



## COMMITTEE ON RULES

*I Mina'trentai Dos na Liheslaturan Guåhan* • The 32nd Guam Legislature  
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Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

April 22, 2013

Senator  
Thomas C. Ada  
VICE CHAIRPERSON  
ASSISTANT MAJORITY LEADER

### MEMORANDUM

Senator  
Vicente (Ben) C. Pangelinan  
Member

**To:** **Rennae Meno**  
*Clerk of the Legislature*

Speaker  
Judith T.P. Won Pat, Ed.D.  
Member

**From:** **Senator Rory J. Respicio** *[Signature]*

Senator  
Dennis G. Rodriguez, Jr.  
Member

**Subject:** **Supplement to Committee Report Bill No. 81-32 (COR)**

Vice-Speaker  
Benjamin J.F. Cruz  
Member

*Hafa Adai!*

Transmitted herewith is a memo from Vice Speaker Benjamin J.F. Cruz, Chairperson, Committee on General Government Operations and Cultural Affairs, forwarding Attachments for Bill No. 81-32 (COR).

Legislative Secretary  
Tina Rose Muña Barnes  
Member

Please include this memo and the attachment as a "Supplement" to the Committee Report on Bill No. 81-32 (COR).

Senator  
Frank Blas Aguon, Jr.  
Member

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 Dos na Liheslaturan Guåhan*.

Senator  
Michael F.Q. San Nicolas  
Member

*Si Yu'os ma'åse'!*

Senator  
V. Anthony Ada  
Member  
MINORITY LEADER


Senator  
Aline Yamashita  
Member



April 22, 2013

**Memorandum**

**To:** Senator Respcio Committee on Rules, Federal, Foreign & Micronesian Affairs, Human & Natural Resources, and Election Reform

**From:** Vice Speaker Benjamin J.F. Cruz   
Chairman, Committee on General Government Operations and Cultural Affairs

**Subject:** Supplemental Testimony for Bill No. 81-32 (COR)

Hafa Adai! Please be advised that I have received supplemental testimony for Bill No. 81-32 (COR). It would be greatly appreciated if the documents were included as an addendum to the committee report for Bill No. 81-32 (COR).

Thank you for your time and kind consideration of this request.



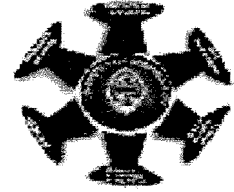
**Eddie Baza Calvo**  
Governor  
**Ray Tenorio**  
Lieutenant Governor

GOVERNMENT OF GUÁHAN  
(GUBETNAMENTON GUÁHAN)

DEPARTMENT OF ADMINISTRATION  
(DIPATTAMENTON ATMENESTRASION)

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**Benita A. Manglona**  
Director  
**Anthony C. Blaz**  
Deputy Director

April 22, 2013

Office of the Vice Speaker  
Senator Benjamin F. Cruz  
Chairman, Committee General Government Operations and Cultural Affairs,  
*I Mina' trentai Dos Na Liheslaturan Guáhan*  
Suite 107  
155 Hessler Street  
Hagatna, Guam 96932

**RE: Testimony on Bill 81-32**

*Buenas Dias and Hafa Adai* Senator Cruz:

Thank you for the opportunity to comment on Bill 81-32 (COR) relative to providing health insurance coverage to government of Guam employees and retirees for Fiscal Year 2014.

Upon reviewing the proposed bill, we sought the assistance of our consultants, Hay Group, who helped us in the formulation of our response. The comments we are providing herewith are not in support of Bill 81-32.

We refute the first paragraph that states that the GHIP procurement is being perpetually continued with the existing insurance company at FY2012 rates. The procurement is being continued through the current plan year and was necessary to continue coverage, and therefore, is not intended to be perpetually continued. The negotiating team has every commitment, through its RFP process to attract carriers in submitting proposals for the upcoming FY2014 benefit year. The team, comprised of statutory members from various government agencies, will aggressively seek the best qualified plan(s) for government of Guam employees, retirees and survivors.

Page 2 beginning on line 20 states that GovGuam has been overpaying insurance premiums for the third consecutive year. The legislative branch has failed to realize that the FY12 rates (which were the result of a successful RFP

process and negotiations) reduced the annual premiums by \$7.5M. Further, as advised by our consultants, GovGuam is fully protected because the current contract has a Participating Agreement in it which requires a full settlement at the end of the contract period. This will mean that total premiums are reduced by total claims paid and the guaranteed retention and any excess would be returned to GovGuam. Thus, GovGuam is protected from any overpayment that might be inherent. In addition, the carrier must rebate amounts in excess of the PPACA minimum loss ratio (MLR) requirements of 85%, further lowering the actual premium charges.

The Bill further states that invoking the HIPAA guaranteed renewability provision is not the preferred method of securing insurance. The Negotiating Team was underway with negotiations and was advised to cease all proceedings in recognition of the protest. The Negotiating Team had little choice but to renew the FY2012 contract by invoking the HIPAA guaranteed renewability provisions, as the alternative would have been to not have **any** health insurance coverage. As a result, this left the Negotiating Team without the ability to renegotiate rates. Had this not been the case, the negotiating team was prepared for aggressive negotiations and would have pursued such. Nevertheless, GovGuam, it's employees, retirees and survivors are still protected from any overpayment with the Participating Agreement in place to refund excess premiums.

Page 10 paragraph E states that "the premium for the 1500 plan will be 2x the premium for the 2000 plan." Directing an insurer what rates to charge for each plan is highly irregular to say the least. This will discourage vendors from bidding, and most importantly, there is no law requiring vendors to quote. This is risking the ability of GovGuam to acquire competitive bids and to aggressively go through the negotiations process.

Page 11 paragraph G suggests that subscribers can have Health Reimbursement Arrangement (HRA) plans. The government as employer would have to maintain the HRAs which could not be used for anything but medical benefits. We have been advised by our consultants that Patient-Centered Outcomes Research Fee (PCORF) will be assessed on HRAs as well as a plan in which a retiree is enrolled, and that, for plan years beginning on or after 1/1/2014, non-retiree HRAs will not be permitted unless integrated with a medical plan covering the account holder.

Page 14 (5(d)) makes reference to the annual medical and dental premium calculation. We are unsure of the likelihood that the total annual medical and dental calculation will not exceed \$68.361 million for all carriers for 12 months. Generally speaking, typically in the insurance business, a non-exclusive contract approach results in overall higher costs because no one vendor gets all of the risk and from an underwriting standpoint must assume it will get many of the bad risks, thus raising the premium rates for each one. This approach will definitely cost GovGuam more money. This was seen in the past years in which the government offered several carriers who no longer became viable and eventually removed themselves from the government account. Additionally, this provision will discourage

vendors from bidding and this is risking the ability of GovGuam to acquire competitive bids. On that note, beginning on line 20 which states "In the event all bids exceed the specified amount the solicitation will be cancelled", we ask the senators what is GovGuam's recourse to obtaining health insurance when the solicitation is cancelled? Is this something that the legislature is willing to risk at the expense of our employees, retirees, and survivors? We may find ourselves in a repeat of FY2013 and invoking the HIPAA renewability clause. This will, once again, leave the government with no leverage and negotiating power.

Another issue is the calculations used in the proposed bill. Relying on available claims data, the bill identifies over \$65 million in required premiums or, in other words, in claims paid. Using the 85% medical loss ratio allowed under the PPACA, \$65 million represents 85% of almost \$76.5 million. There is no mathematical formula under which the available information supports a combined medical and dental premium cap of \$69 million. That is even more the case when the bill solicits non-exclusive contracts with multiple carriers. This was highly evident in the most recent RFP submissions.

In 2004, Senator Pangelinan co-sponsored Bill 351-27, later enacted into law as P.L. 27-125. Public Law 27-125 created the Health Insurance Review Committee and appropriated \$150,000 to conduct a study and make recommendations on how to provide affordable quality health care to active and retired GovGuam employees. This committee commissioned Lewis & Ellis, Inc. Actuaries and Consultants. Page 4 of the bill references that employees and retirees desire competition in the GHIP in order to provide a choice of health insurance and lower premiums. Page 8 of the bill states that the Government of Guam Negotiating Team (GGNT) "shall unconditionally accept all bids and award a contract to all bidders that meet the requirements...". As previously stated in our testimony on PL31-197, this goes against the advice of the study commissioned by the legislature and the results of the report of the Health Insurance Review Committee. Their analysis indicated that "GovGuam would be better off with fewer benefit offerings (no more than 2) and probably only one carrier." This bill goes against the advice of the experts this Legislature commissioned for an objective, independent and comprehensive analysis. It is evident with past practice that the multiple carrier concept is more costly and less effective. The method used in the FY2012 contract has proved to be more successful in decreasing rates while expanding benefits.

Furthermore, by awarding a contract to all those who "meet the requirements," we are not doing justice for our GovGuam employees, retirees, and survivors by removing the negotiations process. The negotiations process is essential in that it is a way to further reduce the proposed rates. This could not be achieved through an IFB process. There are too many elements involved that only an RFP process would be most conducive.

As mentioned earlier, the government was able to reduce the annual premiums by \$7.5m through the negotiations

process. By removing negotiations and simply awarding a contract to everyone who qualifies, the government loses the ability to negotiate the best rates and the highest benefits for the employees of the government.

Page 14-15(5(f)): Bidders will be required to follow MLR standards whether the contract is participating or not. The MLR rebate, if any, because it is based on total Guam experience of carrier (not just GovGuam experience) will result in different amounts flowing back to GovGuam.

Page 16, Section 9, stipulates that "the GNNT shall not develop a ranking system to rank the proposals or rank said proposals. The absence of a ranking system will deprive GovGuam of the ability to distinguish carriers based on any factors other than price – such as service, capabilities, and quality. What would be the basis in ensuring that these carriers are professionally qualified to provide such services? Providing quotes and proposals that meet the requirements are not the sole purpose of determining the best carrier for GovGuam. Effective negotiations and absolute scrutiny from the negotiating team ensures that the best qualified plan(s) are selected for the best interest of the members.

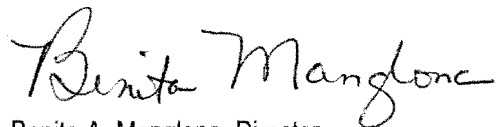
The whole process solicits professionals from the various government agencies and professionals within the health industry field. In fact, the team of professionals working on this project from the actuarial standpoint involves several actuaries, consultants and legal review. Approximately over 1300 manpower hours are spent in the process from the development of the RFP, review of proposals and negotiations process. Bill 81-32 has no regard to this highly technical and essential vetting process. The procurement of health insurance is the largest solicitation for GovGuam. As stated earlier, **there are too many elements involve to resort the procurement of health insurance to an IFB process.** It does not solicit the input from these professionals. Bill 81-32 attempts to "rush" through the negotiation process without any legal or actuarial professional input and against the professionals in the field that recommends that GovGuam would be better off with 1 carrier. Bill 81-32 seems to fast track the whole process.

Lastly, the announcement for the FY2014 Insurance RFP is being announced today in the local and tomorrow in international publications. The Negotiating Team has been meeting for months working on the Rules of Procedure and the RFP.

Thank you for the opportunity to comment on Bill 81-32 (cor).

Testimony on Bill 81-32

*Senseramente,*

A handwritten signature in black ink that reads "Benita Manglona". The signature is written in a cursive style with a large initial "B".

Benita A. Manglona, Director

Department of Administration

*Enclosure*

Cc: All Senators

Lt. Governor Ray Tenorio



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April 15, 2013

The Honorable Benjamin J.F. Cruz  
Chairperson, Committee on General Government Operations and Cultural Affairs  
Suite 107, 155 Hesler St.  
Hagåtña, Guam 96910

**Re: Testimony on Bill 81-32**

**“An act to provide health insurance to Government of Guam Employees and Retirees for Fiscal year 2014”**

Dear Senator Cruz and committee members:

Thank you for the opportunity to provide testimony in opposition of the aforementioned bill. Numerous bills have been introduced since 2010 in reference to the process of procuring health insurance for the Government of Guam employees and retirees. It is evident that the amount of bills introduced amounts to nothing less than legislative interference with a process that was undoubtedly working prior to these bills.

In bypassing the RFP and the current procurement process, Bill 81-32 sets dangerous precedents, and ignores recommendations made by the Attorney General and others in regards to this type of band-aid legislation. Recently the health insurance negotiating committee redefined its rules and regulations improving the manner and process concerning reviews or RFPs.

Furthermore, we find significant deficiencies and omissions with the proposed bill. Whereas we subscribe to the philosophy of competition, we also subscribe to competition whereby all competitors uniformly follow regulations and established procurement rules. However, this Bill has significant flaws and is based on incomplete or erroneous information. Our concerns with the bill are as follows:

- *The Bill preambles, mentions, and references the simplicity of the procurement process for the Federal Employees Health Benefits (FEHB), however, it ignores and fails to acknowledge that the qualifying application process for the FEHB is quite rigorous and provides for an extensive review of the applicants*
- *The application to participate in the FEHB program includes a meticulous review process conducted by the Office of Personnel Management (OPM), which is staffed by healthcare / health insurance professionals and certified actuaries who review new applicants' qualifications and prior performance*
- *The stringent FEHB qualifying process is designed to ensure that insurance carriers demonstrate fiscal soundness and capabilities to provide the required services to the federal employees*



- *Once an insurance carrier has met OPM's qualifying requirements and OPM has deemed the carrier a "qualified" participant, then, the rest of the proposal and negotiation processes are more predictable and transparent due to the great source of detailed assistance provided by OPM to qualified carriers*
- *Unlike GovGuam, OPM does not require companies to prequalify annually if the insurer is an incumbent offeror. Let us not forget that the Guam Legislature with Senator Ben Pangelinan as a key sponsor changed the law that allowed incumbent carriers to have a continuity provision through P.L. 30-93*
- *Bill 81-32 bypasses procurement processes that have been duly established by GovGuam to ensure that companies have the ability to perform the required services based on prior experience and fiscal soundness to pay claims*
- *The Bill advocates "competition" as a key reason to support it, but it basically endorses potentially irresponsible and un-qualified bidders by lessening the qualifying thresholds that companies must meet to provide reliable and consistent services to GovGuam employees and retirees*
- *This is just part of a bombardment of ad-hoc bills introduced and passed in the past 36 months by the Guam Legislature regarding the acquisition of healthcare benefits. This type of legislative interference has done nothing but to continue convoluting the process, and this fact is demonstrated by the number of Bills that have been introduced to alter or change the procurement of healthcare benefits for the past three and a half years*
- *The Bill references that the Office of Finance and Budget apparently uses proprietary information such as rates, which were meant for the exclusive use of the Negotiating Committee and it is protected by the confidentiality rules of procurement*
- *Multiple carriers do not automatically assure lower rates and, in fact, industry studies have shown that multiple carriers may increase cost due to the pricing adjustments for uncertainty and adverse selection*
- *According to our internal and industry standard rating protocols, rates are higher when multiple carriers are present, so we question the integrity and validity of the analysis made by the Office of Finance and Budget. Furthermore, we question the credibility of the non-exclusive rates used and the source of those rates*
- *Senator Pangelinan's office uses a calculator to demonstrate savings but fails to let the Public know as to the source of the premium rates that are used*
- *We applaud the portion of the bill setting contributions for HSA accounts, and this should be done irrespectively of this bill. However, this option should be appropriately included in the Government of Guam's budget bill and properly review for cost budgetary implications especially during a time of budgetary constrains*
- *The Guam Legislation made the people of Guam spend money on a study concerning Health Insurance benefits for GovGuam, which was conducted by Lewis and Ellis. The study concluded that GovGuam would possibly get better rates, benefits, and services through one insurance provider. Ironically and under the disguise of saving money, this legislation completely ignores the outcome of the study*

- *Let us not forget that a number of carriers abandoned the GovGuam program, and today the GovGuam health program provides excellent benefits to its members and has reduced the volatility and uncertainty that led to the exodus of many companies in past years*
- *The theory of high rates with a single provider or the potential savings yielded by multiple providers becomes a pointless issue with the implementation of PPACA MLR requirements and the current participating GovGuam contract, which limits the administrative and potential profit margins retained by health insurers*
- *The bill references overpayments of health insurance but fails to mention that this aspect is highly unlikely due to the MLR provisions of PPACA and rebates that were issued to GovGuam. Again, the MLR provisions of PPACA invalidate any possible premium overpayments*
- *The bill's author states that the FEHB process resembles a seal bid invitation, but this is far from the real truth as carriers must pass a rigorous qualifying process that resembles the RFP process*
- *Bill 81-32 is basically the same as bill 513-31, and this new bill ignores the comments and suggestions made by the Attorney General and the Government of Guam Health Insurance consultant in regards to the many deficiencies found with bill 513-31*

The April 5, 2012 Governor's message transmitting bill 435-31 that lapsed into law, he wisely pointed out that "Based upon prior experience, we already know that multiple negotiations do nothing more than cause needless delay in an already lengthy negotiations process". Recent outcomes seem to validate his statement. Despite the numerous bills and legislative interference, the negotiating committee has done a great job by negotiating a participating contract for the Government of Guam guaranteeing a return if the insurer's Medical Loss ratio is below eighty-five percent (85%). This guarantees fairness in rates regardless of the amounts charged.

Senator Cruz and members of the committee, the solution to the procurement of Health Insurance benefits for GovGuam is to leave the process alone, repeal all prior legislative actions affecting the process, and allow the agency in charge, with the assistance of professional consultants, to procure services and benefits on behalf of GovGuam employees and retirees. More legislative bills introduced solely on the basis of the political "flavor of the moment" are designed to destroy the integrity of the procurement process, are not for the benefit of the employees and retirees of the Government of Guam, and serve no purpose.

Additionally, the bill does not provide for professional consulting services to the Government of Guam, which is currently being provided by a reputable and nationally recognized healthcare consulting company. GovGuam will be without the assistance of healthcare professionals to evaluate the offerings or bids for employees and retirees in the acquisition of health insurance services.

The Honorable Benjamin J.F. Cruz

April 15, 2013

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And finally, the FEHB program, often referenced in the bill, was passed into law in 1959, and since that time only three (3) legislative amendments have been made since its inception some 52 years ago. Evidently, the FEHB program is a great acknowledgment and testimony for leaving the Government procurement process alone and allows the designated government agencies in charge to procure the services accordingly.

In conclusion, Senator Cruz and members of the committee, what real benefits will bill 81-32 bring to the employees and retirees of the Government of Guam that were not already promised in the numerous bills previously introduced? More importantly, what is the true intent of the numerous Bills introduced on this subject by Senator Pangelinan? We thank you for the opportunity to provide our comments, and a Dankulu na Si Yu'us Maase.

Respectfully,



Frank J. Campillo  
Health Plan Administrator  
Calvo's SelectCare

Cc: Committee members



# I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

April 15, 2103

Honorable Benjamin J. Cruz  
Chairman  
Committee on Government Operations and Cultural Affairs  
*I Mina'trentai Dos na Liheslaturan Guahan*  
155 Hesler St.  
Hagatna, Guam

Re: Sponsor Statement for Bill No. 81-32 (COR)

Hafa Adai Vice Speaker Cruz,

Bill 81-32 (COR) seeks to simplify the way the government of Guam procures health insurance, reduce opportunities for protests; offer more choices to government of Guam employees and retirees; increase competition and help reduce the out of pocket expense to the government employees, retirees and their families.

The basic concept of the government health insurance procurement in Bill 81-32 (COR) is a process where all bidders offer standard benefits and only price, service and network of doctors and dentists will be different.

Bill No. 81-32 (COR) sets a cap on premiums that is lower than current premiums. Only qualified bidders, who have a license to do business on Guam, are eligible to submit a bid. Each bidder will bring their respective fiscal year 2014 bids to a sealed bid opening. Any bidder whose bid is lower than the premium cap of \$68.36 million will automatically be accepted as a health insurance provider.

The bill also contains provisions that allow employees and retirees to receive money to use in a Health Savings Account and Health Reimbursement Account to help alleviate paying the large deductibles required with the current plans.

Bill 81-32 (COR) contributes \$750 for single and \$1500 for 2-party and Family Plan to help offset the burden of paying such a high deductible. It provides the money to the employee and retiree up front. It is pro employee, pro retiree and pro-family.

*Si Yu'os Ma'ase,*

Vicente (ben) Cabrera Pangelinan  
Senator

Chairman  
Committee on Appropriations,  
Public Debt, Legal Affairs,  
Retirement, Public Parks,  
Recreation, Historic Preservation  
and Land

Member  
Committee on Education,  
Public Libraries  
and Women's Affairs

Member  
Committee on General  
Government Operations and  
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Insurance Reform, Economic  
Development and Senior  
Citizens

Member  
Committee on Aviation, Ground  
Transportation, Regulatory  
Concerns and Future  
Generations