



Territory of Guam
Territorio de Guam

OFFICE OF THE GOVERNOR
LESIANAN MAGA LAHL
AGANA, GUAM 96910, U.S.A.

RECEIVED
OFFICE OF THE SPEAKER
DATE: 4/28/97
TIME: 3:45 PM
RECD BY: [Signature]

The Honorable Joe T. San Agustin
Speaker, Twenty-Second Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 967 which I have signed into law this date as
Public Law 22-120.

Sincerely yours,

[Signature]
FRANK F. BLAS
Governor of Guam
Acting

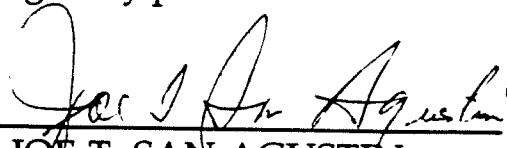
220671

Attachment

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 967 (LS), "AN ACT TO AMEND SUBSECTION (c) OF §26503, TITLE 11, GUAM CODE ANNOTATED, ON THE PURPOSES OF THE PUBLIC TRANSIT FUND; TO AMEND §§6304 AND 6505, AND TO REPEAL AND REENACT §6307, ALL OF CHAPTER 6, TITLE 12, GUAM CODE ANNOTATED, ON THE MANAGEMENT OF THE GUAM MASS TRANSIT AUTHORITY AND THE PARKING FUND," was on the 14th day of April, 1994, duly and regularly passed.



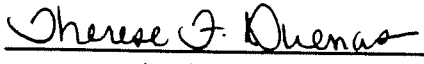
JOE T. SAN AGUSTIN
Speaker

Attested:




HERMINIA D. DIERKING
Senator and Acting Legislative Secretary

This Act was received by the Governor this 15th day of April, 1994, at
5:14 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



FRANK F. BLAS
Governor of Guam
Acting

Date: APR 26 1994

Public Law No. 22-120

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No. 967 (LS)
As substituted by the
Committee on Rules

Introduced by:

J. P. Aguon
M. Z. Bordallo
V. C. Pangelinan
T. S. Nelson
T. C. Ada
E. P. Arriola
H. D. Dierking
C. T. C. Gutierrez
P. C. Lujan
D. Parkinson
E. D. Reyes
J. T. San Agustin
F. E. Santos
D. L. G. Shimizu
J. G. Bamba
A. C. Blaz
D. F. Brooks
F. P. Camacho
M. D. A. Manibusan
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO AMEND SUBSECTION (c) OF §26503, TITLE 11, GUAM CODE ANNOTATED, ON THE PURPOSES OF THE PUBLIC TRANSIT FUND; TO AMEND §§6304 AND 6505, AND TO REPEAL AND REENACT §6307, ALL OF CHAPTER 6, TITLE 12, GUAM CODE ANNOTATED, ON THE MANAGEMENT OF THE GUAM MASS TRANSIT AUTHORITY AND THE PARKING FUND.

1

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

1 **Section 1.** Subsection (c) of §26503 of Title 11, Guam Code Annotated,
2 is amended to read:

3 "(c) All revenues in the Public Transit Fund shall be used for the
4 operation of the Guam Mass Transit Authority for the purposes
5 listed in §6203 of Chapter 6, Title 12, Guam Code Annotated."

6 **Section 2.** §6304 of Chapter 6, Title 12, Guam Code Annotated, is
7 amended to read:

8 "**§6304. General management.** The Board of Directors, with
9 the approval of the Governor, may appoint such other officers as it
10 deems necessary for the proper conduct of the Authority's business,
11 including and upon such terms as it deems appropriate, a General
12 Manager who shall be the Chief Executive Officer of the Authority.
13 The Board may retain an attorney, or firm of attorneys, who shall be
14 admitted to practice before the courts of Guam, who shall advise the
15 Board and the General Manager on all legal matters pertaining to
16 the Authority. The Attorney General shall represent the Authority in
17 litigation in which the Authority is interested, provided that the
18 Attorney General may deputize or designate the attorney for the
19 Authority as a Special Assistant Attorney general for this purpose.
20 The terms, conditions and compensation of employment of any such
21 attorney shall be determined by the Board, and the attorney shall
22 serve at the pleasure of the Board. In addition, the Board, with the
23 approval of the Governor, may contract with responsible companies
24 for the operation of buses and other vehicles, facilities and other
25 properties owned and/or operated by the Authority including
26 parking meters and parking facilities. The provisions of Title VII-A
27 of the Government Code shall be applicable to the Authority except

1 when requirements of federal law with respect to the expenditure of
2 federal funds are inconsistent with the provisions of Title VII-A and
3 under such conditions federal law shall control."

4 **Section 3.** §6505 of Chapter 6, Title 12, Guam Code Annotated, is
5 amended to read:

6 "§6505. **Same: Fund.** There is hereby established within the
7 Guam Mass Transit Authority a Guam Parking Division Fund (the
8 "Fund") and all revenues derived from the activities of the Division,
9 including but not limited to revenues from parking meters, shall be
10 deposited into the Fund and utilized for the purposes enumerated in
11 §6503."

12 **Section 4.** §6307 of Chapter 6, Title 12, Guam Code Annotated, is
13 repealed and reenacted to read:

14 "§6307. **Guam Mass Transit Authority Fund.** All revenue
15 generated by the Authority, including fares collected from riders and
16 fees collected by the Authority pursuant to §6306 of this Chapter 6,
17 and except as provided by §6505 of this Chapter 6, shall be deposited
18 into the Guam Mass Transit Authority Fund (the "Fund") which is
19 hereby created. The funds of the Guam Mass Transit Authority shall
20 be audited annually by an independent certified public accountant or
21 by the public auditor."

TWENTY-SECOND GUAM LEGISLATURE

1993 (FIRST) Regular Session

6

Date: 4/14/94

VOTING SHEET (AS REVISED)

Bill No. 967

Resolution No. _____

Question: _____

NAME	AYE	NO	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C.	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.	✓			
CAMACHO, Felix P.	✓			
DIERKING, Herminia D.	✓			
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MANIBUSAN, Marilyn D. A.	✓			
NELSON, Ted S.	✓			
PANGELINAN, Vicente	✓			
PARKINSON, Don				✓
REYES, Edward D.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francis E.	✓			
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL 20 0 1



Territory of Guam
Territorio Guam

OFFICE OF THE GOVERNOR
UFISINAN I MAGA LAHI
AGANA, GUAM 96910 U.S.A.

1... my...
3-7-94
5:35 pm.

RECEIVED
OFFICE OF THE SPEAKER
DATE: 3/8/94
TIME: 8:53 am
RECD BY: [Signature]

March 7, 1994

REFERRED TO
LEGISLATIVE COUNSEL
[Signature]

The Honorable Joe T. San Agustin
Speaker
Twenty Second Guam Legislature
Agana, Guam 96910

Dear Mr. Speaker:

Enclosed herewith is Substitute Bill No. 814 which I have vetoed in its entirety.

I have no objection to Sections 2 and 3 of the measure. My objection arises to the amendment made in Section 1 to Subsection (b) of 11 GCA Section 26503.

Until now the Legislature has appropriated funds for the operation of Guam Mass Transit Authority. These appropriations take into account the Surplus Fund which contains funds earmarked for highway maintenance. Enactment of Section 1 could jeopardize those highway maintenance expenditures. If the Surplus Fund is directly transferred to the Guam Mass Transit Authority then more funds than may be necessary will revert to the Authority and jeopardize our highway maintenance efforts.

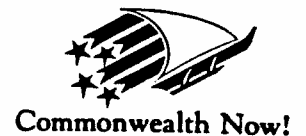
I enclose for your review comments made by the Territory's bond counsel, Stan Dirks. He explains in more detail the interaction between this proposal and the indenture governing the 1992 highway bonds.

I ask that you and your colleagues revisit these issues and pass a new measure that does not jeopardize expenditure of funds for vital highway maintenance.

Cordially,

[Signature]
JOSEPH F. ADA,
Governor of Guam

220575



MEMORANDUM

TO: Kathy Maraman, Esq.

FROM: Stan Dirks

DATE: March 4, 1994

RE: Proposed mass transit surcharge legislation

Kathy, Carl asked me to send you my thoughts on the impact of the proposed legislation on the payment of highway M&O expenses from liquid fuel taxes prior to the transfer of proceeds of the "Mass Transit Automotive Surcharge" amounts to the Public Transit Fund. As you know, the proposed legislation provides for that transfer "as and to the extent [such proceeds are] released from the pledge of such proceeds pursuant to [the highway bond legislation]".

The indenture securing the 1992 limited obligation highway bonds is the document by which such proceeds are pledged. The following sections of the indenture are relevant to this question:

Section 5.01 is the pledge itself:

"Subject only to the provisions of this Indenture permitting the application thereof for or to the purposes and on the terms and conditions set forth herein, there are hereby pledged to secure the payment of the principal of and interest on the Bonds in accordance with their terms and the provisions of this Indenture, all of the Revenues, all of the proceeds of the Bonds and any other amounts held in any Fund or Account established pursuant to this Indenture (except amounts held in the Rebate Fund)."

Section 5.02 allocates Revenues (which includes the liquid fuel taxes) on a monthly basis, first to the Bond Fund for the payment of debt service on the Bonds, second to the Bond Reserve Fund if need to increase its amount to an amount equal to maximum annual debt service on the Bonds, third, to the M&O Fund,

"the amount of Maintenance and Operation Expenses budgeted by the Government, pursuant to the budget filed in accordance with Section 6.12, to be paid from Revenues in the Maintenance and Operation Fund during the next succeeding calendar month"

and, fourth to the Surplus Fund. Note that the budget line item referred to is not required to cover all highway M&O expenses, or even all highway M&O expenses to be paid from Revenues, but only those to be paid from the M&O Fund.

Section 5.07 is the Section governing the release of Revenues from the pledge:

"The Depository shall disburse moneys from the Surplus Fund (to the Co-Trustee, as necessary) first, to the Bond Fund in the event there are insufficient moneys on deposit in the Bond Fund to pay the principal or redemption price of or interest on the Bonds when due, for the purpose of paying principal of and interest on the Bonds; second, to the Bond Reserve Fund to satisfy any deficiency therein; third, to the Maintenance and Operation Fund to satisfy any deficiency therein; and fourth, to pay costs and expenses of the Government budgeted to be paid from Revenues in the Surplus Fund. All amounts in the Surplus Fund on the fifth (5th) day of each month after the deposits required herein have been made shall be paid by the Depository to the Government for any lawful purpose of the Government, free and clear of the pledge and lien of this Indenture."

Note that the category "fourth" may include highway M&O expenses to be paid from Revenues in the Surplus Fund (as opposed to Revenues in the M&O Fund).

Section 6.12 recognizes that some highway M&O expenses may be paid from the Surplus Fund:

"Before the first day of each Fiscal Year ..., the Government shall file with the Trustee, the Co-Trustee, the Depository and each Credit Provider, a budget setting forth the estimated Maintenance and Operation Expenses to be paid from the Maintenance and Operation Fund, the estimated Maintenance and Operation Expenses to be paid from the Surplus Fund, and other costs and expenses to be paid from Revenues, each separately stated, for such Fiscal Year. The Government may from time to time amend any budget filed pursuant to this section by filing such amendment with the Trustee, the Co-Trustee, the Depository and each Credit Provider within thirty (30) days of each amendment."

Technically, the release of Revenues from the pledge and lien of the indenture occurs pursuant to the underlined language above, and one could argue that the use of Revenues to pay highway M&O expenses pursuant to the bolded language of Section 5.07 is still permitted under the proposed legislation. However, I think there is some risk that a court would decide that the proposed legislation "budgets" the fourth priority

expenditure from the Surplus Fund for the purposes of the Public Transit Fund and, therefore, would not permit Surplus Fund moneys to be used for highway M&O expenses.

This problem may not be soluble by adding additional highway M&O expenses to be paid out of the M&O Fund, because doing so may put too much pressure on compliance with the rate covenant of Section 6.11 (since M&O expenses to be paid out of the M&O Fund are included in the rate requirement, while M&O expenses to be paid out of the Surplus Fund are not):

"The Government shall impose, levy, enforce and collect Liquid Fuel Taxes and Vehicle Registration and License Fees in an aggregate amount within each Bond Year at least sufficient to pay and provide for the sum of:

(1) an aggregate amount equal to at least one hundred twenty percent (120%) of the sum of:

(i) The interest to accrue for such Bond Year on all Bonds Outstanding;

(ii) The principal of all Serial Bonds maturing by their terms during such Bond Year; and

(iii) The Mandatory Sinking Account Payments to be paid during such Bond Year; plus

(2) an aggregate amount equal to the amount of Maintenance and Operation Expenses budgeted by the Government, pursuant to the budget filed in accordance with Section 6.12, to be paid from the Maintenance and Operation Fund during such Bond Year; provided, however, that such amount shall not include anticipated deposits to or the amount currently in the Surplus Fund; plus

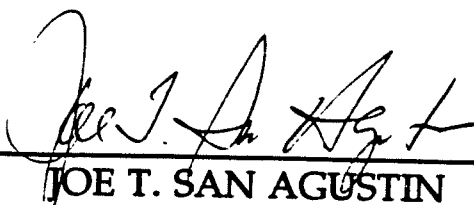
(3) such amounts as may be required pursuant to this Indenture (and any Supplemental Indenture for the issuance of Bonds of any additional Series) to build up or maintain the Bond Reserve Fund at the Bond Reserve Fund Requirement on or before the 20th day preceding an Interest Payment Date."

Please feel free to call me at home on Sunday night (your Monday) at 415/368-9500 if you have any questions.

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 814 (LS), "AN ACT TO AMEND SUBSECTIONS (b) AND (c) OF §26503, TITLE 11, GUAM CODE ANNOTATED, TO CHANGE THE ADMINISTRATOR OF THE PUBLIC TRANSIT FUND; AND TO AMEND §§6304 AND 6505 OF TITLE 12, GUAM CODE ANNOTATED, TO PERMIT THE GUAM MASS TRANSIT AUTHORITY TO RETAIN ATTORNEYS AND TO GIVE IT ADMINISTRATION OF THE PARKING FUND," was on the 18th day of February, 1994, duly and regularly passed.



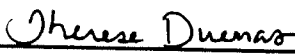
JOE T. SAN AGUSTIN
Speaker

Attested:



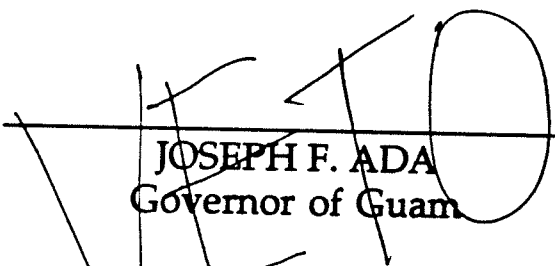
PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 23rd day of February, 1994, at
4:03 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



JOSEPH F. ADA
Governor of Guam

Date: _____

Public Law No. _____

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No. 814 (LS)

As substituted by the Committee on
Tourism and Transportation and as
further substituted on the floor.

Introduced by:

J. P. Aguon
M. Z. Bordallo
V. C. Pangelinan
T. S. Nelson
T. C. Ada
E. P. Arriola
H. D. Dierking
C. T. C. Gutierrez
P. C. Lujan
D. Parkinson
E. D. Reyes
J. T. San Agustin
F. E. Santos
D. L. G. Shimizu
J. G. Bamba
A. C. Blaz
D. F. Brooks
F. P. Camacho
M. D. A. Manibusan
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO AMEND SUBSECTIONS (b) AND (c) OF §26503, TITLE 11, GUAM CODE ANNOTATED, TO CHANGE THE ADMINISTRATOR OF THE PUBLIC TRANSIT FUND; AND TO AMEND §§6304 AND 6505 OF TITLE 12, GUAM CODE ANNOTATED, TO PERMIT THE GUAM MASS TRANSIT AUTHORITY TO RETAIN ATTORNEYS AND TO GIVE IT ADMINISTRATION OF THE PARKING FUND.

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

2 **Section 1.** Subsections (b) and (c) of §26503, Title 11, Guam Code
3 Annotated, are amended to read:

4 “(b) The proceeds of the Mass Transit Automotive Surcharge
5 levied pursuant to Subsection (a) of this Section, as and to the extent
6 released from the pledge of such proceeds pursuant to Subsection (d)
7 of §1504 of Title 5, Guam Code Annotated, are to be placed in a
8 separate fund hereby created and known as the Public Transit Fund
9 to be administered by the Guam Mass Transit Authority, subject to
10 audit by the Bureau of Budget and Management Research which
11 Bureau shall establish the procedures for handling deposits into and
12 payments from the Public Transit Fund in accordance with generally
13 accepted accounting principles. For purposes of such pledge and
14 release, the proceeds of the Mass Transit Automotive Surcharge
15 shall be deemed to be the last revenues used pursuant to such pledge
16 and the first revenues released from such pledge. All such proceeds
17 shall be placed into the Public Transit Fund immediately after the
18 revenues are released from such pledge. The funds of the Guam
19 Mass Transit Authority shall be audited annually by an independent
20 certified public accountant or by the public auditor.

21 (c) All revenues in the Public Transit Fund shall be used for the
22 operation of the Guam Mass Transit Authority for the purposes
23 listed in §6203 of Chapter 6, Title 12, Guam Code Annotated. All
24 revenue from fares generated by the Guam Mass Transit Authority
25 shall also be placed in the Public Transit Fund.”

1 **Section 2.** §6304 of Title 12, Guam Code Annotated, is amended to
2 read:

3 **"§6304. General Management.** The Board of Directors, with
4 the approval of the Governor, may appoint such other officers as it
5 deems necessary for the proper conduct of the Authority's business,
6 including and upon such terms as it deems appropriate, a General
7 Manager who shall be the Chief Executive Officer of the Authority.
8 The Board may retain an attorney, or firm of attorneys, who shall be
9 admitted to practice before the courts of Guam, who shall advise the
10 Board and the General Manager on legal matters pertaining to the
11 Authority. In the alternative the Board may utilize the Attorney
12 General for legal advice. The Attorney General shall represent the
13 Authority in litigation in which the Authority is interested; provided,
14 that the Attorney General may deputize or designate an attorney for
15 the Authority as a Special Assistant Attorney General for this
16 purpose, whose services shall be for the account of the Authority.
17 The terms, conditions and compensation of any such attorney shall
18 be determined by the Board, and the attorney shall serve at the
19 pleasure of the Board. In addition, the Board, with the approval of
20 the Governor, may contract with responsible companies for the
21 operation of buses and other vehicles, facilities and other properties
22 owned and/or operated by the Authority including parking meters
23 and parking facilities. The provisions of Title VII-A of the
24 Government Code shall be applicable to the Authority except when
25 requirements of federal law with respect to the expenditure of
26 federal funds are inconsistent with the provisions of Title VII-A and
27 under such conditions federal law shall control."

1 Section 3. §6505 of Chapter 6, Title 12, Guam Code Annotated, is
2 amended to read:

3 “§6505. Same: Fund. There is hereby established within the
4 Guam Mass Transit Authority a Guam Parking Division Fund (the
5 “Fund”) and all revenues derived from the activities of the Division,
6 including but not limited to revenues from parking meters, shall be
7 deposited into the Fund and utilized for the purposes enumerated in
8 §6503. The funds of the Guam Mass Transit Authority shall be
9 audited annually by an independent certified public accountant or by
10 the public auditor.”



OFFICE OF THE VICE-SPEAKER
Twenty-Second Guam Legislature
Senator John Perez Aguon

Chairman, Committee on Tourism & Transportation

155 Hesler St., Agana, Guam USA 96910 • (671) 472-3435 • 472-3497 • 472-3570/1/2 • Facsimile: (671) 477-8358

February 10, 1994

Honorable Joe T. San Agustin, Speaker
 22nd Guam Legislature
 155 Hessler St.
 Agana, Guam 96910

Dear Mr. Speaker,

The Committee on Tourism & Transportation, to which the following was referred, wishes to report its findings and recommendations:

BILL NO. 814 - AN ACT TO AMEND SUBSECTIONS (b) AND (c) OF §26503 OF TITLE 11 GUAM CODE ANNOTATED RELATIVE TO THE MASS TRANSIT AUTOMOTIVE SURCHARGE.

The Committee voting record on Substitute Bill No. 814 is as follows:

TO PASS	<u>15</u>
NOT TO PASS	<u>0</u>
TO ABSTAIN	<u>0</u>
TO PLACE IN THE INACTIVE FILE	<u>0</u>
NOT VOTING	<u>0</u>

The recommendation of the Committee is to do pass. A copy of the voting sheet, report and all pertinent documents are attached for your information.

Sincerely,

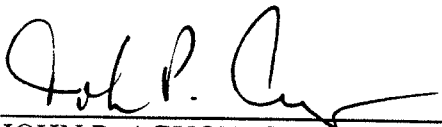
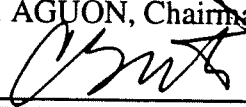

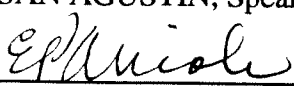
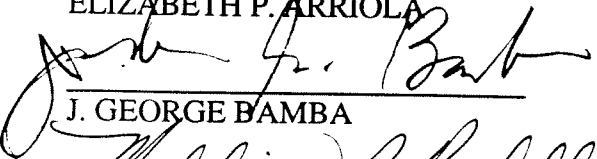
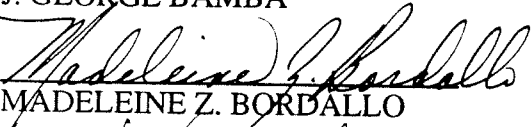
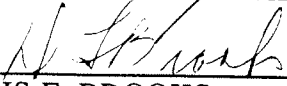
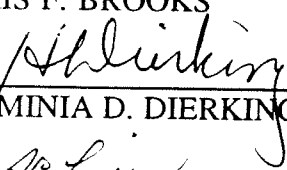


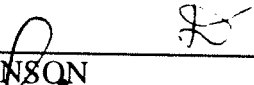

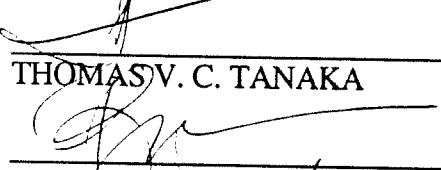
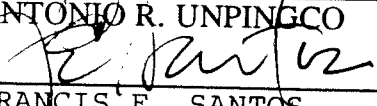
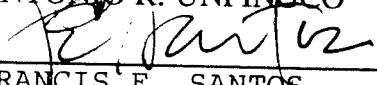
JOHN PEREZ AGUON

Attachments



VOTING SHEET • COMMITTEE ON TOURISM & TRANSPORTATION

BILL NO. 814 as Substituted by the Committee on Tourism & Transportation: AN ACT TO AMEND SUBSECTIONS (b) AND (c) OF §26503 OF TITLE 11 GUAM CODE ANNOTATED RELATIVE TO THE PUBLIC TRANSIT FUND; AND TO AMEND §6304, AND §6505 OF CHAPTER 6, TITLE 12 GUAM CODE ANNOTATED RELATIVE TO THE GUAM MASS TRANSIT AUTHORITY.

	TO PASS	NOT TO PASS	TO ABSTAIN	TO PLACE IN INACTIVE FILE
 JOHN P. AGUON, Chairman	✓			
 CARL GUTIERREZ, Vice Chairman	✓			
 JOE T. SAN AGUSTIN, Speaker	✓			
 ELIZABETH P. ARRIOLA	✓			
 J. GEORGE BAMBA	✓			
 MADELEINE Z. BORDALLO	✓			
 DORIS F. BROOKS	✓			
 HERMINIA D. DIERKING	✓			
 PILAR C. LUJAN	✓			
 MARILYN D. A. MANIBUSAN	✓			
 DON PARKINSON	✓			
 DAVID I.G. SHIMIZU	✓			
 THOMAS V. C. TANAKA	✓			
 ANTONIO R. UNPINGCO	✓			
 FRANCIS E. SANTOS	✓			



22nd Guam Legislature
COMMITTEE ON
TOURISM and
TRANSPORTATION

COMMITTEE REPORT

BILL 814: AN ACT TO AMEND
SUBSECTIONS (b) AND (c) OF §26503
OF TITLE 11 GUAM CODE
ANNOTATED RELATIVE TO THE
MASS TRANSIT AUTOMOTIVE
SURCHARGE

PUBLIC HEARING:
FEBRUARY 3, 1994

MARK-UP MEETING:
FEBRUARY 14, 1994

VICE SPEAKER JOHN PEREZ AGUON, Chairman
SENATOR CARL T.C. GUTIERREZ, Vice Chairman

Members:

SPEAKER JOE T. SAN AGUSTIN

SENATOR ELIZABETH P. ARRIOLA
SENATOR J. GEORGE BAMBA
SENATOR MADELEINE Z. BORDALLO
SENATOR DORIS F. BROOKS
SENATOR HERMINIA D. DIERKING
SENATOR PILAR C. LUJAN

SENATOR MARILYN D.A. MANIBUSAN
SENATOR DON PARKINSON
SENATOR FRANCIS E. SANTOS
SENATOR DAVID L.G. SHIMIZU
SENATOR THOMAS V.C. TANAKA
SENATOR ANTONIO R. UNPINGCO

TWENTY SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No. 814
As Substituted by the
Committee on Tourism & Transportation

Introduced By:

J.P. Aguon
M.Z. Bordallo
V.C. Pangelinan
T.S. Nelson

AN ACT TO AMEND SUBSECTIONS (b) AND (c) OF §26503 OF TITLE 11 GUAM CODE ANNOTATED RELATIVE TO THE PUBLIC TRANSIT FUND; AND TO AMEND §6304, AND §6505 OF CHAPTER 6, TITLE 12 GUAM CODE ANNOTATED RELATIVE TO THE GUAM MASS TRANSIT AUTHORITY.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Subsections (b) and (c) of §26503 of Title 11 Guam Code
3 Annotated are amended to read:

4 “(b) The proceeds of the Mass Transit Automotive Surcharge
5 levied pursuant to Subsection (a) of this Section, as and to the extent
6 released from the pledge of such proceeds pursuant to Subsection (d)
7 of §1504 of Title 5 Guam Code Annotated, are to be placed in a
8 separate fund hereby created and known as the Public Transit Fund
9 to be administered by the [~~Department of Administration~~] Guam
10 Mass Transit Authority. For purposes of such pledge and release, the
11 proceeds of the Mass Transit Automotive Surcharge shall be deemed
12 to be the last revenues used pursuant to such pledge and the first
13 revenues released from such pledge. All such proceeds shall be
14 placed into the Public Transit Fund within thirty (30) days after the
15 revenues are released from such pledge.

16 (c) All revenues in the Public Transit Fund shall be used for the

1 operation of the Guam Mass Transit Authority [~~as appropriated for~~
2 ~~such purpose by the Legislature, within sixty (60) days after the last~~
3 ~~day of the month in which the revenues are released from such~~
4 ~~pledge] for the purposes listed in §6203 of Chapter 6, Title 12 Guam
5 Code Annotated. All revenue from fares generated by the Guam
6 Mass Transit authority shall also be placed in the Public Transit Fund.”~~

7 Section 2. §6304 of Chapter 6, Title 12 Guam Code Annotated, is
8 amended to read:

9 “§6304. General Management. The Board of Directors, with the
10 approval of the Governor, may appoint such other officers as it deems
11 necessary for the proper conduct of the Authority’s business,
12 including and upon such terms as it deems appropriate, a General
13 Manager who shall be the Chief Executive Officer of the Authority.
14 The Board may employ or retain an attorney, or firm of attorneys,
15 who shall be admitted to practice before the courts of Guam, who
16 shall advise the Board and the General Manager on all legal matters
17 pertaining to the Authority. The Attorney General shall represent
18 the Authority in litigation in which the Authority is interested,
19 provided that the Attorney General may deputize or designate the
20 attorney for the Authority as a Special Assistant Attorney General
21 for this purpose. The terms, conditions and compensation of
22 employment of any such attorney shall be determined by the
23 Board, and the attorney shall serve at the pleasure of the Board. In
24 addition, the Board, with the approval of the Governor, may contract
25 with responsible companies for the operation of buses and other
26 vehicles, facilities and other properties owned and/or operated by
27 the Authority including parking meters and parking facilities. The
28 provisions of Title VII-A of the Government Code shall be applicable

1 to the Authority except when requirements of federal law with
2 respect to the expenditure of federal funds is inconsistent with the
3 provisions of Title VII-A and under such conditions federal law shall
4 control.”

5 Section 3. §6505 of Chapter 6, Title 12 Guam Code Annotated is
6 amended to read:

7 “§6505. Same: Fund. There is hereby established within the
8 [~~government of Guam~~] Guam Mass Transit Authority a Guam
9 Parking Division Fund (the “Fund”) and all revenues derived from the
10 activities of the Division, including but not limited to revenues from
11 parking meters, shall be deposited into the Fund and utilized for the
12 purposes enumerated in §6503.”

COMMITTEE ON TOURISM & TRANSPORTATION
COMMITTEE REPORT

BILL NO. 814

AN ACT TO AMEND SUBSECTIONS (b) AND (c) OF §26503 OF TITLE 11 GUAM CODE ANNOTATED RELATIVE TO THE MASS TRANSIT AUTOMOTIVE SURCHARGE.

PUBLIC HEARING ON BILL NO. 814

The Committee on Tourism & Transportation conducted a public hearing on Thursday, February 3, 1994, in the Public hearing Room of the Guam Legislature. Senator John Perez Aguon, Chairman of the Committee, called the hearing to order at 9:00 a.m. Also present at the hearing were Senators Madeleine Z. Bordallo, Vicente C. Pangelinan and Tommy Tanaka.

Senator Aguon began the hearing by commenting that GMTA had come a long way over the past few years. They had been struggling to survive on just federal grants and were in a state of constant crisis. For the past several years GMTA had been submitting their budgets to the Legislature and were funded from the General Fund, with reimbursements going back into the General Fund when federal or other funds became available. Bill 814 was introduced to return to GMTA the autonomy they were given upon their creation but never had the opportunity to utilize because of a lack of funding. He noted that for a number of years, GMTA was directly subsidized from the General Fund. Bill 814 would give them the use of the Public Transit Fund, enabling them to have direct access to a tax designed specifically for GMTA. Senator Aguon noted that GMTA and the Legislature have never known the balance in the Public Transit Fund and that the Department of Administration had been requested to attend the hearing and present vitally needed information regarding the status of the Fund. DOA was not yet present but said they would attend.

Testifying at the hearing were GMTA Board President John Taitano, Board Member Antonia Pecon, General Manager Fred Santos, Acting Deputy Manager Grover Finney, and Planner IV Mack Ezzell.

Taitano began by reading from his prepared testimony (Attachment 1). He noted that he felt that GMTA should no longer rely on the General Fund

as their primary revenue source. This was the reason GMTA developed other funding sources, including revenue from rental of advertising space.

He urged the Legislature to consider proposed amendments to Public Law 22-45, the Parking Authority, which would also assist GMTA in achieving its goals. He also emphasized the Authority's need for a legal counsel.

Santos then presented his testimony (Attachment 2), reiterating the Board President's statement that GMTA wished to move toward greater autonomy by weaning itself from the General Fund. To do that, GMTA would have to have access to the Mass Transit Automotive Surcharge, four cents per gallon on diesel fuel, which is by law required to be deposited into the Public Transit Fund.

Santos itemized the amendments that GMTA wished to have made to Public Law 22-45 to do a number of things including: allow GMTA to engage a legal counsel; enforce the rules established by the Parking Authority; handle personnel services, and also to make amendments relative to the Public Transit Fund in conformance with the intent of Bill 814.

Senator Pangelinan asked what the amount of revenue was from the Mass Transit Automotive Surcharge. Santos said he did not know. Senator Pangelinan informed the Chairman that he had information on liquid fuel gallonage which he obtained from the Guam Energy Office and he said he would provide the information to the Committee (Attachment 3).

Senator Pangelinan asked about the difference between urban versus rural designations relative to how much federal funding GMTA could receive.

Ezell stated that there were two different federal designations. Under Department of Transportation, Section 18, GMTA already received funds. Under Section 9 for urbanized areas, a designation was necessary and additional funds would be forthcoming. Ezell said the process was already underway.

Senator Bordallo asked about the size of the budget of GMTA. Santos said it was \$3.4 million and they received \$1.8 million from the General Fund. She asked if the fuel tax would be enough to take care of their needs. Santos said he did not know the amount being collected but it should be enough. Senator Pangelinan said the figures from the Energy

Office indicated that tax collections should be in excess of \$1.2 million annually if he remembered the figures correctly. Senator Bordallo asked if the purpose of the Bill was to keep the Public Transit Fund from being commingled with the General Fund. Taitano said that it was. She said that she was in full support of the measure, especially considering the cash difficulties in the government.

Senator Aguon asked for a breakdown of the income to GMTA other than the Public Transit Fund. Santos said that their estimates for signage was about \$373,000 per annum; for fares, an estimated \$186,000 at the current level and a projected \$200-250,000 per annum once the new fare system is in effect. For federal funding, Ezzell said that the Section 18 grant from the Federal Department of Transportation was \$332,127 for FY94, up from the FY93 allocation of \$275,019. The funds normally become available in May of the Fiscal Year. He added that Guam was actively pursuing the Section 9 grant (for urbanized areas) and that when it received final approval it would probably total between \$300,000 and \$400,000, but there was no guarantee that there would be any Section 9 allocation for FY94.

Senator Aguon asked if GMTA was receiving its releases from DOA on time. Santos said they were not. Senator Aguon asked if there were any times when vendors, payroll or other payments were delayed because of late releases. Santos said that all payroll was on time. Vendors and other expenses were paid within legal time frames.

Senator Pangelinan asked what other funds they were receiving. Santos said that was all. Senator Aguon asked what part of their \$3.4 million was their operational budget. Santos said \$3.4 million was operational and \$1.3 million additional was for capital outlay. Senator Aguon said the figures didn't add up and he asked that a reconciliation be prepared for the Committee.

As there were no further questions or testimony, Chairman Aguon declared Bill 814 publicly heard. He said that he hoped the Department of Administration would send testimony as it was important and necessary information. He noted that the Legislature should have the information, the general public should have the information and GMTA should have the information. He then adjourned the hearing.

MARK-UP MEETING:

The Committee met for a mark-up session on Monday, February 14, 1994. Senators Aguon and Pilar C. Lujan were present. Also present to answer questions were Santos, Taitano and Finney. Department of Administration Controller John Denorcey presented testimony from the Director of Administration relative to Bill 814.

The testimony (Attachment 4) states that DOA has no problem with the legislation as long as three conditions are met: that bond debt service requirements are met, that operations and maintenance funds for DPW highway division is provided for and that GMTA's unexpended funds are placed in the Territorial Highway Fund at the end of each Fiscal Year. Senators Aguon and Lujan asked for an explanation of the use of the funds by DPW for maintenance purposes. Denorcey said that a condition of the bond was that the highways constructed by the bond be maintained adequately. DPW submits its request to the Governor and the funds are allocated from liquid fuel taxes for that purpose, without Legislative review.

Senator Aguon noted that the first two conditions were already met in existing legislation. The Senators also agreed that the funds allocated for GMTA should remain with GMTA at the end of the year.

Senator Aguon asked that DOA respond to the letter sent by him on January 13, 1994, with a number of questions regarding the Public Transit Fund. Denorcey said that he had not seen the letter and that he would prepare a response.

COMMITTEE RECOMMENDATION:

The Committee on Tourism & Transportation recommends that Bill No. 814, having been amended by the Committee, be passed as substituted.

3 February 1994

Senator John P. Aguon
Vice Speaker
Chairman, Committee on Tourism & Transportation
22nd Guam Legislature
155 Hessler St.
Agana, Guam 96910

Re: Bill No. 814 & Proposed Public Transit Fare Change

Good morning Senator Aguon and committee members. My name is John P. Taitano and I am the President of the board of directors of the Guam Mass Transit Authority. I am pleased to appear before you to present testimony in support of Bill No. 814.

We view the introduction of Bill No. 814 as a vote of confidence for GMTA. We have struggled to provide a level of service that we can take pride in. We have managed to make great strides in a relatively short period of time under the able leadership of the good Senator John P. Aguon. His encouragement has led us to explore new areas of service and new means of financing those areas of service.

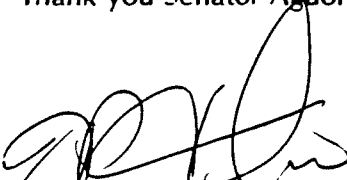
We feel a duty to contribute services that are worthy of General Fund resources. We recognize those resources have diminished and must, therefore, be prudently used. This is the reason GMTA has sought alternative funding sources independent of the General Fund. These include fare revenues and income from the rental of advertising space on GMTA properties.

We take this opportunity to address what we perceive to be needed amendments to PL 22-45 which created the Guam Parking Division within GMTA. The General Manager will speak in greater detail about these amendments. However, I would like to emphasize to the Committee the importance we attach to having our own legal counsel. The public nature of the services we provide holds a greater measure of inherent potential for conflict than, probably, most other agencies of the government. Additionally, most of our services are provided under contract by private companies. We have been fortunate thus far in avoiding legal entanglements beyond our ability to address. We cannot expect this good fortune to continue into the future.

I would also urge along with the board members that this Committee see fit to address the additional personnel requirements of the newly created Parking Division. We do not ask for additional funding, only that we be authorized to recruit personnel as the funding becomes available from the revenue sources previously mentioned.

The board is also in full support of the proposed fare changes. Our current fares have not been modified for almost seven years now. The changes we propose are, in our opinion, rather modest given the interim since the last change and the increase in the cost of virtually every item and service since then. The cost of transportation, in particular, has undergone a tremendous increase from seven years ago, including related costs such as automobile insurance. I do not think it necessary to belabor this point. I ask for the support of the Committee in approving the proposed fare rules presented here.

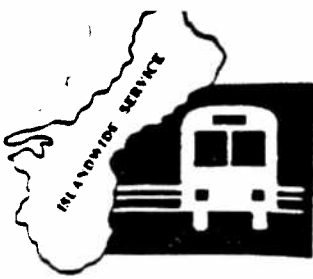
Thank you Senator Aguon and Committee members for this opportunity to testify before you.

A handwritten signature in black ink, appearing to read 'John P. Taitano', written in a cursive style.

JOHN P. TAITANO

President

GMTA Board of Directors



G • M • T • A

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3 February 1994

VICE-SPEAKER JOHN PEREZ AGUON
Chairman, Committee on Tourism & Transportation
22nd Guam Legislature
155 Hessler Street
Agana, Guam 96910

Re: Bill No. 814 & Proposed Public Fare Change

Dear Mr. Chairman and Committee Members:

The Board of Directors, Management and staff commend you and your Committee for having the foresight and taking the initiative in sponsoring Bill 814. As the Chairman of this honorable Committee, you have demonstrated that under your leadership all of the agencies within your oversight responsibilities have taken a leading role toward greater financial autonomy and self-reliance especially and more significantly during a declining economy.

GMTA is struggling to become an agency that can generate new revenue generating resources to finance its operating needs and at the same time trying to decrease its dependency on the General Fund financing. Bill 814 as written can provide us with the management tools to accomplish this goal and objective. Timing is an important element. It will take time to build up enough revenue to generate the necessary funds required to offset anticipated shortfalls. So, immediate passage of this bill is a necessary requirement in our part since there are no other resources in sight.

Let me reiterate what I have always expressed in the past and even more apparent to this date. As far as I am concerned, GMTA is not an agency that is one of high priorities compared to health, safety and welfare or to education with respect to general fund distribution. We are one of those who are on the bottom of the totem pole. With this in mind, we want to gradually seen ourselves away from this predicament by identifying and pursuing other revenue generating avenues. We see light at the end of the tunnel in Bill 814.

Please give us the opportunity to explore and demonstrate the viability of these possibilities. Bill 814 will authorize the GMTA Board of Directors to administer and expend revenues generated from signage, fares, the Mass Transit Automotive Surcharge, and any other resourcesy develop in the future.

If you will, Mr. Chairman, I would like to briefly mention certain matters relative to Public Law 22-45 also known as the "Parking Act of 1993".

1. To include the word Enforcement in Section 6503 and 6203 respectively.
2. To change the creation of a Guam Parking Division Fund to Guam Public Transit Fund and to be administered by GMTA. This is Section 6505.
3. To include Personnel Services in Section 6503 and 6203, respectively.
4. To include the hiring and retaining a legal counsel for the Board of Directors in Section 6304.

We find these provisions, changes and additions to be very essential in the implementation for accomplishing its purpose, goals and objectives.

Thank you for giving us your attention and kind consideration.

Sincerely,


FRED CARL SANTOS
General Manager