



# COMMITTEE ON RULES

*I Mina'trentai Tres na Liheslaturan Guåhan* • The 33rd Guam Legislature  
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April 22, 2016

## Memorandum

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

**From:** Senator Rory J. Respicio  
*Chairperson of the Committee on Rules*

**Subject:** Fiscal Note

*Hafa Adai!*

Attached please find the fiscal note for the bill number listed below.  
Please note that the fiscal note is issued on the bill as introduced.

**FISCAL NOTE:**  
Bill No. 271-33(COR)

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

*Si Yu'os ma'åse'!*

2016 APR 22 PM 4:09  
*Jim M...*

**Bureau of Budget & Management Research  
Fiscal Note of Bill No. 271-33 (COR)**

**AN ACT TO MANDATE AND PROVIDE FOR THE PAYMENT OF PROMISED COMPENSATION AND OVERTIME EARNED AND ACCRUED BY DPW EMPLOYEES, TO AUTHORIZE THE SUM OF SIX HUNDRED SIXTY-SEVEN THOUSAND FOUR HUNDRED TEN DOLLARS AND FIFTY TWO CENTS (\$667,410.52) FOR PAYMENTS OWING, AND TO ESTABLISH PUBLIC POLICY ON PROMISED COMPENSATION.**

Department/Agency Appropriation Information	
Dept./Agency Affected: Public Works	Dept./Agency Head: Glenn Leon Guerrero
Department's General Fund (GF) appropriation(s) to date:	6,732,115
Department's Other Fund (Specify) appropriation(s) to date: Guam/Territorial Highway Fund	12,226,118
<b>Total Department/Agency Appropriation(s) to date:</b>	<b>\$18,958,233</b>

Fund Source Information of Proposed Appropriation			
	General Fund:	Special Fund: (Specify)	Total:
FY 2015 Unreserved Fund Balance		\$0	\$0
FY 2016 Adopted Revenues	\$0	\$0	\$0
FY 2016 Appro. (P.L. 33-66 thru _____)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2016 (if applicable) /	FY 2017	FY 2018	FY 2019	FY 2020
General Fund	\$0	\$667,410.52	\$0	\$0	\$0	\$0
Special Fund (Specify)	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$667,410.52</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

- |   |         |  |
|---|---------|--|
| 1. Does the bill contain "revenue generating" provisions?<br>If Yes, see attachment   | / / Yes | /X/ No   |
| 2. Is amount appropriated adequate to fund the intent of the appropriation?<br>If no, what is the additional amount required? \$  | / / N/A | /X/ Yes / / No                                     |
| 3. Does the Bill establish a new program/agency?<br>If yes, will the program duplicate existing programs/agencies?<br>Is there a federal mandate to establish the program/agency? | / / N/A | / / Yes /X/ No<br>/ / Yes /X/ No<br>/ / Yes /X/ No |
| 4. Will the enactment of this Bill require new physical facilities?   | / / Yes | /X/ No   |
| 5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason:<br>/ / Requested agency comments not received by due date                                   | /X/ Yes | / / No   |

Analyst: <u>Angela S. Flores</u> Date: <u>4/15/16</u>	Director: <u>Jose S. Calvo</u> Date: <u>APR 19 2016</u>
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Footnotes:  
1/ See attached comments.

**Bureau of Budget & Management Research**  
**Comments to Fiscal Note No. 271-33 (COR)**

Enactment of the proposed legislation will authorize the Governor to transfer the amount not to exceed \$667,410.52 from FY16 Executive Branch appropriations for the payment of Department of Public Works' (DPW) prior year obligations due to promised compensation and unpaid overtime for FY15, to include payment for the period up to the date of enactment of this Act. This amount, detailed in Exhibit A of the legislation, is based on DPW's FY17 Budget Request listing of Prior Years Obligations. According to DPW, their FY16 budget appropriation is insufficient to fund this cost. As such, the funding to meet the objective of this request is contingent upon availability of funding/available lapses from other Executive line agencies, which will be determined by the FY16 final close-out. Section 4 of the Bill mandates that the Department of Administration (DOA) establish and implement a uniform promised compensation pay policy pursuant to Title 4 GCA, Chapter 4, §4105. The Bill also provides that the government may pay claims as far back as 6 years. For any claims beyond 6 years, the employee must seek judicial remedy with the possibility of reimbursement for legal expenses. Currently a Office of the Attorney General Information and Guidance (Ref: DOA 13-0868) stipulates that Title 7 G.C.A. §11305 bars a promised compensation claim brought after 3 years. Title 7 G.C.A. §11305(a) states that a person must bring an action upon a liability created by law, other than a penalty or forfeiture within 3 years. Therefore, an individual's promised compensation claim brought in Superior Court after 3 years could be barred as a violation to the statute of limitations found in Title 7 G.C.A. §11305. It should be noted that the proposed legislation does not amend the 3 year limitation under Title 7 G.C.A. §11305. Any proposal to extend the 3 year period will pose a negative impact on the financial condition of the Government of Guam.