying documents or phone calls to be made, extremely simple contract. We get MOU's.

Chairman Pangelinan: But this only calls for the procurement.

Phil Tydingco: Right

Senator Tony Ada: Then the much larger one's take...?

Phil Tydingco: Hard to say. I couldn't tell you. It all depends on the back up documents. We are talking in the context of PL 72-30 requires the Attorney General's office to not, prior to that law we were not involve in procurement until the contract is sent to us for review. But PL 72-30 mandates our involvement at ground zero. So when an agency says "I have a \$5,000,000.00 procurement solicitation that I want to put out" it could cost up to \$5,000,000.00. PL 72-30 will require that agency to contact my office and say "we are beginning ground zero solicitation" so we open up a file and we start the consultation. They start developing it and they send us whatever. Prior to PL 72-30 we were not involved in it. Except unless when there was an occasion when they wanted to call us, the agency but by large not involved ground zero review and as you know policy reasons for that is because some agencies have run into major, major problems. But I think those can be addressed personally through the other amendments of the code.

Putting that aside PL 30-72 makes more work for everybody because it requires our involvement at ground zero of the procurement so that makes it more complex and definition time consuming.

Senator Tony Ada: Thank you sir. Thank you Mr. Chairman.

Panel Comments and Questions

Chairman Pangelinan: Thank you very much. Senator Barnes?

Senator Barnes: Si Yu'os Ma' ase' Mr. Chairman. Good morning gentlemen. Just on a follow up on Senator Ada's concern, in an ideal place based on the passage of PL 30-72 with an ideal setting, the Attorney General being fully staffed would the accountability and transparency be the best thing for the Government of Guam with the checks and balances there? If the AG was fully funded with appropriate staff and administration?

Phil Tydingco: Yes, I think that is true that would occur. I think historically if there were no in-house counsels or private counsels we are mandated under law to, as you know the organic act or our equivalent of a constitution mandates the attorney general the chief legal officer of the Government of Guam. We will be obligated to review regardless of what is going on. We all want to promote transparency in having as many people review and also balance the practicality aspect.

As I said there are good policies behind PL 30-72 because of the procurement issues that have popped up especially with the larger contracts although that again that shouldn't be applied brought brush with all agencies have gone without procurement protest so in defense of them I think that policy concern may not necessarily apply but certainly having as many people reviewing always promotes accountability and transparency.

Senator Barnes: The reason why I bring it up Mr. Chairman is that you just earlier brought up DPW and how they knew they had federal funds coming in and they set an MOU up

with you folks in reference to having an assigned attorney from that agency so that there is transparency and accountability but there is also a designated attorney to pull in just for the DPW contracts. That's a fair statement right?

Phil Tydingco: True.

Senator Barnes: I know that as recent as several concerns came up with the conflict of interest not just with attorneys but with defendants or other conflicting issues on cases that are brought up that there was a reason why there was a creation of a public defender, alternative public defender so that there could be a better representation, because there's always going to be conflicts of interest and what I see here is what will be the ideal setting so that we know the mandate of the Attorney General's office is to represent the Government of Guam.

We as policy makers have already seen that some government entities are out in the cold. Because it is up to the Attorney General's office and that's why I'm torn between representation because I want to see the Attorney General's office represent the Government of Guam in its totally. And if they could not do that then that separation of making sure that those MOU's are in place, that assigned attorney will be strictly for that so it doesn't have a conflict of interest or a constrain of other issues come in to protect that and I thought that it wouldn't be a more ideal setting?

Phil Tydingco: Yes to cover all circumstances which include conflict of interest issues. I think when you put it that way and you qualify it that way that the current situation where we try to enter into MOU's, I believe that the primary thrust for those agencies, autonomous agencies or public corporations which tend to have large procurements that exceed \$500,000.00 we should be able to recover that cost since we're mandated to become involved in that. Practically speaking, if the private counsel is not reviewing it then that's a cost saved on that agency.

Certainly when there's a conflict of interest whether it involves our office or any other counsel, we have to do what we have to do which is to make certain that they obtain another council in the event that they are conflicted. Again I do not see the current law as prohibiting right now the agencies from entering into contract with the private counsel especially for specialized service. This again is, as I understand it intended for as in context of PL 30-72 for our office to try to meet the needs of those autonomous agencies, we try to hire extra bodies, attorneys, and try to recover the cost. Even having said that, even the line agencies their work is requiring more from use.

I only have 2 or 3 attorneys who are working under contract right now. The more that we can have the more we will be able to expedite it. I think that by in large the 2 or 3 models could exist. The in-house counsel can co-exist and certainly the AG's office co-exist and so as the private counsel. That's what's happening right now. Its just that there's this mandate as it relates to procurement and consequently the autonomous agencies are concerned about the that they have the experience to go thru use and we are trying to meet that challenge.

We know that we need to bring on some folks because our needs are growing anyway. Even without the autonomous agencies we are still going to be asking to fill our vacancies so we

can do a better job with our line agencies and a few of the autonomous agencies that are mandated any way to have use review our contract because we have different kinds of statutes that govern them unlike other public corporations and autonomous agencies.

If your question is in all three forms co-exist I believe so. The only one that would of made it a little negative would have been Bill 192. It would have restricted it or appear to do so. I think all three models co-exist. Thank you.

Panel Comments and Questions

Chairman Pangelinan: Thank you very much Senator Barnes. Phil the bill allows basically a reimbursement of the general fund for general fund expenses for legal services in review of these contracts. It's actually the review of the front end of the procurement contracts because the back end is already being reviewed as you mention by the Attorney General's office. All contracts.

Phil Tydingco: All contracts but not autonomous contracts.

Chairman Pangelinan: No but on the general fund side. So it also allows general funding to agencies who receive federal grants and that can be done right now without anything under the direct cost. I believe you guys actually take those indirect costs and appropriate them out to the agencies so you're a recipient of that indirect cost anyway already. So it's just going to isolate that. The need is the Attorney General needs staff for the review of these contracts from the autonomous agencies. That's the element that's uncovered in terms of getting the expense paid back in to the general fund and reimbursed and that's what we have to quantify in how much is that. Our intention is to recover to the general fund from these autonomous agencies. I think that many permutations can occur and how to do that. This is one of them and its basically allowing the Attorney General to bill and recover.

Phil Tydingco: And I think Mr. Chairman that you make a good point which kind of ties duck tails with Senator Palacios saying that for example if the airport procurement seeks \$500,000.00 a general funded attorney is reviewing that and spending general funded money on that so it would be ideal to recover that or if that agency says "you know I have a deadline, put it to the head of the line, can't you just give me a body" and then I go and hire. The local mechanism is that I am using local funds to hire that person and dedicate them to the agency and want to be able to recover that.

So I can locally hire for that locally funded agency and that's why we wanted to submit some amendments because simply just sending it back into the general fund doesn't reimburse our budget for providing the local funded attorney to review that federally funded matter or that rate pay matter of the autonomous agency. I see what you're saying and that is true. I saw this as a recovery that's why I think the language intended to say maximum for the cost that would be, we don't restrict it to the attorney we include the paralegal that worked with the attorney or the secretarial or whatever.

Chairman Pangelinan: DPW is a little bit different because their needs are so huge that the funding comes straight out of them and we don't have to reimburse the local funds that was used to hire them. We just start out in the beginning with the federal funds.

Phil Tydingco: I don't know if we've done direct but we were journal vouchering.

Chairman Pangelinan: But now your just receiving that set aside. Ok so I think we get the general gist of the bill. We will look for your technical comments.

Phil Tydingco: I hope that having that fund so that the attorney that we would of hired to take care of the line agency that funding might have been used for these folks.

Chairman Pangelinan: Thank you very much gentlemen. Any other further questions any members of the public wish to testify? Again for the record the airport authority submitted written testimony voicing some concerns and those will be available. So thank you very much we have now concluded public hearing on Bill 345. Ok but Larry please we're going to confine it to Bill 345.

3. Florencio Ramirez

Florencio Ramirez : Ok I'm here to talk about bill 345

Chairman Pangelinan: state your name.

Florencio Ramirez: I am Florencio Ramirez

Chairman Pangelinan: thank you.

Florencio Ramirez: I support this bill, because it intends to reduce the cost of the government for these services to be provided. Although I've never worked for the government, I have served as board member for the Guam Election Commission. I support this bill, because I feel that all the other agencies should be included if they're being represented by the Attorney General. I may not be a lawyer, but I'm sure there aren't too many of you who can tell me about election laws. There are no good laws, there are no bad laws, but the people of Guam should be represented by an attorney. I'd like to tell you that while you think that something's been broken, it's really not broken. And when you think that something's not broken, it's really broken. And that is my testimony to you. My name is Florencio T. Ramirez.

Chairman Pangelinan: Thank you Larry. No other testimony on Bill 345 we'll conclude the hearing.

FINDINGS & RECOMMENDATIONS

The Committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land, hereby reports out Bill No. 345-30 (COR) As Substituted by the committee, with the recommendation To Pass.

I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

Bill No. 345-30 (LS)

Introduced by:

Telo Taitague

B. J. F. Cruz

A. B. Palacios, Sr.

J. C. A. A. A.

AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 30
OF 5GCA RELATIVE AUTHORIZING THE OFFICE OF
THE ATTORNEY GENERAL TO RECOVER COSTS
ASSOCIATED WITH PROVIDING STATUTORILY
MANDATED LEGAL SERVICES TO AGENCIES AND
PROGRAMS THAT ARE NOT SUPPORTED BY THE
TAX-BASE OF THE GOVERNMENT OF GUAM.

Handwritten notes and signatures:
R. M. S. P. M.
FEBRUARY 11
S. P. A. A. A.
1827
M. M. S.

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

2 **Section 1.** A new Article 2 is added to Chapter 30 of 5GCA to read as
3 follows:

4 **Article 2**

5 **Legal Fees and Costs for Certain Non-General Fund/ Special Fund**
6 **Supported Activities**

7
8 **§30201. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
9 the operations of the Attorney General's Office are fiscally supported by the
10 revenues of the General Fund and the various special funds of the Government of
11 Guam. As such, the Attorney General is expected to provide legal services to those
12 agencies that also are fiscally supported by the tax-base of the Government of
13 Guam. Public Law and federal law also place mandates on the Office of the
14 Attorney General that include (1) review of all contracts including those
15 originating from agencies that are fiscally autonomous from the tax-base of the

1 Government of Guam, (2) review of contracts that are funded by federal sources,
2 and, most recently, (3) review of all procurement documents where the cost of the
3 procurement is expected to exceed \$500,000.

4 *I Liheslatura* further finds that such mandates do not constitute a need for
5 the Office of the Attorney General to dedicate an attorney to each autonomous
6 agency or federal program to fulfill the Office's statutory obligations to those
7 agencies and programs but, rather, maintain a pool of staff attorneys to perform
8 such reviews as the need arises. *I Liheslatura* further finds that the ability to
9 maintain such a pool of qualified attorneys or solicitors is contingent upon the
10 Office of the Attorney General to cover the cost of salaries and overhead for these
11 additional attorneys or solicitors.

12 *I Liheslatura* further finds that the private practice of law provides a
13 business model that may be utilized by the Office of the Attorney General to
14 recover the cost of providing statutorily mandated services for agencies and
15 programs that are not supported by the tax-base of the Government of Guam. This
16 model includes *billable hours* for legal services and *legal cost* billing for definable
17 external expenses such as postage, copying, notary fees and process service. In
18 recent hearings before *I Liheslaturan Guåhan*, witnesses have testified that private
19 law firms currently bill their clients from \$200 to \$350 per hour.

20 It is the intent of *I Liheslatura* to provide the Office of the Attorney General
21 with the means to recover the cost of providing statutorily mandated services to
22 agencies and programs that are not funded by the General Fund and Special Fund
23 revenues of the Government of Guam.

24
25 **§30202. Legal Fees for Certain Non-General Fund/ Special Fund**
26 **Supported Activities.** The office of the Office of the Attorney General is
27 authorized to bill agencies, instrumentalities and public corporations of the

1 Government of Guam for the review of (1) contracts where Public Law and/or
2 federal law require the review, approval and/or signature of the Attorney General
3 and (2) procedures, documents and instruments relating to the requirements of
4 5GCA: §5150 provided that source of funding for the contract or procurement is
5 not the General Fund or a Special Fund of the Government of Guam or Federal
6 Funds except as provide by §30203 of this Article. The billable rate shall be Two
7 Hundred Dollars (\$200.00) per hour. Policies used to determine the number of
8 billable hours charged for each review shall be consistent with the ethical standards
9 and practices of law on Guam.

10
11 **§30203. Legal Fees for Federally Funded Activities.** To the extent
12 authorized or allowed for by federal law or the conditions of federal grants, the
13 office of the Office of the Attorney General is authorized to bill agencies,
14 instrumentalities and public corporations of the Government of Guam for the
15 review of (1) federally funded contracts where Public Law and/or federal law
16 require the review, approval and/or signature of the Attorney General and (2)
17 procedures, documents and instruments relating to the requirements of 5GCA:
18 §5150 for federally funded procurement. The billable rate shall not exceed Two
19 Hundred Dollars (\$200.00) per hour or the maximum, if any, allowed by the
20 provisions of federal law or the conditions of the federal grant. Policies used to
21 determine the number of billable hours charged for each review shall be consistent
22 with the ethical standards and practices of law on Guam.

23
24 **§30204. Related Costs.** The Office of the Attorney General is authorized to
25 bill agencies for the actual costs related to the services rendered under the
26 provisions of §§30202 and 30203 of this Article. Such costs include postage,
27 copying and reproduction charges, transcription, notary fees, process service and

1 other actual costs necessary in performing the tasks required by the provisions of
2 §§30202 and 30203 of this Article.

3 **§30205. Adjustment of billable rate.** The Office of the Attorney General
4 may, at intervals not less than three (3) years, adjust the billable rates of §§30202
5 and 30203 of this Article. The adjustment shall be based on comparable billable
6 rates of private law firms doing business on Guam but may not exceed fifteen
7 percent (15%) each adjustment interval. Billable rate adjustments authorized by
8 this Section shall be subject to 5GCA: Chapter 9; Administrative Adjudication
9 Law.

I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

Bill No. 345-30 (LS)

Introduced by:
As substituted by the Committee on
Appropriations, Taxation, Banking, Insurance
Retirement & Land

Telo Taitague
B. F. Cruz
A.B. Palacios, Sr.

**AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 30
OF ~~5GCA~~ 5 G.C.A. RELATIVE AUTHORIZING THE
OFFICE OF THE ATTORNEY GENERAL TO RECOVER
COSTS ASSOCIATED WITH PROVIDING
STATUTORILY MANDATED LEGAL SERVICES TO
AGENCIES AND PROGRAMS THAT ARE NOT
SUPPORTED BY THE TAX-BASE OF THE
GOVERNMENT OF GUAM.**

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

2 **Section 1.** A new Article 2 is added to Chapter 30 of ~~5GCA~~ 5 G.C.A. to
3 read as follows:

4 **Article 2**

5 **Legal Fees and Costs for Certain Non-General Fund/ Special Fund**
6 **Supported Activities**

7
8 **§30201. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
9 the operations of the Attorney General's Office are fiscally supported by the
10 revenues of the General Fund and the various special funds of the Government of
11 Guam. As such, the Attorney General is expected to provide legal services to those
12 agencies that also are fiscally supported by the tax-base of the Government of
13 Guam. Public Law and federal law also place mandates on the Office of the
14 Attorney General that include (1) review of all contracts including those

1 originating from agencies that are fiscally autonomous from the tax-base of the
2 Government of Guam, (2) review of contracts that are funded by federal sources,
3 and, most recently, (3) review of all procurement documents where the cost of the
4 procurement is expected to exceed \$500,000.

5 *I Liheslatura* further finds that such mandates do not constitute a need for
6 the Office of the Attorney General to dedicate an attorney to each autonomous
7 agency or federal program to fulfill the Office's statutory obligations to those
8 agencies and programs but, rather, maintain a pool of staff attorneys to perform
9 such reviews as the need arises. *I Liheslatura* further finds that the ability to
10 maintain such a pool of qualified attorneys or solicitors is contingent upon the
11 Office of the Attorney General to cover the cost of salaries and overhead for these
12 additional attorneys or solicitors.

13 *I Liheslatura* further finds that the private practice of law provides a
14 business model that may be utilized by the Office of the Attorney General to
15 recover the cost of providing statutorily mandated services for agencies and
16 programs that are not supported by the tax-base of the Government of Guam. This
17 model includes *billable hours* for legal services and *legal cost* billing for definable
18 external expenses such as postage, copying, notary fees and process service. In
19 recent hearings before *I Liheslaturan Guåhan*, witnesses have testified that private
20 law firms currently bill their clients from \$200 to \$350 per hour.

21 It is the intent of *I Liheslatura* to provide the Office of the Attorney General
22 with the means to recover the cost of providing statutorily mandated services to
23 agencies and programs that are not funded by the General Fund and Special Fund
24 revenues of the Government of Guam.

25 **§30202. Legal Fees for Certain Non-General Fund/ Special Fund**
26 **Supported Activities.** The ~~office of the~~ Office of the Attorney General is
27 authorized to bill and recover from agencies, autonomous and semi-autonomous

1 instrumentalities and public corporations of the ~~G~~ government of Guam its legal
2 services and related costs for the review of (1) contracts where ~~P~~ public ~~L~~ law
3 and/or federal law require the review, and approval ~~and/or~~ signature of the
4 Attorney General as to form and legality; for (2) its legal services and costs
5 involving related administrative hearings or litigation and review of the (2)
6 procedures, documents and instruments relating to the requirements of 5GCA: 5
7 G.C.A. §5150 provided that sources of funding for the contract or procurement or
8 for reimbursing the legal services and costs of the Office of the Attorney General
9 are is not the General Fund or a Special Fund of the ~~G~~ government of Guam ~~or~~
10 Federal Funds ~~except as provide by §30203 of this Article~~. The billable hourly rate
11 of the Office of the Attorney General for recovery of its legal services and costs
12 shall not exceed be Two Hundred Dollars (\$200.00) per hour. ~~Policies used to~~
13 ~~determine the number of billable hours charged for each review shall be consistent~~
14 ~~with the ethical standards and practices of law on Guam.~~

15 ~~§30203. Legal Fees for Federally Funded Activities.~~ To the extent
16 ~~authorized or allowed for by federal law or the conditions of federal grants, the~~
17 ~~office of the Office of the Attorney General is authorized to bill agencies,~~
18 ~~instrumentalities and public corporations of the Government of Guam for the~~
19 ~~review of (1) federally funded contracts where Public Law and/or federal law~~
20 ~~require the review, approval and/or signature of the Attorney General and (2)~~
21 ~~procedures, documents and instruments relating to the requirements of 5GCA:~~
22 ~~§5150 for federally funded procurement. The billable rate shall not exceed Two~~
23 ~~Hundred Dollars (\$200.00) per hour or the maximum, if any, allowed by the~~
24 ~~provisions of federal law or the conditions of the federal grant. Policies used to~~
25 ~~determine the number of billable hours charged for each review shall be consistent~~
26 ~~with the ethical standards and practices of law on Guam.~~

1 **§302043. Legal Services and Related Costs.** The Office of the Attorney
2 General is authorized to bill agencies for the actual costs related to the legal
3 services rendered under the provisions of §§30202 and 30203 of this Article. Such
4 legal services and costs include but not limited to work conducted by the staff of
5 the Office of the Attorney General such as an attorney, paralegal, legal secretary
6 and/or investigator, as well as postage, copying and reproduction charges,
7 transcription, notary fees, process service and other actual costs necessary in
8 performing the tasks required by the provisions of §§30202 and 30203 of this
9 Article.

10 **§302054. Adjustment of billable rate.** ~~The Office of the Attorney General~~
11 ~~may, at intervals not less than three (3) years, adjust the billable rates of §§30202~~
12 ~~and 30203 of this Article. The adjustment shall be based on comparable billable~~
13 ~~rates of private law firms doing business on Guam but may not exceed fifteen~~
14 ~~percent (15%) each adjustment interval. Billable rate adjustments authorized by~~
15 ~~this Section shall be subject to 5GCA: Chapter 9; Administrative Adjudication~~
16 ~~Law. Agency Obligation. An agency or autonomous or semi-autonomous~~
17 ~~instrumentality or public corporation of the government of Guam billed pursuant to~~
18 ~~this Article by the Attorney General shall pay within sixty (60) days after receipt of~~
19 ~~the invoice. The Attorney General and each agency or autonomous or semi-~~
20 ~~autonomous instrumentality or public corporation of the government of Guam may~~
21 ~~create a Memorandum of Understanding (MOU) or Memorandum of Agreement to~~
22 ~~govern the relationship created by this Article.~~

23 **§302065. Special Fund Created.** Notwithstanding any law to the contrary,
24 there shall be established a fund called “The Office of the Attorney General
25 Special Fund” (the Fund). The Fund shall be maintained separate and apart from
26 other funds of the government of Guam by the Department of Administration. All
27 funds generated under this Article shall be deposited into the Fund. The Fund shall

1 be used by the Attorney General for the reimbursement or recovery of the cost of
2 its legal services and other related costs including but not limited to funding the
3 employment and assignment of an assistant attorney general and other staff to an
4 agency, autonomous or semi-autonomous instrumentality or public corporation of
5 the government of Guam. The Fund shall not be subject to the Governor's transfer
6 authority, and any lapses in the Fund will carry over into the next fiscal year.



Mina' Trenta Na Liheslaturan Guahan
THIRTIETH GUAM LEGISLATURE

Senator vicente "ben" c. pangelinan

COMMITTEE ON APPROPRIATIONS, TAXATION, BANKING, INSURANCE, RETIREMENT AND LAND
PUBLIC HEARING
Wednesday, April 7, 2010
BILL NO. 345-30 (COR)
SIGN UP SHEET

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT	
						Yes	No
Phil Tydenjw	AGO						
Larry Ramirez							

324 W. Soledad Ave. Hagatna, Guam 96910
 Ph. 473-4236 Fax. 473-4238
 Email: senbenp@guam.net



Mina' Trenta Na Liheslaturan Guahan
THIRTIETH GUAM LEGISLATURE

Senator vicente "ben" c. pangelinan

COMMITTEE ON APPROPRIATIONS, TAXATION, BANKING, INSURANCE, RETIREMENT AND LAND
PUBLIC HEARING
Wednesday, April 7, 2010
BILL NO. 345-30 (COR)
SIGN UP SHEET

G/AA

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT	
						Yes	No
Carlos Salas				✓			
Graham Botha		648 3203	gbotha@gp.gov.gu		✓		

324 W. Soledad Ave. Hagatna, Guam 96910
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April 7, 2010

VIA HAND DELIVERY

The Honorable Vicente C. Pangelinan
Senator
I MINA TRENTA NA LIHESLATURAN GUÁHAN
155 Hessler Street
Hagåtña, Guam 96910

RE: Bill 345-30(COR): An Act to Add a New Article 2 to Chapter 30 of 5 GCA

Dear Senator Pangelinan:

I am writing you today to share the views of the Authority with regards to Bill 345.

Bill 345 proposes to authorize the Attorney General's Office to bill government of Guam agencies an hourly rate – in a manner similar to that employed in a private attorney-client arrangement – for legal services that it provides. However, unlike a private attorney-client arrangement, Bill 345 does not provide for any mechanism by which the Authority (or any other similarly situated agency) can compel the Attorney General's Office to provide timely legal services.

In dealing with outside legal counsel, the Authority can require its counsel to render legal services within a particular deadline under penalty of termination if it fails to meet the deadline. Under Bill 345, the Authority's "contract" for legal services with the Attorney General's Office is legally imposed. Accordingly, the Authority would hold no such power to compel the Attorney General's Office to meet the Authority's critical deadlines or to impose consequences upon the Attorney General's Office for its failure to do so. The failure to meet such deadlines, to the extent that it results in a delay in the obtaining of critical services or the meeting of required financial deadlines, could cause material harm to the Authority. Accordingly, since Bill 345 proposes to amend the attorney-client relationship of the Attorney General's Office to that of paid counsel, the Authority believes that Bill 345 must include a mechanism for ensuring timely services and accountability to the agencies as would be expected from privately paid counsel.

(It should be noted that the Authority's opposition to Bill 345 does not in any way reflect upon the competence or professionalism of the Attorney General's Office. Rather, it simply reflects the well known reality that the Attorney General's Office is woefully understaffed and underfunded, and in spite of this, is constantly called on to take on more and more duties and responsibilities.)

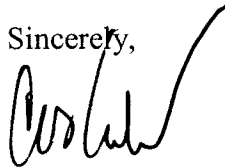


The Honorable Vicente C. Pangelinan
April 7, 2010
Page 2 of 2

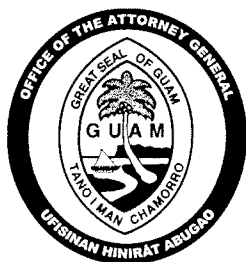
If enacted, Bill 345 would authorize the Attorney General's Office to charge government agencies \$200 per hour for any legal services it provides to such agencies. Currently, the Authority has negotiated contracts with outside counsel at \$175 per hour. Bill 345 would require the Authority to pay more than what it currently pays for legal services. Accordingly, we object to the cost of legal services proposed in Bill 345.

For the foregoing reasons, the Authority opposes Bill 345 as currently worded. The Authority is presently preparing an amended version of Bill 345, intended to address the concerns raised here, which we will present to you before the expiration of the comment period for Bill 345.

Sincerely,



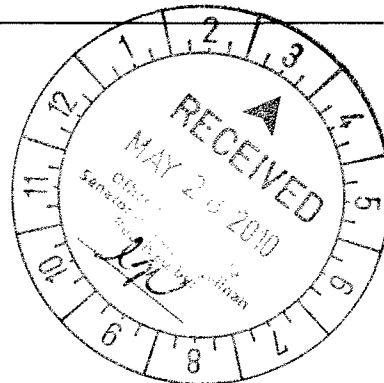
CARLOS H. SALAS
Executive Manager



Office of the Attorney General

May 28, 2010

Hon. Vicente "ben" C. Pangelian
Chairman, Committee on
Appropriations, Taxation, Banking,
Insurance, Retirement, and Land
Senator, 30th Guam Legislature
324 West Soledad Avenue, Suite 101
Hagatna, Guam 96910



Subject: Bill No. 345-30 re: Act Authorizing AG Office to Recover Costs of Legal Services Provided to Non-tax based Autonomous Agencies or Public Corporations

Dear Chairman Pangelinan,

As you know, I testified before your legislative committee on behalf of the Office of the Attorney General ("OAG") in support of the intent of, and concept behind Bill 345-30. The bill in part seeks to provide express authorization for the OAG to seek reimbursement or recover costs from autonomous, semi-autonomous or public corporations of the government of Guam for legal services provided to them, particularly as it relates to Public Law 72-30 that requires the OAG to review and be involved from the beginning with procurement whose value exceeds \$500,000.00. There are a number of autonomous, semi-autonomous, and public corporation agencies of the government of Guam that have revenues and funding sources other than the General Fund or special fund revenues of the government of Guam, which they use to pay their private counsel. These same agencies should be reimbursing or paying the OAG for the costs of providing its attorney or legal services provided to them by the OAG.

In addition, I also provided verbal testimony about some minor technical and substantive issues regarding the provisions of the bill with some recommended amendments or additions. They are as follows:

1. **Page 1, Line 8:** Generally speaking, the "Legislative Findings and Intent" section are not ordinarily codified into the law as reflected in the bill (i.e., §30201). Typically, the "Legislative Findings and Intent" are set forth as a section of the bill.

2. Throughout the bill, Title 5 G.C.A. is written "5GCA.", which should be corrected (See Page 1, Line 2; Page 3, Line 17; and Page 4, Line 8)
3. Page 2, Line 26 through Page 3, Line 9 of the bill provides a new §30202 of Title 5 G.C.A. which reads as follows:

“ §30202. **Legal Fees for Certain Non-General Fund/Special Fund Supported Activities.** The Office of the Attorney General is authorized to bill agencies, instrumentalities and public corporations of the Government of Guam for the review of (1) contracts where Public Law and/or federal law require the review, approval and/or signature of the Attorney General and (2) procedures, documents and instruments relating to the requirements of 5GCA: §5150 provided the source of funding for the contract or procurement is not the General Fund or a Special Fund of the Government of Guam or Federal Funds except as provided by §30203 of this Article. The billable rate shall be Two Hundred Dollars (\$200.00) per hour. Policies used to determine the number of billable hours charged for each review shall be consistent with the ethical standards and practices of law on Guam.”

We recommend the following changes to this section:

“ §30202. **Legal Fees for Certain Non-General Fund/Special Fund Supported Activities.** The ~~office of the~~ Office of the Attorney General is authorized to bill and recover from agencies, autonomous and semi-autonomous instrumentalities, and public corporations of the ~~G~~overnment of Guam its legal services and related costs for the review of (1) contracts where ~~P~~ublic ~~L~~aw and/or federal law require the review and approval and/or signature of the Attorney General as to form and legality; for (2) its legal services and costs involving related administrative hearings or litigation; and review of the (2 3) procedures, documents and instruments relating to the requirements of ~~5GCA: §5150~~ 5 G.C.A. §5150 provided the sources of funding for the contract or procurement or for reimbursing the legal services and costs of the Office of the Attorney General are ~~is-~~ not the General Fund or a Special Fund of the ~~G~~overnment of Guam ~~or Federal Funds except as provided by §30203 of this Article.~~ The billable hourly rate of the Office of the Attorney General for recovery of its legal services and costs shall not exceed ~~be~~ Two Hundred Dollars (\$200.00) per hour. ~~Policies used to determine the number of billable hours charged for each review shall be consistent with the ethical standards and practices of law on Guam.”~~

The primary purposes, *inter alia*, for the recommended changes to §30202 above are to make clear (1) that the intent of the bill is not for the Office of the Attorney General to be able to charge billable rates comparable to the private sector for profit lawyers or law firms, but only to be reimbursed for, and recover the costs of its legal services provided to those government of Guam agencies, autonomous agencies and public corporations, which costs are comparatively much lower than those generally paid to private law firms or attorneys, and (2) that payment for these legal services provided by the Office of the Attorney General to such agencies come from funding sources other than the General Fund or Special Funds of the government of Guam (examples include rate generated revenues, federal grants or funded programs that allow for payment of related legal costs, specific Guam Legislation permitting a certain fund to be used to pay for legal services, etc.).

4. **Page 3, Line 11 through Line 22 of the bill provides a new §30204 of Title 5 G.C.A. regarding “ Legal Fees for Federally Funded Activities”.**

It is recommended that the proposed §30203 be deleted in its entirety.

We believe that §30202 above with our proposed amendments is sufficient alone to authorize the Office of the Attorney General to be compensated or reimbursed for the cost of its legal services provided to agencies, autonomous agencies or public corporations of the government of Guam even if the funding are from federal grants or federal sources. It will be the federal regulations and federal grant program requirements that dictate whether legal services can be paid from these sources.

5. **Page 3 Line 24 through Page 4, Line 9 of the bill provides a new §30203 of Title 5 G.C.A. regarding “Related Costs” which reads as follows:**

“§30204. Related Costs. The Office of the Attorney General is authorized to bill agencies for the actual costs related to the services rendered under the provisions of §§30202 and 30203 of this Article. Such costs include postage, copying and reproduction charges, transcription, notary fees, process service and other actual costs necessary in performing the tasks required by the provisions of §30202 and 30203 of this Article.”

We recommend the following changes to this section:

§30204. Legal Services and Related Costs. The Office of the Attorney General is authorized to bill agencies for the actual costs related to the legal services rendered under the provisions of §§30202 ~~and 30203~~ of this Article. Such legal services and costs include but are not limited to work conducted by the staff of the Office of the Attorney General such as an attorney, paralegal, legal secretary and/or investigator, as well as postage, copying and reproduction charges, transcription, notary fees, process service and other actual costs necessary in performing the tasks required by the provisions of §30202 ~~and 30203~~ of this Article.

6. **Page 4, lines 3 through line 9 of the bill provides for a new section §30205 regarding “Adjustment of billable rate.”**

We recommend that the current language of §30205 of the bill be deleted in its entirety.

This because the Office of the Attorney General billings are not intended to be comparable or consistent with the private sector for-profit billing rates of attorneys and their costs, but are actually intended as cost recovery or reimbursement for government legal services.

7. A new §30205 of Title 5 G.C.A. in the bill should make clear an agency’s obligation to reimburse or compensate the Office of the Attorney General to bill for its legal services and costs provided under this Article because the bill does not currently expressly not require the agencies to pay.

Therefore, we recommend the following additional or new language for §30205:

§30205. Agency Obligations. An agency or autonomous or semi-autonomous instrumentality or public corporation of the government of Guam billed pursuant to this Article by the Attorney General shall pay within a sixty (60) days after receipt of the invoice. The Attorney General and each agency or autonomous or semi-autonomous instrumentality or public corporation of the government of Guam may create a Memorandum of Understanding (MOU) or Memorandum of Agreement to govern the relationship created by this Article.

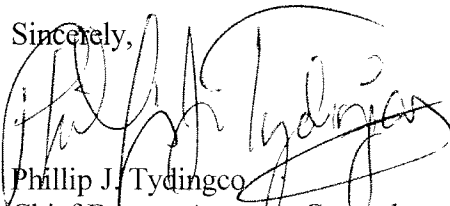
8. The Office of the Attorney General must respectfully point out that in addition to providing statutory language authorizing billing and mandating payment, it is also necessary to create the account for the Office to have access to the payment in order to recover its costs in providing such legal services to the agencies that previously paid private counsel for these same kinds of services at much higher rates. The bill presently says nothing about what happens to the money, which ordinarily means that it will go into the General Fund.

Therefore, we recommend adding a new §30206 to read as follows:

30206. Special Fund Created. Notwithstanding any law to the contrary, there shall be established a fund called “The Office of the Attorney General Special Fund” (the Fund). The Fund shall be maintained separate and apart from other funds of the government of Guam by the Department of Administration. All funds generated under this Article shall be deposited into the Fund. The Fund shall be used by the Office of the Attorney General for the reimbursement or recovery of the cost of its legal services and other related costs including but not limited to funding the employment and assignment of an assistant attorney general and other staff to an agency, autonomous or semi-autonomous instrumentality or public corporation of the government of Guam. The Fund shall not be subject to the Governor’s transfer authority, and any lapses in the fund will carry over into the next fiscal year.

Should you have any questions please do not hesitate to contact me.

Sincerely,



Phillip J. Tydingco
Chief Deputy Attorney General

cc: Hon. Alicia G. Limtiaco
Attorney General of Guam

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 345-30(LS)**

AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 30 OF 5GCA RELATIVE AUTHORIZING THE OFFICE OF THE ATTORNEY GENERAL TO RECOVER COSTS ASSOCIATED WITH PROVIDING STATUTORILY MANDATED LEGAL SERVICES TO AGENCIES AND PROGRAMS THAT ARE NOT SUPPORTED BY THE TAX-BASE OF THE GOVERNMENT OF GUAM.

Department/Agency Appropriation Information	
Dept./Agency Affected: Office of the Attorney General	Dept./Agency Head: Alicia Limitaco
Department's General Fund (GF) appropriation(s) to date:	\$8,492,874
Department's Other Fund (specify): _____ appropriation(s) to date:	\$0
Total Department/Agency Appropriation(s) to date:	\$8,492,874

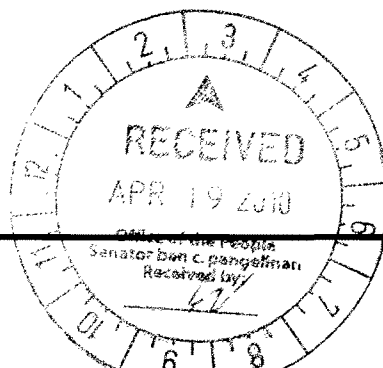
Fund Source Information of Proposed Appropriation			
	General Fund:	Other:	Total:
FY 2010 Adopted Revenues	\$540,218,638	\$112,566,011	\$652,784,649
FY 2010 Appro. (P.L. 30-55)	(\$540,228,723)	(\$113,243,583)	(\$653,472,306)
Sub-total:	(\$10,085)	(\$677,572)	(\$687,657)
Less appropriation in Bill	\$0	\$0	\$0
Total:	(\$10,085)	(\$677,572)	(\$687,657)

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2010 (if applicable)	FY 2011	FY 2012	FY 2013	FY 2014
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Tourist Attraction Fund	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? /x/ Yes // No
If Yes, see attachment
- 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
- Does the Bill establish a new program/agency? /x/ Yes // No
If yes, will the program duplicate existing programs/agencies? // N/A // Yes /x/ No
Is there a federal mandate to establish the program/agency? // Yes /x/ No
- Will the enactment of this Bill require new physical facilities? // Yes /x/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: // Yes /x/ No
// Requested agency comments not received by due date / X / Other: Insufficient time due to requested deadline.A17

Analyst: <u>M. P. Quinata</u>	Date: <u>3/22/10</u>	Director: <u>Bertha M. Duenas, Director, BBMR</u>	Date: <u>MAR 20 2010</u>
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Footnotes: The Bill has a potential for revenues to be collected for the Office of the Attorney General. However, in its present form, the funding impact cannot be determined at this time.





COMMITTEE ON RULES

I Mina' Trenta na Liheslaturan Guåhan • 30th Guam Legislature

155 Hesler Place, Hagatña, Guam 96910 • tel: (671)472-7679 • fax: (671)472-3547 • roryforguam@gmail.com

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SENATOR**

**James V. Espaldon
SENATOR**

March 17, 2010

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Chairperson, Committee on Rules

Subject: Referral of Bill Nos. 345-30(LS) and 346-30(LS)

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 345-30(LS) and 346-30(LS).

Please ensure that the subject bill are referred, in my name, to the respective committees, as shown on the attachment. I also request that the same be forwarded to all Senators of *I Mina' Trenta Na Liheslaturan Guåhan*.

Should you have any questions, please contact Stephanie Mendiola or Elaine Tajalle at 472-7679.

Si Yu'os Ma'åse'!

(1) Attachment

March 17 2010
EDM

I Mina'Trenta Na Liheslaturan Guåhan

Bill Log Sheet

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date)
B345-30 (LS)	Telo Taitague, B. J.F. Cruz, A. B. Palacios, Sr., T. C. Ada, R. J. Respicio, F. F. Blas, Jr., E. J.B. Calvo	An act to add a new Article 2 to Chapter 30 of 5GCA relative authorizing the Office of the Attorney General to recover costs associated with providing statutorily mandated legal services to agencies and programs that are not supported by the tax-base of the government of Guam.	3/15/10 4:47 p.m.	3/17/10	Committee on Appropriations, Taxation, Banking, Insurance, Retirement, and Land			
B346-30 (LS)	A. B. Palacios, Sr.	An act to amend §8107 and §8108, Chapter 8, Title 7 Guam Code Annotated; relative to including School Attendance Officers under the provisions of special deputy appointments.	3/16/10 9:32 a.m.	3/17/10	Committee on Economic Development, Health and Human Services, and Judiciary			



Mina' Trenta Na Liheslaturan Guahan

Senator vicente (ben) c. pangelinan (D)

March 31, 2010

Memorandum

To: All Senators

From: Senator vicente c. pangelinan

Re: Public Hearing - FIRST NOTICE

Chairman
Committee on
Appropriations, Taxation,
Banking, Insurance, and
Land

Member
Committee on Education

Member
Committee on
Municipal Affairs,
Aviation, Housing, and
Recreation

Member
Committee on Labor, the
Public Structure,
Public Libraries, and
Technology

The Committee on Appropriations, Taxation, Banking, Insurance and Land will conduct a public hearing on numerous bills beginning at **9:00am on Wednesday, April 7, 2010** at the Guam Legislature's Public Hearing Room. The following bills are on the agenda:

Bill No. 345-30 (COR): (Taitague) An Act to add a New Article 2 to Chapter 30 of 5GCA Relative to authorizing the office of the Attorney General to recover costs associated with providing statutorily mandated legal services to agencies and programs that are not supported by the tax-base of the government of Guam.

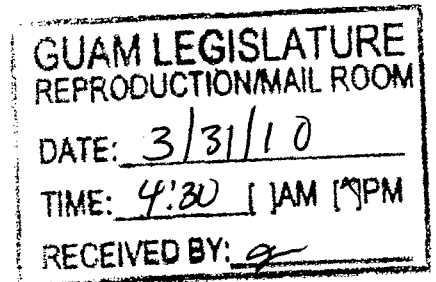
Bill No. 349-30 (COR): (Muna Barnes) An Act to *add* a New §80105 (c) to Chapter 80 of Title 21, Guam Code Annotated Relative to the transfer of properties under the jurisdiction of the Port Authority of Guam to the jurisdiction of the Guam Ancestral Lands Commission.

Bill No. 350-30 (COR): (pangelinan) An Act to repeal Section 30106 (c) of Chapter 30 Title 11 of the Guam Code Annotated Relative to exemptions from Hotel Occupancy Tax.

Bill No. 351-30 (COR): (pangelinan) An Act to Add a New Article 3 of Chapter 36 to Title 18 Guam Code Annotated Relative to the establishment of a Secure and Fair Enforcement for Mortgage Licensing Act.

For copies of the bill, you can log onto www.guamlegislature.com or www.senbenp.com

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Lisa Cipollone

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Stephanie Mendiola

Venus Baguion

Derick Baza Hills

Senator ben pangelinan

Therese Terlaje

Toby Castro

Options

Add Contact

First Notice for Public Hearing for Wednesday, April 7, 2010 beginning at 9:00am. Please see attached.

-- Lisa Cipollone Chief of Staff Office of Senator ben c. pangelinan (671) 473-4236 cipo@guamlegislature.org

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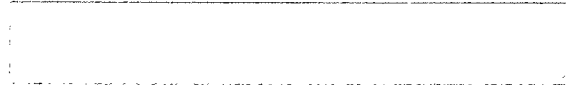
senator@espaldon.com

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 Subject: First Public Hearing Notice
 From: Lisa Cipollone <cipo@guamlegislature.org>
 To: Tom Ada <tom@senatorada.org>, lbaguon.guam@hotmail.com,
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**Public Hearing Notice
Wednesday, April 7, 2010
Guam Legislature Public Hearing Room**

**Agenda
9:00am**

Bill No. 345-30 (COR): (Taitgue) An Act to add a New Article 2 to Chapter 30 of 5GCA Relative to authorizing the office of the Attorney General to recover costs associated with providing statutorily mandated legal services to agencies and programs that are not supported by the tax-base of the government of Guam.

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Lisa Cipollone
Chief of Staff
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(671) 473-4236
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For clarification, The Committee on Appropriations, Taxation, Banking, Insurance, Retirement and Land will be conducting the public hearing.
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Date: Wed, 31 Mar 2010 12:28:41 +1000
To: "Melyan, Catriona" <cmelyan@guam.gannett.com>
Conversation: Public Hearing - First Notice
Subject: Re: Public Hearing - First Notice

Yes, Sorry. Committee on Appropriations, Taxation, Banking, Insurance, Retirement and Land.

On Wed, Mar 31, 2010 at 12:27 PM, Melyan, Catriona <cmelyan@guam.gannett.com> wrote:
Thanks. Is there a particular committee holding the hearing??

Catriona

From: Lisa Cipollone <cipo@guamlegislature.org>
Date: Wed, 31 Mar 2010 12:25:57 +1000
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Conversation: Public Hearing - First Notice
Subject: Public Hearing - First Notice

Public Hearing Notice
Wednesday, April 7, 2010
Guam Legislature Public Hearing Room

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9:00am

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50	GM	49:58.11	1242	John B.	17	J	55:23.92
52	GM	50:01.01	1245	Zana Isim	35	SM	55:35.11
68	S	50:04.55	1246	Dwight Bernard	18	J	55:36.62
21	O	50:07.40	1247	James Howard Jr.	51	GM	55:37.06
10	Y	50:10.42	1248	Jake Bernars	8	Y	55:37.68
19	J	50:10.87	1249	Frederick Aladad	15	J	55:38.12
19	J	50:11.93	1250	Kyle DeLeon	14	J	55:39.71
46	M	50:14.71	1251	Robert Cuindera	6	Y	55:46.54
14	J	50:15.18	1252	Jean DeLeon	17	J	55:50.40
27	O	50:15.49	1253	Anne Quilantary	31	SM	55:52.24
8	Y	50:18.62	1254	Joe L. Flores	29	O	55:54.43
40	M	50:20.30	1255	2nd Life	42	M	55:56.21
46	M	50:26.02	1256	Jason S.	58	GM	55:56.81
45	M	50:26.55	1257	John Malnas	26	O	56:11.49
21	O	50:28.33	1258	Troy Torres	42	M	56:12.52
13	Y	50:31.36	1259	Angelo Q.	29	O	56:12.89
10	Y	50:41.87	1260	Ron Abshire	6	Y	56:13.34
7	Y	50:59.34	1261	R. Niel	54	GM	56:18.26
181	No Name	51:13.65	1262	Raymond Sinamban	81	Mko	56:30.34
11	Y	51:14.34	1263	Chede M. Lumahan	34	SM	56:30.99
34	SM	51:15.55	1264	Mharc Mendoza	22	O	56:37.37
53	GM	51:21.46	1265	Brian Arceo	8	Y	56:48.30
12	Y	51:24.20	1266	Pat Wolff	23	O	56:50.14
16	J	51:25.08	1267	Juan	61	S	56:50.87
16	J	51:26.21	1268	Danny Pobre	45	M	56:53.86
15	J	51:28.74	1269	RSEL	59	GM	56:55.08
49	M	51:31.62	1270	Jim Blend	4	Y	56:55.55
10	Y	51:35.21	1271	Edden T.	66	S	56:56.93
10	Y	51:41.18	1272	Matthew Ecijan	9	Y	57:00.77
11	Y	51:45.02	1273	Christian Ecijan	7	Y	57:01.08
32	SM	51:45.84	1274	Darwin Ecijan	45	M	57:05.81
20	O	51:47.26	1275	Antonio Cura	75	Mko	57:09.30
10	Y	51:50.46	1276	Renegene Mendiola	12	Y	57:10.46
5	Y	51:51.08	1277	Alex Menrtoe Jr.	17	J	57:18.99
14	J	51:54.93	1278	Anton Valencia	18	J	57:20.24
58	GM	51:56.78	1279	KC	22	O	57:21.34
31	SM	51:59.96	1280	Aaron	7	Y	57:26.46
15	J	52:00.99	1281	Armedo Lav	30	SM	57:27.55
52	GM	52:03.49	1282	Kenneth B. Duenas	47	M	57:34.96
17	J	52:05.40	1283	Vincent Sonafede	36	SM	57:35.43
70	Mko	52:13.49	1284	Javin Takai	14	J	57:39.51
10	Y	52:14.46	1285	Steven Esmeralda	17	J	57:52.08
0	Y	52:15.52	1286	Jon Talavera	13	Y	57:52.56
17	J	52:18.30	1287	to 1329 --- Names were not provided.			
Y	52:26.90						
50	GM	52:38.46					

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**Senator vicente "ben" c. pangellinan
Office of the People**

**Public Hearing Notice
Wednesday, April 7, 2010
Guam Legislature Public Hearing Room**

**Agenda
9:00am**

Bill No. 345-30 (COR): (Taitgue) An Act to add a New Article 2 to Chapter 30 of 5GCA Relative to authorizing the office of the Attorney General to recover costs associated with providing statutorily mandated legal services to agencies and programs that are not supported by the tax-base of the government of Guam.

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Public Hearing Notice Wednesday, April 7, 2010 Guam Legislature Public Hearing Room

Agenda
9:00am

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Mina' Trenta Na Liheslaturan Guåhan

Senator vicente (ben) c. pangelinan (D)

April 5, 2010

Memorandum

To: All Senators
From: Senator vicente c. pangelinan
Re: Public Hearing - SECOND NOTICE

The Committee on Appropriations, Taxation, Banking, Insurance and Land will conduct a public hearing on numerous bills beginning at **9:00am on Wednesday, April 7, 2010** at the Guam Legislature's Public Hearing Room. The following bills are on the agenda:

Bill No. 345-30 (COR): (Taitague) An Act to add a New Article 2 to Chapter 30 of 5GCA Relative to authorizing the office of the Attorney General to recover costs associated with providing statutorily mandated legal services to agencies and programs that are not supported by the tax-base of the government of Guam.

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For copies of the bill, you can log onto www.guamlegislature.com or www.senbenp.com

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<sem@guamlegislature.org>,
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--
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Subject: PUBLIC HEARING - SECOND NOTICE

From: Lisa Cipollone <cipo@guamlegislature.org>

To: Tom Ada <tom@senatorada.org>, fbaquon.guam@hotmail.com,

"Frank B. Aguon, Jr." <aguon4guam@gmail.com>, "Frank F. Blas, Jr." <frank.blasjr@gmail.com>,

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feaburgos@gmail.com, jamespcastro@gmail.com, juliette@senatorada.org,

patrick cepeda <patrickcepeda@hotmail.com>, rjquitugua@gmail.com, mona.duenas@gmail.com,

phil@raytenorio.com, epgoque@hotmail.com, roberto.phil@gmail.com,

vparriola@teleguam.net, Pat Santos <psantos@guamlegislature.org>,

Yong Pak <yong@guamlegislature.org>, sergeant-at-arms@guamlegislature.org,

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
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**Public Hearing Notice
Wednesday, April 7, 2010
Guam Legislature Public Hearing Room**

**Agenda
9:00am**

Bill No. 345-30 (COR): (Taitgue) An Act to add a New Article 2 to Chapter 30 of 5GCA Relative to authorizing the office of the Attorney General to recover costs associated with providing statutorily mandated legal services to agencies and programs that are not supported by the tax-base of the government of Guam.

Bill No. 349-30 (COR): (Muna Barnes) An Act to add a New §80105 (c) to Chapter 80 of Title 21, Guam Code Annotated Relative to the transfer of properties under the jurisdiction of the Port Authority of Guam to the jurisdiction of the Guam Ancestral Lands Commission.

Bill No. 350-30 (COR): (pangelinan) An Act to repeal Section 30106 (c) of Chapter 30 Title 11 of the Guam Code Annotated Relative to exemptions from Hotel Occupancy Tax.

Bill No. 351-30 (COR): (pangelinan) An Act to Add a New Article 3 of Chapter 36 to Title 18 Guam Code Annotated Relative to the establishment of a Secure and Fair Enforcement for Mortgage Licensing Act.

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Lisa Cipollone
Chief of Staff
Office of Senator ben c. pangelinan
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
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THIRTIETH GUAM LEGISLATURE

Senator vicente "ben" c. pangelinan
Office of the People

Public Hearing Notice
Wednesday, April 7, 2010
Guam Legislature Public Hearing Room

Agenda
9:00am

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Senator vicente "ben" c. pangelinan

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I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

Bill No. 345-30 (LS)

Introduced by:

Telo Taitague
B. J. F. Cruz
A. B. Palacios, Sr.
J.C. Aza

AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 30
OF 5GCA RELATIVE AUTHORIZING THE OFFICE OF
THE ATTORNEY GENERAL TO RECOVER COSTS
ASSOCIATED WITH PROVIDING STATUTORILY
MANDATED LEGAL SERVICES TO AGENCIES AND
PROGRAMS THAT ARE NOT SUPPORTED BY THE
TAX-BASE OF THE GOVERNMENT OF GUAM.

Handwritten notes and signatures on the right side of the page, including names like "Telo Taitague" and "B. J. F. Cruz" and dates like "15 FEB 2010".

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

2 **Section 1.** A new Article 2 is added to Chapter 30 of 5GCA to read as
3 follows:

4 **Article 2**

5 **Legal Fees and Costs for Certain Non-General Fund/ Special Fund**
6 **Supported Activities**

7
8 **§30201. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
9 the operations of the Attorney General's Office are fiscally supported by the
10 revenues of the General Fund and the various special funds of the Government of
11 Guam. As such, the Attorney General is expected to provide legal services to those
12 agencies that also are fiscally supported by the tax-base of the Government of
13 Guam. Public Law and federal law also place mandates on the Office of the
14 Attorney General that include (1) review of all contracts including those
15 originating from agencies that are fiscally autonomous from the tax-base of the

1 Government of Guam, (2) review of contracts that are funded by federal sources,
2 and, most recently, (3) review of all procurement documents where the cost of the
3 procurement is expected to exceed \$500,000.

4 *I Liheslatura* further finds that such mandates do not constitute a need for
5 the Office of the Attorney General to dedicate an attorney to each autonomous
6 agency or federal program to fulfill the Office's statutory obligations to those
7 agencies and programs but, rather, maintain a pool of staff attorneys to perform
8 such reviews as the need arises. *I Liheslatura* further finds that the ability to
9 maintain such a pool of qualified attorneys or solicitors is contingent upon the
10 Office of the Attorney General to cover the cost of salaries and overhead for these
11 additional attorneys or solicitors.

12 *I Liheslatura* further finds that the private practice of law provides a
13 business model that may be utilized by the Office of the Attorney General to
14 recover the cost of providing statutorily mandated services for agencies and
15 programs that are not supported by the tax-base of the Government of Guam. This
16 model includes *billable hours* for legal services and *legal cost* billing for definable
17 external expenses such as postage, copying, notary fees and process service. In
18 recent hearings before *I Liheslaturan Guåhan*, witnesses have testified that private
19 law firms currently bill their clients from \$200 to \$350 per hour.

20 It is the intent of *I Liheslatura* to provide the Office of the Attorney General
21 with the means to recover the cost of providing statutorily mandated services to
22 agencies and programs that are not funded by the General Fund and Special Fund
23 revenues of the Government of Guam.

24
25 **§30202. Legal Fees for Certain Non-General Fund/ Special Fund**
26 **Supported Activities.** The office of the Office of the Attorney General is
27 authorized to bill agencies, instrumentalities and public corporations of the

1 Government of Guam for the review of (1) contracts where Public Law and/or
2 federal law require the review, approval and/or signature of the Attorney General
3 and (2) procedures, documents and instruments relating to the requirements of
4 5GCA: §5150 provided that source of funding for the contract or procurement is
5 not the General Fund or a Special Fund of the Government of Guam or Federal
6 Funds except as provide by §30203 of this Article. The billable rate shall be Two
7 Hundred Dollars (\$200.00) per hour. Policies used to determine the number of
8 billable hours charged for each review shall be consistent with the ethical standards
9 and practices of law on Guam.

10

11 **§30203. Legal Fees for Federally Funded Activities.** To the extent
12 authorized or allowed for by federal law or the conditions of federal grants, the
13 office of the Office of the Attorney General is authorized to bill agencies,
14 instrumentalities and public corporations of the Government of Guam for the
15 review of (1) federally funded contracts where Public Law and/or federal law
16 require the review, approval and/or signature of the Attorney General and (2)
17 procedures, documents and instruments relating to the requirements of 5GCA:
18 §5150 for federally funded procurement. The billable rate shall not exceed Two
19 Hundred Dollars (\$200.00) per hour or the maximum, if any, allowed by the
20 provisions of federal law or the conditions of the federal grant. Policies used to
21 determine the number of billable hours charged for each review shall be consistent
22 with the ethical standards and practices of law on Guam.

23

24 **§30204. Related Costs.** The Office of the Attorney General is authorized to
25 bill agencies for the actual costs related to the services rendered under the
26 provisions of §§30202 and 30203 of this Article. Such costs include postage,
27 copying and reproduction charges, transcription, notary fees, process service and

1 other actual costs necessary in performing the tasks required by the provisions of
2 §§30202 and 30203 of this Article.

3 **§30205. Adjustment of billable rate.** The Office of the Attorney General
4 may, at intervals not less than three (3) years, adjust the billable rates of §§30202
5 and 30203 of this Article. The adjustment shall be based on comparable billable
6 rates of private law firms doing business on Guam but may not exceed fifteen
7 percent (15%) each adjustment interval. Billable rate adjustments authorized by
8 this Section shall be subject to 5GCA: Chapter 9; Administrative Adjudication
9 Law.