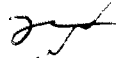




**I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN**  
**2012 (SECOND) Session**

2012 JUL 17 PM 1:30  
*Law*

Bill No. 489, 31 (COR)

Introduced by:

T.C. Ada   
R.J. Respicio   
A.B. Palacios 

**AN ACT TO REPEAL §22421 OF CHAPTER 22, TITLE 5, GUAM  
CODE ANNOTATED, RELATIVE TO THE TRANSFER OF  
AUTONOMOUS AGENCY REVENUES TO THE AUTONOMOUS  
AGENCY COLLECTIONS FUND**

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

1           **Section 1. Legislative Intent.** *I Liheslaturan Guåhan* finds that §22421 of  
2 Chapter 22, Title 5, Guam Code Annotated, established by Public Law 18-15, mandates  
3 the A. B. Won Pat International Airport Authority of Guam (GIAA), Jose D. Leon  
4 Guerrero Commercial Port of Guam (PAG), and the Guam Power Authority (GPA) each  
5 pay into the General Fund an annual amount of \$875,000 as “payment-in-lieu-of-taxes”  
6 (PILOT). The intent of P.L. 18-15 was that because these autonomous agencies are  
7 public corporations that do not pay taxes to GovGuam, the assessment was intended as  
8 reimbursement to the General Fund for benefits they receive “...*from services provided*  
9 *by the General Fund, such as police and fire protection, road systems, and other*  
10 *governmental facilities.*” P.L. 18-15 presumes that GIAA, PAG, and the GPA have  
11 “*surplus funds*” to draw from to reimburse the General Fund, funds that are excess to the  
12 needs of the organization. This presumption is incorrect.

13           *I Liheslaturan Guåhan* further finds that while P.L. 18-15 was signed into law in  
14 1985, the requirement to pay the PILOT was not enforced until 2011. In that year,

1 following the issuance of a Department of Administration billing for \$12,250,000,  
2 representing 14 assessments of \$875,000 between Fiscal Year 1998 and Fiscal Year  
3 2011, a settlement was reached between the Guam Power Authority and the Government  
4 of Guam to pay a one-time amount of \$2,625,000 (for the periods FY'09 to FY'12) to  
5 resolve all past-due amounts, and to continue paying \$875,000 annually for Fiscal Year  
6 2012 and any future year for which the PILOT requirement remains in effect. A similar  
7 demand was made to the Port Authority and to the Guam International Airport.

8 *I Liheslaturan Guåhan* finds that the autonomous agencies treat the PILOT  
9 assessment as part of its total operating expenses. Inevitably, these expenses must be  
10 offset, through rate increases that get passed on to ratepayers. This is evidenced by the  
11 Petition submitted by GPA to the Public Utilities Commission (see Docket No. 11-08).  
12 These rate payers are also tax payers and are therefore being double taxed.

13 *I Liheslaturan Guåhan* finds that the rising cost of services provided by these  
14 autonomous agencies are a burden to the community, and that P.L. 18-15 must be  
15 repealed to provide relief.

16 **Section 2. §22421 of Title 5, Chapter 22, of the Guam Code Annotated is**  
17 **hereby repealed.**

18 §2241 of Title 5, Chapter 22 of the Guam Code Annotated, entitled Transfer of  
19 Autonomous Agency Revenues to Autonomous Agency Collections Fund, is hereby  
20 *repealed* in its entirety. To the extent the Government of Guam pursuant to 5 GCA  
21 §22421 has assessed this tax on the affected autonomous agencies, consisting of the  
22 Guam Power Authority, the Jose D. Leon Guerrero Commercial Port of Guam and the  
23 A.B. Won Pat International Airport Authority, any such prior assessment of this tax *shall*

1 be null and void as of the effective date of this legislation, and *shall* be uncollectable  
2 from the affected autonomous agencies.

3 **Section 3. Severability.**

4 *If* any provision of this Law or its application to any person or circumstance is  
5 found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or  
6 applications of this Law which can be given effect without the invalid provisions or  
7 application, and to this end the provisions of this Law are severable.