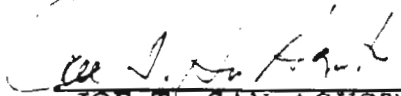


EIGHTEENTH GUAM LEGISLATURE
1985 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 603 (LS), "AN ACT TO AMEND SUBSECTION (k) OF 12 GCA RELATIVE TO LEGISLATIVE CONCURRENCE WITH THE ISSUANCE OF BONDS OR OTHER OBLIGATIONS OF THE GOVERNMENT OF GUAM, AND FOR OTHER PURPOSES," was on the 29th day of November, 1985, duly and regularly passed.



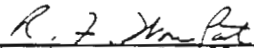
JOE T. SAN AGUSTIN
Acting Speaker

Attested:



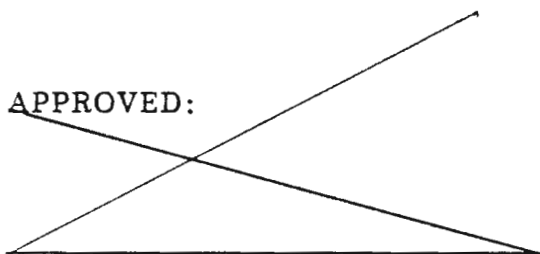
ELIZABETH P. ARRIOLA
Senator and Legislative Secretary

This Act was received by the Governor this 2nd day of December 1985, at 5:25 o'clock P.m.



Assistant Staff Officer
Governor's Office

APPROVED:



RICARDO J. BORDALLO
Governor of Guam
Became Law without Governor's signature

Date: December 14, 1985

Public Law No. 18-22

EIGHTEENTH GUAM LEGISLATURE
1985 (FIRST) Regular Session

Bill No. 603 (LS)
Substitute by Committee
on Ways & Means

Introduced by:

J. P. Aguon
J. T. San Agustin

AN ACT TO AMEND SUBSECTION (k) of 12 GCA
RELATIVE TO LEGISLATIVE CONCURRENCE WITH THE
ISSUANCE OF BONDS OR OTHER OBLIGATIONS OF
THE GOVERNMENT, AND FOR OTHER PURPOSES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. 12 GCA §2103(k) which was amended by P.L. 17-39 §3 and
3 P.L. 17-74 §7 is further amended to read:

4 "(k) The Corporation shall act as a central financial manager and
5 consultant for those agencies or instrumentalities of the Government
6 requiring financial guidance and assistance. Such technical assistance
7 by the Corporation shall include but not be limited to obtaining of
8 funds through bond or other obligations, structuring such bond
9 issuances, preparation and dissemination of financial and investment
10 information, including bond prospectuses, development of interest
11 among investment bankers and bond brokers, maintenance of
12 relationships with bond rating agencies and brokerage houses and,
13 generally, acting as the centralized and exclusive financial planner and
14 investment banker for all the agencies and instrumentalities of the
15 Government. For purposes of this Subsection, 'agencies and
16 instrumentalities of the Government' include but are not limited to such
17 public corporations as the Guam Economic Development Authority, the
18 Port Authority of Guam, the Guam Airport Authority, the Guam
19 Telephone Authority, the Guam Power Authority, the Guam Memorial
20 Hospital Authority, the University of Guam, and all other agencies or
21 instrumentalities of the Government given the power, now or in the
22 future, to issue and sell bonds or other obligations for the purpose of

1 raising funds. Such agencies and instrumentalities of the Government
2 shall issue bonds and other obligations only by means of and through
3 the agency of the Corporation, and each such agency or
4 instrumentality shall furnish the Corporation long-term estimates of
5 financial needs so that the Corporation can coordinate a long-term plan
6 for obtaining necessary funds for all such agencies and
7 instrumentalities on a rational, noncompetitive and efficient basis.
8 The Corporation shall not issue or sell any bond unless the terms and
9 conditions of the issuance of the bonds are approved by the legislature
10 by statute. For the purposes of this Subsection, the terms 'bonds or
11 other obligations' does not include an instrument evidencing debt for a
12 term of one (1) year or less. The provisions of this section whereby
13 the Corporation shall act as a central financial manager and consultant
14 for those agencies requiring financial assistance shall not apply to
15 those bonds or obligations which are sold by or to an agency of the
16 Government of the United States, however, the provisions of this
17 Section whereby the Legislature must approve the terms and conditions
18 of the issuance of the bonds shall apply to said bonds or obligations.
19 The provisions of this subsection shall not apply to bonds or other
20 obligations issued pursuant to Article V or Article VI of this Chapter
21 on or before March 31, 1984 provided such bonds or other obligations
22 are secured by a pledge of and lien upon the revenues and other
23 funds or moneys derived from the projects or programs financed by
24 the proceeds of the sale of such bonds or other obligations and not by
25 revenues or other funds or moneys derived from other projects or
26 programs of the Corporation."

27 Section 2. (a) Legislative Intent. The Legislature is mindful that in
28 regard to the Guam Economic Development Authority, that Subsection (k) of
29 12 GCA §2103 states in part: "The Corporation shall not issue or sell any
30 bond without the approval of the Legislature of the terms and conditions of
31 the issuance of the bonds. The failure of the Legislature to adopt a
32 resolution rejecting the terms and conditions of the issuance of the bonds
33 within forty-five (45) calendar days of its submission to the Legislative
34 Secretary shall be concurrence to the issuance of the bonds." On

1 November 13, 1985, Guam Economic Development Authority transmitted to
2 the Legislative Secretary documents indicating that GEDA intends to issue
3 Thirty Million Dollars (\$30,000,000) in Industrial Development Bonds for the
4 purpose of financing a solid waste incineration plant to be constructed by
5 the Taisei Corporation. The Eighteenth Guam Legislature, through the
6 Committee on Ways and Means, conducted a public hearing on November 19,
7 1985 to discuss the project bond proposal. During the public hearing,
8 information was brought forth indicating that a refuse collection fee must be
9 imposed on the residents of Guam to cover the debt service on the bond
10 issue and such a refuse collection fee has not been imposed on the
11 residents of Guam. Testimony given at the public hearing indicates that it
12 is essential for the refuse from the military to be included as part of the
13 disposal process and that the military must be assessed a charge for such
14 disposal for the incineration plant to be successful and profitable and a
15 "binding commitment" from the military installations on Guam to dispose of
16 their refuse and be assessed a fee has yet to be obtained. The documents
17 and information submitted to the Legislature also indicate that any shortfall
18 in refuse collection revenue for the repayment of the bond issue is to be
19 provided from the General Fund although a specific revenue source within
20 the General Fund has not been identified to supplement the repayment of
21 the bond issue. Information has not been received by the Legislature
22 regarding the feasibility of owning and operating the incineration plant and
23 an independent informational and financial analysis has yet to be performed
24 on the proposal submitted by Taisei Corporation.

25 The Committee on Ways and Means received a reply to the concerns
26 brought forth during the public hearing before the Committee on November
27 19, 1985 in a letter from the Acting Governor, dated November 26, 1985,
28 which indicated the following:

29 1. The Administration has received a written commitment from a
30 financial firm to purchase the bonds; however, the Committee is not in
31 receipt of that written commitment.

32 2. The household collection fee and General Fund subsidy cannot
33 be resolved until an independent economic feasibility review is
34 completed which will only be in draft form by December 9, 1985.

1 3. The assessment of the refuse collection fee is contingent on
2 an Administration request for legislation to provide for the autonomy of
3 the Public Utility Agency of Guam (PUAG), the transfer of the refuse
4 collection and disposal responsibilities from the Department of Public
5 Works to PUAG, and the authorization of PUAG to establish fees for
6 refuse collection and disposal.

7 4. Public hearings must be held to discuss and review the
8 proposal to make PUAG autonomous, charge fees, and transfer refuse
9 responsibilities.

10 5. The Administration is anticipating that the independent
11 financial analysis will verify the amounts and figures provided by
12 Taisei Corporation regarding the total debt service requirements.

13 6. The Navy has performed a study recommending an all-island
14 centralized waste-to-energy plant operated by the government of Guam
15 and there are Department of Defense directives requiring military use
16 of alternate energy facilities when available , and the Legislature is
17 not in receipt of any such study or directives.

18 7. There will be a need for an architectural and engineering
19 analysis of the site specific plans to determine the structural
20 soundness of the construction and the compatibility of the interfaces
21 with the present electrical system; however, an A & E analysis has not
22 been performed.

23 8. The Administration's acceptance of the Taisei proposal was
24 conditioned on the result of the independent review which will be only
25 completed in draft by December 9, 1985.

26 The Legislature is aware that a separate proposal to construct a solid
27 waste incineration plant was also submitted for review by the Guam
28 Economic Development Authority and the separate proposal was rejected
29 without an independent review or in-depth study. Additionally, information
30 and supporting documents with respect to the terms, conditions, and
31 financial aspects of the bond issue have not been received by the
32 Legislature and the inadequate and deficient documents and information
33 submitted to the Legislature are not considered satisfactory for the

1 deliberation and approval of a Thirty Million Dollar (\$30,000,000) bond
2 issuance.

3 (b) The Legislature disapproves the terms and conditions of the
4 issuance of a Mortgage Revenue Bond in the amount of Thirty Million
5 Dollars (\$30,000,000) proposed to be issued by the Guam Economic
6 Development Authority for loans to Taisei Corporation to build a solid waste
7 incineration plant as set out in documents transmitted to the Legislature on
8 November 13, 1985.

9 Section 3. (a) Legislative Intent. The Legislature is mindful that in
10 regard to the Guam Economic Development Authority, that Subsection (k) of
11 12 GCA §2103 states in part: "The Corporation shall not issue or sell any
12 bond without the approval of the Legislature of the terms and conditions of
13 the issuance of the bonds. The failure of the Legislature to adopt a
14 resolution rejecting the terms and conditions of the issuance of the bonds
15 within forty-five (45) calendar days of the date of its submission to the
16 Legislative Secretary shall be concurrence to the issuance of the bonds."
17 Guam Economic Development Authority intends to issue project revenue
18 bonds in an amount not to exceed One Million Two Hundred Thousand
19 Dollars (\$1,200,000) for construction purposes of Duty Free Shoppers, Ltd.
20 The Legislature is in favor of the issuance of the above-mentioned project
21 revenue bonds for construction purposes of Duty Free Shoppers, Ltd.

22 (b) The Legislature approves the terms and conditions of the issuance
23 of project revenue bonds by Guam Economic Development Authority in an
24 amount not to exceed One Million Two Hundred Thousand Dollars
25 (\$1,200,000) at an interest rate of no greater than ten percent (10%) to be
26 used for loans for construction purposes of Duty Free Shoppers, Ltd.

EIGHTEENTH GUAM LEGISLATURE

(F.L. 15-22)

ROLL CALL SHEET

Bill No.: _____

DATE: 11/29/85

Resolution No.: _____

QUESTION: _____

<u>SENATOR</u>	<u>AYE</u>	<u>NAY</u>	<u>NOT VOTING</u>	<u>ABSENT</u>
J. F. Ada	✓			
J. P. Aguon	✓			
E. P. Arriola	✓			
J. G. M. Bamba	✓			
F. F. Blas	✓			
★ H. D. Dierking				✓
E. R. Duenas	✓			
C. T. C. Gutierrez	✓			
F. J. Gutierrez				✓
A. C. Lamorena III	✓			
P. C. Lujan	✓			
M. D. A. Manibusan	✓			
XXXXXXXXXX				
★ T. S. Nelson				✓
D. Parkinson	✓			
F. J. Quitugua	✓			
J. M Rivera	✓			
J. T. San Agustin	✓			
F. R. Santos	✓			
T. V. C. Tanaka	✓			
A. R. Unpingco	✓			

★ not a senator

3

Office of the Vice-Speaker Eighteenth Guam Legislature

P.O. Box CB-1, Agana
Territory of Guam, U.S.A. 96910
Tel: 477-8527/9120



JOE T. SAN AGUSTIN
Vice-Speaker

Chairman, Committee
on Ways and Means

Vice-Chairman, Committee
on Federal, Foreign, and
Legal Affairs

Member, Committee
on Rules

Member, Committee
on Tourism, Transportation,
and Communication

Member, Committee on
Health, Welfare,
and Ecology

Member, Committee
on Education

November 29, 1985

Honorable Carl T.C. Gutierrez
Speaker
Eighteenth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

VIA: Chairman, Committee on Rules

Dear Mr. Speaker:

The Committee on Ways & Means, to which Bill No. 603 was referred to, wishes to report its findings and recommendations.

The Committee voting record is as follows:

To do pass 5

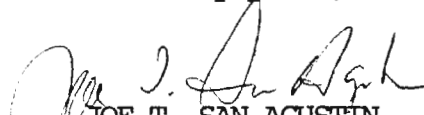
To not pass - 0

To report out /

Off-Island /

A copy of the report and all other pertinent documents are attached for your information.

Sincerely yours,


JOE T. SAN AGUSTIN

attachments

8

VOTE SHEET
 Committee on Ways & Means
 November 27, 1985

BILL NO. 603 -
 AN ACT TO AMEND 12 GCA SECTION 2103 (K) RELATIVE TO
 LEGISLATIVE CONCURRENCE WITH THE ISSUANCE OF
 BONDS OR OTHER OBLIGATIONS OF THE GOVERNMENT.

<u>SENATOR</u>	<u>TO DO PASS</u>	<u>TO NOT PASS</u>	<u>TO REPORT OUT</u>	<u>COMMENTS</u>
<u>Joe T. San Agustin, Chairman</u>	✓			
<u>Francisco R. Santos, Vice-Chairman</u>	✓			
<u>Joseph F. Ada, Member</u>				
<u>Hermunia D. Dierking, Member</u>	✓			
<u>Franklin J. Gutierrez, Member</u>				off-Island
<u>Marilyn D.A. Manibusan, Member</u>				
<u>Don Parkinson, Member</u>	✓			
<u>Franklin J. Quitugua, Member</u>	✓			799.
<u>Antonio R. Unpingco, Member</u>			✓	

Doc. Sub 603

EIGHTEENTH GUAM LEGISLATURE
1985 (FIRST) Regular Session

6 11/29/85

Bill No. 603
Substitute
Committee on Ways & Means

Introduced by:

J. P. Aguon
J. T. San Agustin

AN ACT TO AMEND SUBSECTION (k) of 12 GCA
RELATIVE TO LEGISLATIVE CONCURRENCE WITH THE
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THE GOVERNMENT, AND FOR OTHER PURPOSES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. 12 GCA §2103(k) which was amended by P.L. 17-39 §3 and
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5 consultant for those agencies or instrumentalities of the Government
6 requiring financial guidance and assistance. Such technical assistance
7 by the Corporation shall include but not be limited to obtaining of
8 funds through bond or other obligations, structuring such bond
9 issuances, preparation and dissemination of financial and investment
10 information, including bond prospectuses, development of interest
11 among investment bankers and bond brokers, maintenance of
12 relationships with bond rating agencies and brokerage houses and,
13 generally, acting as the centralized and exclusive financial planner and
14 investment banker for all the agencies and instrumentalities of the
15 Government. For purposes of this Subsection, 'agencies and
16 instrumentalities of the Government' include but are not limited to such
17 public corporations as the Guam Economic Development Authority, the
18 Port Authority of Guam, the Guam Airport Authority, the Guam
19 Telephone Authority, the Guam Power Authority, the Guam Memorial
20 Hospital Authority, the University of Guam, and all other agencies or
21 instrumentalities of the Government given the power, now or in the
22 future, to issue and sell bonds or other obligations for the purpose of

*Note: Content of R-20 to be
incorporated*

1 raising funds. Such agencies and instrumentalities of the Government
2 shall issue bonds and other obligations only by means of and through
3 the agency of the Corporation, and each such agency or
4 instrumentality shall furnish the Corporation long-term estimates of
5 financial needs so that the Corporation can coordinate a long-term plan
6 for obtaining necessary funds for all such agencies and
7 instrumentalities on a rational, noncompetitive and efficient basis.
8 The Corporation shall not issue or sell any bond ~~[without the approval~~
9 ~~of the Legislature of]~~ unless the terms and conditions of the issuance
10 of the bonds are approved by the legislature by statute. ~~[The failure~~
11 ~~of the Legislature to adopt a resolution rejecting the terms and~~
12 ~~conditions of the issuance of the bonds within forty-five (45) calendar~~
13 ~~days of the date of its submission to the Legislative Secretary shall be~~
14 ~~concurrence to the issuance of the bonds.].~~ For the purposes of this
15 Subsection, the terms 'bonds or other obligations' does not include an
16 instrument evidencing debt for a term of one (1) year or less. The
17 provisions of this section whereby the Corporation shall act as a
18 central financial manager and consultant for those agencies requiring
19 financial assistance shall not apply to those bonds or obligations which
20 are sold by or to an agency of the Government of the United States,
21 however, the provisions of this Section whereby the Legislature must
22 approve the terms and conditions of the issuance of the bonds shall
23 apply to said bonds or obligations. The provisions of this subsection
24 shall not apply to bonds or other obligations issued pursuant to Article
25 V or Article VI of this Chapter on or before March 31, 1984 provided
26 such bonds or other obligations are secured by a pledge of and lien
27 upon the revenues and other funds or moneys derived from the
28 projects or programs financed by the proceeds of the sale of such
29 bonds or other obligations and not by revenues or other funds or
30 moneys derived from other projects or programs of the Corporation."
31 Section 2. a) Legislative Intent. The Legislature is mindful that in
32 regard to the Guam Economic Development Authority, that Subsection (k) of
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34 bond without the approval of the Legislature of the terms and conditions of

1 the issuance of the bonds. The failure of the Legislature to adopt a
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3 within forty-five (45) calendar days of its submission to the Legislative
4 Secretary shall be concurrence to the issuance of the bonds." On
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6 the Legislative Secretary documents indicating that GEDA intends to issue
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10 Committee on Ways and Means, conducted a public hearing on November 19,
11 1985 to discuss the project bond proposal. During the public hearing,
12 information was brought forth indicating that a refuse collection fee must be
13 imposed on the residents of Guam to cover the debt service on the bond
14 issue and such a refuse collection fee has not been imposed on the
15 residents of Guam. Testimony given at the public hearing indicates that it
16 is essential for the refuse from the military to be included as part of the
17 disposal process and that the military must be assessed a charge for such
18 disposal for the incineration plant to be successful and profitable and a
19 "binding commitment" from the military installations on Guam to dispose of
20 their refuse and be assessed a fee has yet to be obtained. The documents
21 and information submitted to the Legislature also indicate that any shortfall
22 in refuse collection revenue for the repayment of the bond issue is to be
23 provided from the General Fund although a specific revenue source within
24 the General Fund has not been identified to supplement the repayment of
25 the bond issue. Information has not been received by the Legislature
26 regarding the feasibility of owning and operating the incineration plant and
27 an independent informational and financial analysis has yet to be performed
28 on the proposal submitted by Taisei Corporation.

29 The Committee on Ways and Means received a reply to the concerns
30 brought forth during the public hearing before the Committee on November
31 19, 1985 in a letter from the Acting Governor, dated November 26, 1985,
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2 financial firm to purchase the bonds; however, the Committee is not in
3 receipt of that written commitment.

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5 be resolved until an independent economic feasibility review is
6 completed which will only be in draft form by December 9, 1985.

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9 the Public Utility Agency of Guam (PUAG), the transfer of the refuse
10 collection and disposal responsibilities from the Department of Public
11 Works to PUAG, and the authorization of PUAG to establish fees for
12 refuse collection and disposal.

13 4. Public hearings must be held to discuss and review the
14 proposal to make PUAG autonomous, charge fees, and transfer refuse
15 responsibilities.

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17 financial analysis will verify the amounts and figures provided by
18 Taisei Corporation regarding the total debt service requirements.

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20 centralized waste-to-energy plant operated by the government of Guam
21 and there are Department of Defense directives requiring military use
22 of alternate energy facilities when available , and the Legislature is
23 not in receipt of any such study or directives.

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25 analysis of the site specific plans to determine the structural
26 soundness of the construction and the compatibility of the interfaces
27 with the present electrical system; however, an A & E analysis has not
28 been performed.

29 8. The Administration's acceptance of the Taisei proposal was
30 conditioned on the result of the independent review which will be only
31 completed in draft by December 9, 1985.

32 The Legislature is aware that a separate proposal to construct a solid
33 waste incineration plant was also submitted for review by the Guam
34 Economic Development Authority and the separate proposal was rejected

1 without an independent review or in-depth study. Additionally, information
2 and supporting documents with respect to the terms, conditions, and
3 financial aspects of the bond issue have not been received by the
4 Legislature and the inadequate and deficient documents and information
5 submitted to the Legislature are not considered satisfactory for the
6 deliberation and approval of a Thirty Million Dollar (\$30,000,000) bond
7 issuance.

8 (b) The Legislature disapproves the terms and conditions of the
9 issuance of a Mortgage Revenue Bond in the amount of Thirty Million
10 Dollars (\$30,000,000) proposed to be issued by the Guam Economic
11 Development Authority for loans to Taisei Corporation to build a solid waste
12 incineration plant as set out in documents transmitted to the Legislature on
13 November 13, 1985.

COMMITTEE REPORT
Bill No. 603
AN ACT TO AMEND 12 GCA SECTION 2103(K) RELATIVE TO
LEGISLATIVE CONCURRENCE WITH THE ISSUANCE OF
BONDS OR OTHER OBLIGATIONS OF THE GOVERNMENT.

BACKGROUND

Bill No. 603 provides for amending 12 GCA Subsection 2103 (k) which was previously amended by P.L. 17-39 Subsection 3 and P.L. 17-74 Subsection 7. Basically, the Bill would increase the length of time the Legislature has to adopt a resolution either approving or rejecting a bond issue through the Guam Economic Development Authority. The bill as introduced extends that time period from the 45 days to 60 days; however, the issuance of bonds is based only on GEDA submitting and filing the terms and conditions with the Legislative Secretary and that 60 days shall have elapsed since the filing.

Presently, the law stipulates that the Legislature must adopt a resolution rejecting the bond issue within 45 days of the filing of documents with the Legislative Secretary, otherwise, the bond issue is deemed approved after the 45 days if no other legislative action is taken.

PUBLIC HEARING AND TESTIMONY

The public hearing on Bill No. 603 was held on Friday, November 22, 1985 at 9:00 a.m. in the Legislative Session Hall. Senators in attendance included Senators Joe T. San Agustin, Herminia D. Dierking, Don Parkinson, and George Bamba. Appearing before the Committee to present testimony was Mr. David D.L. Flores, Administrator of the Guam Economic Development Authority.

Mr. Flores stressed that because of the constant fluctuation of bond market rates, any waiting period in implementing the bond issue would affect the bonds investment status. Further, he stated the additional time factor as proposed in the bill would only serve to create more difficulty in completing the bond transaction. However, in the case of either limited obligation or general obligation bond issues of the government, Mr. Flores agreed the time frame is warranted but in private uses the time period should be reduced or even eliminated.

Mr. Flores also brought out the situation whereby the Legislature either adopts a resolution or passes a legislative bill with regard to a bond issue. Apparently, the bond counsel for the Authority is of the opinion that a mandate through law or statute has more legal basis, effectiveness, and authority over a legislative resolution.

COMMITTEE FINDINGS

During the past year, there have been numerous bond issue proposals submitted to the Legislature for review and approval. Unfortunately, some proposals were incomplete in their documentation and lacked protection to the government as well as others in the community. In one instance, on the recently approved \$300 million multi-family housing issue, the Committee on Ways & Means held numerous meetings and engaged in discussions to insure the bond issue would be successful and followed the tax exempt guidelines of the IRS & Treasury Department. Because the information requested by the Committee was rather technical and required negotiations with individuals from off-island, the conditions of the bond sale were mandated in a bill that was passed just before the 45 day term expired.

Through past experience, the Committee has found that the approval of a bond issue is dependent on the proper documentation which show the proposed projects are economically feasible, and that all financing arrangements are in proper manner and form. It is further understood by the Committee that GEDA, pursuant to the Act creating and establishing GEDA, is responsible for the issuance of all bonds from the Territory of Guam and is accountable for the proper and complete submission of any bond issue proposal.

Additionally, the Committee finds through the bond counsel of the Authority, the approval of a bond issuance statutorily is inclined to have a more binding and legal effect with emphasis on legislative intent rather than legislative opinion through resolutions.

Furthermore, the Attorney General rendered a legal opinion on this subject stating, " the Legislature may not act by resolution when it exercises

legislative authority. Resolutions, we believe, may only express the opinion of the Legislature as to certain issues or individuals

The Committee has also included a separate section in the bill which rejects the recently submitted \$30 million bond proposal for the construction of a solid waste incineration plant. In line with this section, the Committee has included the legislative intent and reasoning as to why the bond issue has been rejected. The legislative intent is basically spelled out in this section where various aspects from the bond proposal were brought forth during the public hearing. Furthermore, in a letter from the Lt. Governor dated November 26, 1985, additional information was received which strengthened the position and decision of the Committee in rejecting the proposal. Major items of concern included:

- The household collection fee and General Fund subsidy cannot be resolved until the independent economic feasibility review is completed which will be in draft form by December 9, 1985.
- The assessment of the refuse collection fee is contingent on an administrative request which provides for the autonomy of PUAG, transfers the refuse collection and disposal responsibilities from the Department of Public Works to PUAG, and authorizes PUAG to establish fees for refuse collection and disposal. In this respect, public hearings must be held to discuss and review the proposal to make PUAG autonomous, transfer the refuse collection responsibilities, and charge fees for the same.
- The Navy has performed a study recommending an all-island centralized waste-to-energy plant operated by the Government of Guam and there are Department of Defense directives requiring military use of alternate energy facilities when available; however, the Legislature is not in receipt of such a study and/or directives.
- There will be a need for an architectural and engineering analysis of the site specific plans to determine the structural soundness of the construction and the compatibility of the interfaces with the present electrical system; however, an A & E analysis has not been performed.

COMMITTEE RECOMMENDATION

Based on the past performance of GEDA with regard to the presentation and filing of bond issue proposals before the Legislature, the Committee recommends that Bill No. 603 is amended by deleting the 45 days review period and inserting the clause which states that GEDA shall not issue or sell bonds "unless the terms and conditions of the issuance of the bonds are approved by the Legislature by statute". In this regard, there is no waiting period, the issuance can only take place through a statute which would be in accordance with the Attorney General's opinion relative to the Legislature exercising its authority through statute and this would clearly establish the legislative intent on further bond issues by GEDA. The occasion to issue the bonds and to obtain favorable market rates would then depend on the Authority presenting the bond proposal to the Legislature in such a manner which would convince and assure the Legislature that the proposal is workable, feasible, and would benefit the island of Guam.

The Committee further recommends the approval of section 2 which rejects the \$30 million bond proposal. Overall, the Committee's reason for rejecting the bond proposal was due to the inadequate submission of documents and information. Most important, however, regarding the repayment of the bond issue, is the imposition and assessment of a refuse collection fee which must be statutorily authorized. Additionally, the responsibilities for refuse collection is proposed to be transferred from the Department of Public Works to PUAG, and even more so, is the proposal to make PUAG autonomous. Although the Committee is mindful and aware of the December 31st deadline for tax exempt bond issues, these matters require changes statutorily in addition to public hearings and input, it is therefore the decision of the Committee to reject the bond proposal.

The Committee hereby recommends that the Legislature approve Bill No. 603 (IS) as substituted.



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U. S. A.

NOV 26 1985

RICARDO J. BORDALLO
GOVERNOR

Honorable Joe T. San Agustin
Chairman, Committee on Ways and Means
Eighteenth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

Re: Resource Recovery Bonds for an
Incineration Plant

Dear Senator San Agustin:

As was discussed in the testimony presented to your Committee concerning the \$30 million bond issue for a refuse incineration plant, we are facing a crisis with respect to garbage disposal on Guam. Our present dump is filled to capacity and is leaching possibly toxic liquids into our rivers. The dump has been targeted for hazardous waste cleanup by the federal EPA Superfund. A decision must be made now as to what our community will do with its waste. The lead time for any action is two years for design and construction. The planning began years ago which resulted in this administration's decision to incinerate our garbage, treating it as a resource rather than a liability. The Guam EPA, federal EPA and the local military establishment support the incineration proposal. The cost of development and operation of a new landfill is prohibitive, and the environmental consequences of continuing to bury our waste, particularly in terms of the impact upon our precious groundwater resources, is too grim to contemplate. The construction costs of an incinerator plant are also obviously beyond the reach of our financial resources. A reputable firm which has constructed 80 such plants throughout Japan has responded to our request and has presented a proposal which includes a thorough financial analysis and a guarantee that resource recovery bonds can be secured. Our review of this proposal indicates that it is technically sound. The construction costs compare favorably with other similar projects throughout the U.S. and Japan. We have received a written commitment from a financial firm to purchase the bonds but this firm has indicated that the loss of tax benefits would result in increased costs to the project of up to one million dollars. Because these benefits end this calendar year, Governor Bordallo transmitted the bond proposal to the Legislature so that a review of the project can begin. It is indeed unfortunate that the Legislative hearing on this matter was not allowed to proceed.

In your letter dated November 20, 1985, you raised a number of questions, all of which could have been answered had you provided for an orderly hearing and perhaps some additional technical meetings between our respective staff.

I will answer as many of your questions as possible in this letter with the expectation that the Legislature will deliberate further concerning the bond issue and will call additional public hearings as may be necessary.

First of all, let me address the revenues which will be utilized to repay the bond issue. The Taisei proposal identifies the revenue from power generation to be approximately \$1.68 million per year based upon the price of 8.8 cents per kilowatt hour which is the present avoided cost of electrical production for GPA. Your assertion that a power rate increase would be necessary is incorrect. The electrical production costs of the incineration plant are identical to the costs of electricity production by GPA's oil fired plants since the rate is determined to be the avoided cost.

The revenues produced through the tipping of garbage will depend upon the amount of garbage collected. Taisei is recommending a tipping fee of \$27 a ton for military and commercial waste, and a \$6 per month collection fee for households served by GovGuam garbage collection. Currently, the Government is subsidizing garbage disposal at Ordot. We anticipate the need to continue this subsidy until the plant becomes self-sustaining which should be approximately five years, according to GPA's analysis. However, the issue of the household collection fee and a possible general fund subsidy cannot be resolved until the independent economic feasibility review is complete. We expect this review to be ready in draft form by December 9, 1985, and your Committee will be provided copies the moment it is received by GEDA. You suggest that a statute allowing the Government to assess a garbage collection fee is necessary prior to approval of the bond. Please be advised that we will transmit a bill this week to the Legislature which provides for the autonomy of PUAG. This bill includes a section which transfers the garbage collection and disposal responsibilities from DPW to PUAG, and authorizes PUAG to establish fees for garbage collection and disposal.

With respect to the annual debt service requirements for the bond, I will refer you to the Taisei financing analysis which is in your possession. I anticipate that the independent financial analysis will verify the figures provided which in terms of annual total debt service amount to \$3.0 million per year, and an annual net debt service of \$2.8 million.

You ask about a "binding" commitment from the military regarding the use of the incinerator. As was pointed out in the testimony, the Navy has concluded through its own study that an all-island centralized waste-to-energy plant operated by GovGuam is recommended. We have been conducting meetings with our military leaders concerning the incinerator project, and we expect positive commitments to reach us soon. Please keep in mind that the Government of Guam controls all garbage disposal on island. We are in a position to require the use of the incinerator if necessary. However, based on the Navy's own study, and the fact that there are Department of Defense directives requiring military use of alternate energy facilities where available, I cannot imagine a negative response from the military commands.

Your impression that the Taisei proposal was approved without any in-depth review is incorrect. The proposal has been scrutinized at the technical level by GPA and GEPA staff locally, and by the federal EPA. The technology related to these types of plants has reached a point that the units can be considered basically "off the shelf" items. What is being purchased are automated incinerators, boilers, steam turbine generators and the control mechanism. The same situation would be applicable if the Guam Power Authority were to construct a new oil fired power plant. Designs of such units are basically standard and do not change simply because the plants are to be erected in different locales. There will be a need for an A & E analysis of the site specific plans. This analysis will determine the structural soundness of the construction and the compatibility of the interfaces with the present electrical system. However, site specific plans are relatively expensive to prepare and are normally prepared only after a firm commitment is made for the construction of the plant. During the process of preparing these plans, the purchaser, in this case, the Government of Guam, will have to be prepared to work with the planning and design engineers on a submittal basis to prevent costly delays should changes be necessary. As the Guam Power Authority will be operating the plant, it will be incumbent upon the Authority to secure the services of an engineering firm for this purpose as the Authority will not be able to enter a contract for the operation of the plant unless it is fully satisfied that the plant is operationally sound and safe. The operation of a plant such as the one proposed is basically no different than the operation of the present GPA steam plants, the difference being that one uses solid waste as its form of fuel. Everything after the incinerator, i.e., the boilers, the turbines, the generators and the controls, are basically the same as the units at Cabras or Tanguisson, only on a smaller scale.

In addition to the technical review, GEDA has ordered an independent economic review. This Administration's acceptance of the Taisei proposal was conditioned on the results of this review. Please keep in mind that the Government only received two proposals. The Legislature is fully aware of the reasons why the second proposal was rejected. There is no time to request additional proposals due to the December 31st bond deadline.

In conclusion, I am respectfully requesting you and your Committee to work with us on this matter. We would like to suggest that you schedule a second public hearing upon receipt of the independent review. Hopefully you'll allow our staff to answer your questions fully and only then can your Committee make an informed decision in this matter. It may be profitable to conduct an informal technical meeting between your Committee and our staff prior to the next public hearing. I encourage you to consider this option.

Sincerely yours,



EDWARD D. REYES
Acting



Office of the Vice-Speaker Eighteenth Guam Legislature

P.O. Box CB-1, Agana
Territory of Guam, U.S.A. 96910
Tel: 477-8527/9120

OE T. SAN AGUSTIN
Vice-Speaker

Chairman, Committee
on Ways and Means

...

Vice-Chairman, Committee
on Federal, Foreign, and
Legal Affairs

...

Member, Committee
on Rules

...

Member, Committee
on Tourism, Transportation,
and Communication

...

Member, Committee on
Health, Welfare,
and Ecology

...

Member, Committee
on Education

November 20, 1985

Honorable Ricardo J. Bordallo
Governor of Guam
Office of the Governor
P.O. Box 2950
Agana, Guam 96910

Dear Governor Bordallo:

Yesterday, the Committee on Ways & Means held a public hearing to entertain the proposed \$30 million bond issue for the construction of a refuse incineration plant. As you probably know, the Executive Committee for the incineration project chaired by Mr. James Branch was unable to positively report on and support the financial aspects of the project and the bond issue. Based on the rather limited documents submitted to the Committee, a number of important and crucial questions remained to be answered.

With regard to the repayment of the bond issue, I understand there will be a "tipping fee" and/or a refuse collection fee assessed to the residents of the island. These fees will then be used to repay the bonds throughout the term of the bond issue. At present, there are no laws or statutes assessing a garbage collection fee to island residents. However, before the bond issue is approved, I believe a proposal and a mandate to assess such a fee is in order. I'm quite sure you'll agree that no such bond issue will be successful and profitable in the bond market unless a specific revenue source is identified and even mandated in law for use as repayment. This was evidenced by the recently issued \$35 million Highway Bonds whereby certain taxes were pledged and mandated toward the repayment of the bond issue throughout the entire bond term. I'm certain you'll recall the enormous success this particular bond issue had in the bond market and the overall enhancement it gave to Guam's credit rating. Therefore, I am requesting further clarification on this matter. Specifically, the Committee is interested in knowing the annual debt service requirements of the bond issue, the average cost per household on Guam necessary to meet the repayment of the bond issue and if in fact a collection fee must be assessed to the island's residents.

Further, during the public hearing, it was brought forth that in order for the refuse incineration plant itself to be successful and profitable, the refuse from the military would also have to be included in the incineration process. The question was raised with

Honorable Ricardo J. Bordallo
November 20, 1985
Page 2

respect to obtaining a "binding commitment" from the military where they would agree to dispose of their refuse to the incineration plant and be charged a fee for such disposal. If in fact the refuse and the fees collected from the military are necessary for the project and the bond issue to be successful, it would appear this commitment has to be obtained before hand so that a reasonable source of revenue for the payment of the bonds is again identified and secured.

Again, in discussing the repayment of the bond issue, the information and documents submitted to the Committee proposed that in the event of any revenue shortfall, the General Fund would then be obligated to provide for the difference. Governor, this would be an outright legal and binding commitment between the bondholders and the Government of Guam and would definitely be included in the bond indenture and bond documents. Once more, your Executive Committee failed to address this issue. If you recall, the GPA refinancing agreement identified Section 30 funds as an alternate source of repayment in the event GPA revenues fail to meet the required loan payments. Is there perhaps a similar commitment to be made in this bond issue which will secure a revenue source within the General Fund such as the Gross Receipts Tax, Real Property Tax, or even the Section 30 funds?

On the operational effects of the incineration plant, it was brought out that GPA would operate the plant and would use the electricity generated from the plant in addition to their present capabilities. A significant question arises concerning the impact of this arrangement on GPA's rates. It would seem that if the electricity production costs of the incineration plant are greater than GPA's present costs through the burning of oil, a rate increase to the residents would probably be needed in order to cover the increased cost. To repeat again, the Committee on Ways & Means was unable to obtain information from your Executive Committee on such matters as total power generated from the incineration plant, costs involved in producing such power, additional cost per kilowatt hour, and the overall feasibility of constructing and using an incineration plant.

The information and financial analysis on the entire bond issue and incineration project was submitted and based on a proposal from Taisei Corporation. As presented by your Executive Committee, I am under the impression that the proposal was approved and "rubber-stamped" without any real concrete and in-depth study. Given this situation, is your Administration accepting the Taisei Corporation proposal intact without any written analysis or independent review to verify the viability and economic feasibility of the project and bond issue? I understand a review is now being performed; however, I believe this should have been done before the bond proposal was submitted to the Legislature for review.

From the public hearing, I am further informed there was another proposal for an incineration plant. Here again, there was neither an independent review or an in-depth study performed by your Executive Committee as to which was the most cost effective and viable method. Again, I believe a thorough evaluation

Honorable Ricardo J. Bordallo
November 20, 1985
Page 3

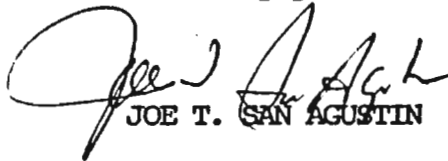
should be made concerning any and all proposals to determine final acceptance or rejection. Certainly what has been submitted so far, can in no way be considered sufficient for the proper consideration of a \$30 million bond.

Given the rather hollow and deficient documents, information and testimony presented to the Legislature for review, perhaps you may want to withdraw your request for legislative approval of the bond issue. If however, you still wish to pursue this matter, I would suggest you first submit appropriate legislation to statutorily authorize the assessment of a refuse collection fee, a commitment from the military to use the refuse plant, and the identification and security of an alternate source of repayment within the General Fund. For the Committee to approve the \$30 million bond without such aforementioned supporting documentation, would be grossly irresponsible and a dereliction in our duty to the people of Guam.

I sincerely hope you appreciate that the resolution of the issues I've mentioned in this letter is of the utmost importance before your Administration's proposed bond issue can be considered again by the Legislature. Otherwise, the only alternative would be to totally reject the bond issue due to the insufficient and incomplete documentation submitted to the Legislature for review and approval. I'm sure you'll agree, that this bond issue as presented in its stark and incomplete form, will never be accepted and sold in the bond market. Frankly, I'm quite surprised at how the entire proposal was even approved by GEDA, the proposed issuer of the bonds, given its lack of repayment method, and overall inadequacies.

In closing, I again appeal to your Administration that in future bond issues, you submit proposals in a manner and form that are viable, workable, and would be most beneficial to the Territory of Guam.

Sincerely yours,


JOE T. SAN AGUSTIN

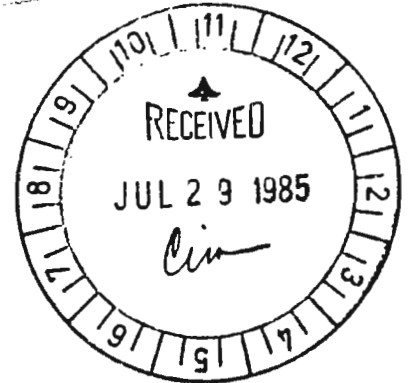
cc: All Senators
Media



OFFICE OF THE ATTORNEY GENERAL

Government of Guam
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RICHARD G. OPPER
Attorney General



July 25, 1985

Senator Joe T. San Agustin
Eighteenth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

Dear Senator:

Although the attached opinion is directed to an Executive Branch agency, it deals with a subject of great importance to each of you; the means whereby the Legislature may exercise its lawful authority. Because of the fundamental importance of this issue, I have taken the liberty of addressing this letter and its attachment to each of you.

As you can see from reading the attached opinion, we believe the inescapable conclusion of our research is that the Legislature may not act by resolution when it exercises legislative authority. Resolutions, we believe, may only express the opinion of the Legislature as to certain issues or individuals, or may be used to regulate your own internal affairs. Although the law in question in this opinion, the Administrative Adjudication Law, does not require the use of action by resolution, other statutes do specifically require approval of Executive Branch action by resolution.

By this letter we invite interested senators, or legislative committees, to examine our research and ponder its implications. We are always prepared to meet with you to discuss methods by which these problems can be resolved.

Sincerely,

RICHARD G. OPPER

RG0:slc

Attachment



GOVERNMENT OF GUAM
AGANA, GUAM 96910

July 26, 1985

Memorandum:

Ref: RT 85-1031

To: Chairman, Board of Cosmetology

From: Attorney General

Subject: Legislative Disapproval of Regulations by Resolution

This office is in receipt of a request for information on the following:

REQUEST: Can the Legislature by resolution veto administrative rules and regulations adopted by the Board of Cosmetology?

ANSWER: No. Neither the Organic Act, court decisions nor the Administrative Adjudication Law, P.L. 13-40, as amended, gives the Legislature the power to veto administrative rules and regulations by any means other than a duly adopted law.

STATEMENT OF FACTS:

The Board of Cosmetology is authorized by Section 16405 of the Government Code to adopt such rules and regulations as it deems proper to fully effectuate and carry out the law relating to the licensing of cosmetology, hairdressing and beauty shops (Chapter V, Title XVII, of the Government Code, as enacted by Public Law 11-120 as amended). Section 16405 makes such authority subject to the authority of the Administrative Adjudication Law (Title XXV, Government Code).

On May 29, 1985, the Board filed with the Legislative Secretary rules and regulations which it had adopted in accordance with the Administrative Adjudication Law. Such rules and regulations specify requirements for the licensing of cosmetologists by the Board.

On July 8, 1985, the Legislature adopted Resolution No. 149. By this resolution, the Legislature expressly "disapproved" the Board's rules and regulations and "directed" the Board to revise the rules and regulations to address certain concerns of the Legislature and to work with the Legislative Committee on Health, Welfare and Ecology to arrive at "an equitable solution" of these concerns by no later than August 15, 1985. The concerns, as

expressed in the resolution, relate, among other things, to: (1) an exemption from licensure testing requirements, as established by Public Law 14-136, for persons practicing cosmetology in Guam prior to May 13, 1977; (2) the non-recognition of foreign training and experience for qualification purposes; and (3) a requirement that the examinations be administered in English without interpreters being allowed to be present.

DISCUSSION:

The Administrative Adjudication Law (AAL) at GC §24202 states that the rules of an agency be filed with the Legislative Secretary, and that such officer may require all or part of the record of public hearings leading to the adoption of the rules and be filed. The laws further states the "Legislature may approve, disapprove or amend any rule within forty-five (45) calendar days from the date of filing with the Legislative Secretary." (Emphasis added) (GC §24202).

The AAL does not state the method by which the Legislature will "approve, disapprove or amend" these rules. Such method must, of course, be a lawful one. During the public hearings on the amendment to §24202 in the 15th Legislature (P.L. 15-132:27), Charles Troutman, then Executive Director of the Guam Law Revision Commission, raised the question of a legislative veto before the Commission. An earlier version of the amendment had proposed that the Legislature act upon rules specifically "by resolution". In response to Mr. Troutman's concerns about the legality of a veto by resolution, the Commission entertained the possibility of requiring only that the rules be filed with the Legislative Secretary with a waiting period after that of 45 days, but leaving out mention of the method by which any legislative action would be exercised. The final form of the amendment, found in a rider to a budget bill, makes no mention of the method by which the Legislature can act on the rules.

The Legislature has the power to act upon administrative rules, so long as those rules come from a legislative delegation and not from a power delegated directly by Congress to the executive branch. Therefore, this opinion will not raise a question regarding the validity of GC§24202 by attributing to that law an unlawful means of action by the Legislature.

Since the Legislature created the Board of Cosmetology and by statute authorized it to adopt rules, the Legislature may also set limits upon the scope of such rules and, indeed, it must do so. (See Corpus Juris Secundum, Constitutional Law, §133, n. 45; §138 at p. 572). Thus, the Legislature may amend the scope of its delegation of authority to the Board at any time, but only by an appropriate method.

A resolution of the Legislature is not a lawful method for the Legislature to govern the conduct of any but its own members or its own internal affairs, such as in those matters authorized by the Organic Act §12 (1st and 2nd sentences). The U.S. Court of Appeals for the First Circuit answered this question clearly in 1937, in a ruling based upon the Puerto Rican Organic Act of 1917. That Act, 48 U.S.C. 731 et seq., then provided for much greater regulation of Puerto Rico's legislative affairs than does Guam's Organic Act. However, in the description of the method by which measures become law, the two acts are, in pertinent part, very close. The First Circuit concluded, declaring that a Puerto Rican tax could not be imposed by resolution, by stating:

"The fact seems to be that the Legislature of Puerto Rico, if it undertook to enact a law by joint resolution, under the Organic Act of 1900, which in no way recognized or provided for a joint resolution, did so without regard to the provisions of that Act, and after the enactment of the Organic Act of 1917, did so without regard to its provisions, for section 34, 48 U.S.C.A. §824 in terms states that "No law shall be passed except by bill." Sancho v. Valiente & Co., (CA 1st 1937), 93 F. 2d 327, 331, cert, denied 303 U.S. 362, 58 S.Ct. 829.

Section 12 of our Organic Act states, in the fourth sentence:

"No bill shall become law unless it shall have been passed....which vote shall be by ayes and nays."

Likewise, the Organic Act, in §19, provides that every bill must, before it becomes law, be "presented to the Governor." There is no mention of resolutions of any sort in the Organic Act of Guam. The First Circuit emphasized that the entire required process for a bill is spelled out, while, in Puerto Rico, that for resolutions was not. Sancho v. Valiente & Co., at pp. 329-330. As for Guam, the United States Supreme Court has held very forcefully that the local government has only those powers specifically given it by Congress. Territory of Guam v. Olsen, 431 U.S. 195, 97 S.Ct. 1771 (1977); Chase Manhattan Bank (N.A.) v. South Acres Development Company, 434 U.S. 236. 98 S.Ct. 544 (1978).

Discussion of the appropriateness, under the Constitution, of a "legislative veto" of executive rules and actions is not new. On the federal level it first appeared in 1932. For a discussion of that early history and views about the unconstitutionality of the practice see Jackson, Robert H., A Presidential Legal Opinion, 66 Harv. L. Rev. 1353 (1953), and Ginnane, Robert W., The Control of Federal Administration By Congressional Resolutions and Committees, 66 Harv. L. Rev. 569 (1953). That academic discussion was vindicated and the doubts put to rest when the U.S.

Supreme Court, in a sweeping opinion, invalidated the Congressional "legislative veto" of administrative action. The opinion deals with two issues, the first - the ability of Congress to act by one house, alone - does not apply to Guam, as Guam has only a unicameral legislature. The second issue defines and limits the lawmaking procedure employed by Congress and, because the Organic Act contains similar language, it applies as well to the procedure employed by the Legislature of Guam. Immigration and Naturalization Service v. Chadha, 103 S.Ct. 2754 (1983).

The Supreme Court did not challenge the idea that a legislative veto may be a useful device. However, the Court did state:

"But policy arguments supporting even useful "political inventions" are subject to the demands of the Constitution which defines powers and, with respect to this subject, sets out just how those powers are to be exercised." Immigration and Naturalization Service v. Chadha, id. at p. 2781.

Before any such legislative action such as is the subject of this memorandum can be invalid, that action must be legislative in character and not something the Legislature can do on its own, such as the regulation of its own internal affairs. In this connection, the Supreme Court found that the Congressional action affected the rights and duties of persons outside the Congress and was not one of the exceptions where Congress could act alone. Chadha, p. 2787.

In the case of the Board of Cosmetology's rules, the legislative action disapproving them is also a legislative action not expressly given to only the Legislature by the Organic Act. The legislative action purported to affect the Board of Cosmetology and those who may have any rights or benefits pursuant to its regulations. The Organic Act contains no express exception permitting the Legislature to act on its own in this area. The Legislature is not without power. Again, in the words of the Court:

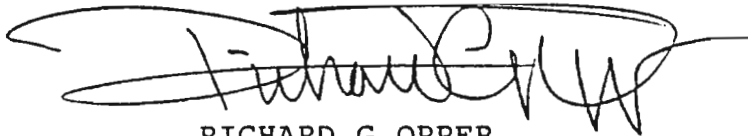
"Congress' [The Legislature's] oversight of the exercise of this delegated authority [here, the power to make rules] is preserved since all such suspensions [here, "all rules"] will be continued to be reported under [GC §24202]." Chadha, id at p. 2775 with local example added.

Since the action of the Guam Legislature disapproved the results of a power delegated to the executive by previous law, such disapproval actually amends the law by altering the scope of the delegated power. The Supreme Court, in declaring such action

legislative, described the character of the Congressional action:

"Without the challenged provisions, ... this could have been achieved, if at all, only by legislation requiring deportation. Similarly, a veto by one House of Congress ... cannot be justified as an attempt at amending the standards set out in §244(a)(1), or as a repeal of z244 as applied to Chadha. Amendment and repeal of statutes, no less than enactment, must conform with Art. I." Chadha, at p. 2785.

Following the same reasoning, the Guam Legislature cannot amend or repeal legislation delegating authority to an executive agency by other than another statute that is passed in the manner required of statutes under the Organic Act. Therefore, we conclude that the Legislature of Guam has no power to veto rules promulgated by executive agencies and departments, except by statute. As a result, the Legislature did not succeed in nullifying, by Resolution No. 149 of the Eighteenth Guam Legislature, the rules promulgated by the Board of Cosmetology. These rules, in the absence of any legislative amendment to the law, became effective 45 days following their filing with the Legislative Secretary.



RICHARD G. OPPEN
Attorney General

cc: Director, Department of Revenue and Taxation

AUG 22 '85

EIGHTEENTH GUAM LEGISLATURE
1985 (FIRST) Regular Session

Bill No. 603(15)

Introduced by:


J. P. Aguon

AN ACT TO AMEND 12 GCA §2103(K) RELATIVE TO
LEGISLATIVE CONCURRENCE WITH THE ISSUANCE OF
BONDS OR OTHER OBLIGATIONS OF THE
GOVERNMENT.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. 12 GCA §2103(k) which was amended by P.L. 17-39 §3 and
3 P.L.17-74 §7 is further amended to read:

4 "(k) The Corporation shall act as a central financial manager and
5 consultant for those agencies or instrumentalities of the Government
6 requiring financial guidance and assistance. Such technical assistance
7 by the Corporation shall include but not be limited to obtaining of
8 funds through bond or other obligations, structuring such bond
9 issuances, preparation and dissemination of financial and investment
10 information, including bond prospectuses, development of interest
11 among investment bankers and bond brokers, maintenance of
12 relationships with bond rating agencies and brokerage houses and,
13 generally, acting as the centralized and exclusive financial planner and
14 investment banker for all the agencies and instrumentalities of the
15 Government. For purposes of this Subsection, 'agencies and
16 instrumentalities of the Government' include but are not limited to such
17 public corporations as the Guam Economic Development Authority, the
18 Port Authority of Guam, the Guam Airport Authority, the Guam
19 Telephone Authority, the Guam Power Authority, the Guam Memorial
20 Hospital Authority, the University of Guam, and all other agencies or
21 instrumentalities of the Government given the power, now or in the
22 future, to issue and sell bonds or other obligations for the purpose of
23 raising funds. Such agencies and instrumentalities of the Government
24 shall issue bonds and other obligations only by means of and through

1 the agency of the Corporation, and each such agency or
2 instrumentality shall furnish the Corporation long-term estimates of
3 financial needs so that the Corporation can coordinate a long-term plan
4 for obtaining necessary funds for all such agencies and
5 instrumentalities on a rational, noncompetitive and efficient basis.
6 The Corporation shall not issue or sell any bond [without the approval
7 of the Legislature of] unless the terms and conditions of the issuance
8 of the bonds are forwarded to the Legislative Secretary and sixty (60)
9 days shall have elapsed since the filing of the terms and conditions
10 with the Legislative Secretary. [The failure of the Legislature to
11 adopt a resolution rejecting the terms and conditions of the issuance of
12 the bonds within forty-five (45) calendar days of the date of its
13 submission to the Legislative Secretary shall be concurrence to the
14 issuance of the bonds.] For the purposes of this Subsection, the
15 terms 'bonds or other obligations' does not include an instrument
16 evidencing debt for a term of one (1) year or less. The provisions of
17 this section whereby the Corporation shall act as a central financial
18 manager and consultant for those agencies requiring financial
19 assistance shall not apply to those bonds or obligations which are sold
20 by or to an agency of the Government of the United States, however,
21 the provisions of this Section whereby the Legislature must approve
22 the terms and conditions of this issuance of the bonds shall apply to
23 said bonds or obligations. The provisions of this subsection shall not
24 apply to bonds or other obligations issued pursuant to Article V or
25 Article VI of this Chapter on or before March 31, 1984 provided such
26 bonds or other obligations are secured by a pledge of and lien upon
27 the revenues and other funds or moneys derived from the projects or
28 programs financed by the proceeds of the sale of such bonds or other
29 obligations and not by revenues or other funds or moneys derived
30 from other projects or programs of the Corporation."