



COMMITTEE ON RULES

I Mina'trentai Unu na Libeslaturan Guåhan • The 31st Guam Legislature
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2013 JAN -4 AM 10:14

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

January 4, 2013

Memorandum

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

To: Pat C. Santos
Clerk of the Legislature

MAJORITY
MEMBERS:

From: Senator Rory J. Respicio
Majority Leader & Rules Chair

Speaker
Judith T. Won Pat

Subject: Fiscal Notes

Vice Speaker
Benjamin J. F. Cruz

Hafa Adai!

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Bill No.: 507-31 (LS)

Senator
Thomas C. Ada

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

Si Yu'os ma'åse'!

MINORITY
MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

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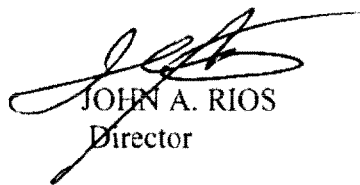
JAN 02 2013

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96932

Hafa Adai Senator Respicio:

Transmitted herewith is Fiscal Note on the following Bill Nos.: **507-31(LS)**.

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.


JOHN A. RIOS
Director

Enclosures

cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 507-31 (LS)**

AN ACT TO AMEND §4119, AND TO REPEAL §4110.1, ALL OF CHAPTER 4 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO PERSONNEL POLICY; TO ADD A NEW SECTION 4 TO PUBLIC LAW 31-154, RELATIVE TO BUDGETARY SAVINGS TO REDUCE THE GENERAL FUND DEFICIT; TO REPEAL AND REENACT CHAPTER 12 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO COMRIGHT - 21; AND FOR OTHER PURPOSES.

Department/Agency Appropriation Information	
Dept./Agency Affected:	Dept./Agency Head:
Department's General Fund (GF) appropriation(s) to date:	27,958,631
Department's Other Fund (Specify) appropriation(s) to date: Healthy Futures Fund & Environmental Health Fund	8,523,716
Total Department/Agency Appropriation(s) to date:	336,482,347

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2012 Unreserved Fund Balance ¹		\$0	\$0
FY 2013 Adopted Revenues	\$561,985,725	\$0	\$561,985,725
FY 2013 Appro. (P.L. 31-233)	(\$548,971,874)	\$0	(\$548,971,874)
Sub-total:	\$13,013,851	\$0	\$13,013,851
Less or Plus appropriation in Bill	\$322,527	\$0	\$322,527
Total:	\$13,336,378	\$0	\$13,336,378

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2013 (if applicable)	FY 2014	FY 2015	FY 2016	FY 2017
General Fund	\$0	\$322,527	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$322,527	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? // Yes /x/ 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? // Yes /x/ 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: /x/ Yes // No
/x/ Requested agency comments not received as of the due date // Other:

Analyst: 	Date: 12/20/12	Director: 	Date: _____
John AB Pangelinan, Budget Supervisor		John A. Rios, Director	

Footnotes:
See attached comments.

Comment on Bill No. 507-31

Legislative Bill No. 507-31 as revised and passed by the 31st Legislature and titled, the Omnibus Fiscal Reform Act of 2012 is clearly a different legislation than the legislative bill that was prepared by the Governor of Guam and submitted to the Legislature with the same title.

The original Bill No. 507-31 submitted to the Legislature by the Governor of Guam had to the following cost saving measures:

1. Section 3, Clarification of Maternity Leave;
2. Section 4, Reversion of Paternity Leave to Industry Standard;
3. Section 5, Elimination of Annual Leave Lump Sum Cash Payment Policy; Implementation of 'Use It or Lose It' Policy;
4. Section 6, Repeal of Accrued Leave Pay Out;
5. Section 7, Reversion of Leave Sharing Program to its Original Intended Purpose (\$4109.2);
6. Section 8, Reversion of Leave Sharing Program to its Original Intended Purpose (\$4109.5);
7. **Section 9, Repeal of Teachers Personal Leave;**
8. Section 10, Repeal of Lump Sum Payment of Annual Leave Prior to Taking Leave;
9. **Section 11, Allowance for Use of Compensatory Time Accrued for Military Leave;**
10. Section 12, Reversion of Overtime Compensation for Fire-Fighters to Fair Labor Standards Act Regulations Relative to the 207(k) Exemption;
11. Section 13, Repeal of Incentive Pay for Fire-Fighters;
12. Section 14, Repeal of Triennial Review of Positions Requiring Certification;
13. Section 15, Early Retirement Incentive Plan; and
14. Section 16, Government Unfunded Liability extension of amortization period.

With the exception of item 7 (Section 9) and item 9 (Section 11), all other items noted above have been excluded from the revised version of legislative Bill No. 507-31 as passed by the 31st Legislature.

The revised legislative bill no. 507-31 that has been transmitted to the Governor's Office reflects the following measures:

1. Section 2, Repeal of Teachers Personal Leave;
2. Section 3, Allowance for Use of Compensatory Time Accrued for Military Leave;
3. Section 4, Analysis of Retirement Fund Reforms;
4. Section 5, Salary Reduction;
5. Section 6, Appropriation for GMHA;
6. Section 7, A New Section 4 is added to Public Law 31-54; and
7. Section 8, Modernization and Rightsizing Commission.

Section 2, Repeal of Teachers Personal Leave

This is the same measure that was in the original omnibus bill. Current information is not available at this time; but to illustrate the potential savings, the following assumptions are noted:

- Average teacher salary is approximately \$42,500,
- Approximately 500 teachers cash out their personal leave annually

The potential saving associated with such cost saving measure is estimated as follows:

• Salaries	\$245,192
• Retirement Benefit	73,779
• Medicare	<u>3,556</u>
• Total	\$322,527

The beneficiary for such savings is the Guam Department of Education.

Section 3, Allowance for Use of Compensatory Time Accrued for Military Leave

This is also the same measure that was in the original omnibus bill. Currently compensatory information is unavailable at this time. However, we believe that any immediate fiscal impact would be negligible based on the following:

- Rarely have compensatory requests been processed for BBMR clearance, given the requirement to have all official request for compensatory must be processed through BBMR for clearance in accordance with existing Governor's Executive Orders. When clearing such document, the primary requirement would be the certification of funding availability.
- It is believed that most compensatory time earned is handled informally in-house with time off.
- Any projected cost in overtime would be offset by any request for compensatory pay in lieu of overtime.

Section 4, Analysis of Retirement Fund Reforms

This section requires the Government of Guam Retirement Fund (GGRF) to submit a report within 60 days of the enactment of this proposed legislation to the Governor of Guam and to the Speaker of the 31st Guam Legislature on the feasibility of Retirement Fund Reforms to include the following:

- A limited Early Retirement Incentive Program for no more than six hundred employees within three years of retirement based on actuarial analysis.
- The issuance of a pension bond to decrease the unfunded liability of GGRF.
- Any other retirement fund reforms.

There is no immediate fiscal impact until at such time the report is submitted and reviewed.

Section 5, Salary Reduction

In spite of existing compensation legislations, this section is requiring a salary reduction of 10% imposed on all unclassified and elected officials (except Judges and Justices of the Supreme Court of Guam) whose based pays are over \$50,000. The estimated cost savings is \$799,832, which entails \$607,636 for salaries and \$192,196 for benefits.

Section 6, Appropriation for GMHA

The savings derived from Section 5 above is to be appropriated to the Guam Memorial Hospital Authority (GMHA). The fiscal impact is that estimated saving amounts will be de-appropriated mostly from the General Fund and re-appropriated to GMHA.

Section 7, A New Section 4 is added to Public Law 31-154

This section mandates the Governor of Guam to submit a report pursuant to Section 3 of this Act. Failure to comply will result in a 5% de-appropriation of the Governor's annual. The savings resulting from such de-appropriation is to be applied to support the reduction of the General Fund deficit.

Section 8, Modernization and Rightsizing Commission

Because of the lack of implementation of the COMRIGHT -21 by two administrations, this section is providing all government agencies the opportunity to review existing organizations' mandates, laws, administrative rules and regulations for the purpose of eliminating antiquated, unfunded and underfunded mandates and programs that hamper the core missions of all departments. The reports of such reviews are to be processed through COMRIGHT-21 as the clearinghouse for all recommendations submitted by individual entities of the Government of Guam. This proposed legislation also repealed and reenacted COMRIGHT-21. The reenactment of COMRIGH-21 reflects major changes in the program. These changes are:

1. Section 12102 is a new section which defines key terms associated with COMRIGHT-21;
2. Section 12103 opens the review process for rightsizing to all government agencies, not just line departments;
3. Section 12104 also opens the review process for rightsizing to all government agencies; but it also clearly defines the policy and processes to complete the rightsizing of the Government of Guam;
4. Section 12104.1 mandates that all government agencies within 90 days of the enactment of this Act to audit their legislative mandates, administrative rules, internal functions, and personnel requirements. All departmental recommendations and findings are to be forwarded to COMRIGHT-21 for considerations. Such review will take place triennially.
5. Section 12104.2 reaffirms COMRIGHT-21 as the clearinghouse for recommendations and findings in the rightsizing of the Government of Guam;
6. Section 12105 redefines the membership of COMRIGHT-21 as follows:
 - a. There are to be only seven members, not eleven members as previously required.
 - b. The Governor or his designated representative (***must be a member of the Governor's senior policy team***) represents one member.
 - c. The Compiler of Laws who shall serve as the Chairperson in the absence of the Governor or his designee (***previously the Compiler of Laws was not a member***).

- d. A member of the Mayor's Council of Guam who is to be appointed by his or her President.
- e. The Attorney General or his designee (*not part of the Commission previously*).
- f. The Director of the Civil Service Commission (*not part of the Commission previously*).
- g. The Director of the Department of Administration, who is also the Secretary for COMRIGHT -21 (*was not part of the Commission previously*).

It is noted that all representatives from the Legislature and the Judiciary have been excluded in the revision of this legislation.

- 7. Section 12106 defines the Organization of COMRIGHT -21 as follows:
 - a. The designated Chairman is the Governor or his designee who is to coordinate the inaugural swearing-in of all members of COMRIGHT-21 (*previously, the chairman was elected among the membership*) and schedule the first meeting of COMRIGHT-21 within thirty days of the passage of Bill No. 507-31.
 - b. The administrative support for COMRIGHT-21 is through the Governor's Office (*previously the responsibility for this administrative and logistic supports had been the Bureau of Planning and Statistics (BPS), Bureau of Budget and Management Research (BBMR) and Guam State Clearinghouse*).
 - c. The Office of the Governor may provide a budget for COMRIGHT-21 (*previously the responsibility of providing an annual budget had fallen to BSP*).
 - d. COMRIGHT – 21 is required to reconvene on a Triennial Basis each April 1 and all succeeding Governors are to continue swearing in of all members and to conduct the Commission's first meeting.
 - e. (*Previously, the Office Public Accountability, the Guam Election Commission and Village Mayors were excluded from COMRIGHT – 21 reviews.*)

- 8. Section 12107 redefines the duties of COMRIGHT – 21 as follows:
 - a. COMRIGHT – 21 shall review recommendation of heads of departments and agencies for changes (*previously duties under this subsection were too specific in respect to current status of departments, agencies and instrumentalities being review with terminating deadlines of one year for those programs or entities that were unauthorized by law or were deemed terminated by COMRIGHT-21*).
 - b. COMRIGHT – 21 shall conduct public hearings for open discussions with stakeholders (*previously all departments of the Executive Branch must be realigned, modified or abolished one year after COMRIGHT – 21 submits it recommendations and report to the Governor of Guam and the Speaker of the Legislature*).
 - c. COMRIGHT – 21 shall adopt, reject or amend the findings and recommendations of government entities received from public hearing and provide its final recommendations to the Legislature (*previously, under this subsection, requires COMRIGHT – 21 to review all legal mandates imposed on the Government of Guam by existing laws, including all unfunded and underfunded mandates*).

- d. COMRIGHT – 21 shall consider and make use of studies provided by government entities to improve or enhance performances of government agencies (***previously under this subsection, the duties required were to hold public hearings to resolve conflicts arising from the modernization and streamlining of government agencies***).
 - e. COMRIGHT – 21 may provide recommendations to the Governor and to the Legislature for the merger, coordination, consolidation and or integration of government agencies and departments (***previously under this subsection, COMRIGHT – 21 is required to make use of departmental and agencies studies in enhancing performance***).
 - f. COMRIGHT – 21 may provide recommendations to the Governor and Legislature in the dissolution or termination of departments that are not necessary for the efficient conduct of government functions, services and activities (***previously under this subsection, COMRIGHT - 21 shall recommend to the Governor and Legislature the merger, coordination, consolidation and/or integration of government agencies and departments***).
 - g. COMRIGHT – 21 may provide recommendations to the Governor or Legislature regarding the elimination or consolidation of overlapping and duplicative services (***previously under this subsection, COMRIGHT – 21 shall recommend the dissolution or termination of departments and agencies that are not necessarily efficient in their conduction of government functions, services and activities***).
 - h. COMRIGHT – 21 may provide recommendations to the Governor and Legislature in the creation, classification and dissolution of employment positions (***previously under this subsection, COMRIGHT – 21 shall recommend to the Governor and the Legislature the elimination or consolidation of overlapping and duplicative services, functions and activities of the Government of Guam***).
 - i. COMRIGHT -21 may recommend to the Governor and the Legislature the standardization of salaries, materials and equipment and may suggest changes in existing laws and may create and submit new legislations to the Legislature in addition to its Triennial review of various government agencies (***previously under this subsection, COMRIGHT – 21 shall recommend to the Governor and the Legislature the creation, classification, and dissolution of employment positions***).
 - j. There is no item J in the revision of the Duties of COMRIGHT - 21 (***previously, under this section, COMRIGHT shall recommend to the Governor and the Legislature the standardization of salaries, materials and equipment throughout the government, suggest changes to existing laws; and create and submit new legislation to the Legislature***)
9. Section 12108, Obtaining Information from Executive Branch Agencies gives COMRIGHT – 21 the authorization to obtain information from any executive department, bureau, agency, board, commission, office, public corporation or instrumentality of Government of Guam via written request to execute its function. All requests made by COMRIGHT – 21 have the benefit of the provision of Freedom of Information (FOIA) Request (***previously, this mandate did not have the FOIA provision***).

10. Under the new revision for Modernization and Rightsizing Commission, there are no exemptions to specific regulations or laws that protect the environment, health, safety, or civil rights.

Conclusion

- BBMR is in support of Section 2, Repeal of Teachers Personal Leave based on the potential saving that could be realized if the cash out of personal leave is repealed. Such savings would be used to defray the operational cost of the Guam Department of Education.
- BBMR is in support of Section 3, Allowance for Use of Compensatory Time Accrued for Military Leave. The fiscal impact is negligible based on the limited number of compensatory requests that have been officially processed by the departments and cleared by BBMR. If there is a sudden increase in the number compensatory request made, such requests would offset any overtimes that would have been incurred if such compensatory request had not been made.
- BBMR is in support of the intent to lower the salaries of those unclassified employees who earned over \$50,000 per year; but, it cannot support the use of the savings, incurred as the result of the salary reduction, for re-appropriation to the Guam Memorial Hospital Authority. BBMR would prefer that such savings should be applied to the General Fund deficit by lowering the obligation of income tax refunds and vendor payments.
- BBMR reserves comment on the repeal and reenactment of the Modernization and Rightsizing Commission of the Government of Guam based on the following concerns:
 - The proposed revision identified the Office of the Governor as the lead department in the implementation of COMRIGHT – 21.
 - The proposed revision excluded the collaboration of the Judiciary and Legislature as members of the Commission.
 - The proposed revision opens the modernization and rightsizing mandate to all government agencies, inclusive of autonomous and semi-autonomous agencies, commissions and governmental nonprofit organizations.
 - The fiscal impact for such revision has yet to be determined at this time.