

I Mina'Trentai Unu Na Liheslaturan Guahan

Bill Log Sheet

BILL NOS.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	120 DAY DEADLINE	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	Status
403-31 (COR)	M.Silva Taijeron	AN ACT TO ADD A NEW §5425.2 TO CHAPTER 5, TITLE 5 OF THE GUAM CODE ANNOTATED RELATIVE TO ESTABLISHING A PROTEST BOND.	12/29/11 10:47 a.m.	1/3/2012		Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting.			01/04/11 WITHDRAWAL

WITHDRAWN



COMMITTEE ON RULES

I Mina'trentai Unu na Liheslaturan Guåhan • The 31st Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
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Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

MAJORITY MEMBERS:

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Senator
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Senator
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Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

January 4, 2012

MEMORANDUM

To: Patricia C. Santos
Clerk of the Legislature

From: Senator Judith P. Guthertz, DPA
Acting Chairperson, Committee on Rules

Subject: Withdrawal of Bill 403-31 (COR)

Hafa Adai!

Transmitted herewith is a memo from Senator Mana Silva Taijeron requesting the withdrawal of Bill 403-31 (COR).

Please make the appropriate indication in your records; and forward to MIS for posting on our website. I also request that the same be forwarded to all Senators of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Si Yu'os ma'åse'!

(1) attachment

270 JUN -5 PM 2:59
A
B



SENATOR MANA SILVA TAIJERON


I Mina' Trentai Unu na Liheslaturan Guåhan

Tel: (671) 989-6878/7678 Fax: (671) 989-8678 E-mail: senatormana@gmail.com

January 3, 2012

MEMORANDUM

TO: Senator Rory J. Respicio
Chairman, Committee on Rules

FROM: Senator Mana Silva Taijeron 

SUBJECT: **Withdrawal of Bill 403-31 (COR)**

As author of Bill 403-31 (COR), I am hereby withdrawing the legislation. *Si Yu'os Ma'åse* for your time and attention on this matter.

cc: All Members
I Mina' Trentai Unu na Liheslaturan Guåhan





COMMITTEE ON RULES

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Senator
Christopher M. Duenas

January 3, 2012

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Judith P. Guthertz, DPA
Acting Chairperson, Committee on Rules

Subject: Referral of Bill Nos. 403-31(COR) & 404-31 (COR)

As the Acting Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 403-31 (COR) and 404-31 (COR).

Please ensure that the subject bills are referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

(2) Attachment

779 Jan 4 11 08 AM
OC
OC

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 403-31 (COR)

Introduced by:

M. Silva Tajeron

2011 DEC 27 11:47 AM

**AN ACT TO ADD A NEW §5425.2 TO CHAPTER 5, TITLE 5
OF THE GUAM CODE ANNOTATED RELATIVE TO
ESTABLISHING A PROTEST BOND.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan* finds that procurement protests help ensure a fair and transparent procurement process. The people of Guam deserve a government that spends its funds fairly and that all purchases are done with the utmost transparency and in the spirit of fair and open competition.

However, *I Liheslaturan Guahan* further finds that the opportunity for the filing of frivolous procurement protests exists, and that these protests severely hamper the procurement process. Regulations must be put in place to prevent the filing of frivolous or counterintuitive procurement protests. A protest bond is one such regulation.

Therefore, it is the intent of *I Liheslaturan Guahan* to add a new §5425.2 of Chapter 5, Title 5 of the Guam Code Annotated establishing protest bonds.

Section 2. A new §5425.2 of Chapter 5, Title 5 of the Guam Code Annotated is hereby *added* to read:

1 **“§ 5425.2. Protest Bond**

2 (a) Any aggrieved person who files a protest under section 5425(a)
3 shall post a “protest bond” (hereafter referred to in this section as “bond”)
4 payable to the government agency or using agency or purchasing agency,
5 autonomous agency, semi-autonomous agency, public corporation, or
6 instrumentality in an amount equal to five percent (5%) of the lowest bid
7 submitted or lowest cost proposal evaluated, or five percent (5%) of the
8 highest revenue proposal evaluated. The bond shall be conditioned upon
9 payment of all costs which may be adjudged against the protester in the
10 administrative or appeal hearing before the Public Auditor in which the action
11 is brought, and in any subsequent court or appellate court proceedings.

12 (b) Such protest bond shall be in a form and substance acceptable to
13 the Chief Procurement Officer, Director of the Department of Public Works or
14 the using or purchasing agency and shall be immediately payable to the
15 government agency or using agency or purchasing agency, autonomous
16 agency, semi-autonomous agency, public corporation, or instrumentality. In
17 lieu of a bond, a cashier’s check, certified bank check, bank certified company
18 check, irrevocable line of credit, money order or U.S. currency in the total
19 amount of the bond would be acceptable form of currency.

20 (c) If, after completion of the administrative hearing process before
21 the Public Auditor and any court or appellate court proceedings, the
22 government or purchasing agency, autonomous agency, semi-autonomous
23 agency, public corporation or instrumentality prevails, it shall recover all costs
24 and charges, which shall be included in the final order or judgment, including
25 charges made by the Public Auditor or his hearing officer or the court has not

1 determined that the protest was filed for a frivolous or improper purpose,
2 including but not limited to the purchase of harassing, causing unnecessary
3 delay, or causing needless cost to the government or purchasing agency,
4 autonomous agency, semi-autonomous agency, public corporation, or
5 instrumentality, in which case the entire amount of the bond shall be forfeited.
6 If the protestor prevails, he or she shall recover from the government or
7 purchasing agency, autonomous agency, semi-autonomous agency, public
8 corporation or instrumentality all costs and charges which shall be included in
9 the final order of judgment, excluding attorney fees.

10 (d) All funds collected from protest bonds shall be held in trust and
11 placed in an account separate from the general fund, and shall not be used for
12 any reason. If, as described in item (c) above, a protest is to have been deemed
13 frivolous or improper, all bond funds for said protest shall immediately be
14 transferred to the general fund. Bond funds from all valid protests shall remain
15 in the protest bond account, and it will be the responsibility of the protestor to
16 claim bond funds at the conclusion of the administrative hearing process
17 before the Public Auditor and any court or appellate court proceedings. If,
18 after three years, bond funds fail to be collected by the protestor, the total
19 amount of the bond shall revert to the general fund.”

20 **Section 3. Enactment.** The provisions of this Act shall become effective
21 ninety (90) days upon enactment.

22 **Section 4. Severability.** *If* any provision of this Law or its application to any
23 person or circumstance is found to be invalid or contrary to law, such invalidity shall
24 *not* affect other provisions or applications of this Law which can be given effect

- 1 without the invalid provisions or application, and to this end the provisions of this
- 2 Law are severable.