



OFFICE OF THE GOVERNOR
TERRITORY OF GUAM

MAY 16 1995

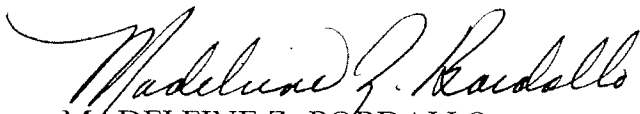
The Honorable Don Parkinson
Speaker
Twenty-Third Guam Legislature
424 West O'Brien Drive
Julale Center - Suite 222
Agana, Guam 96910

OFFICE OF THE SPEAKER	
Date:	<u>5-16-95</u>
Time:	<u>1:12 pm</u>
Received By:	<u>Arlene B. Tores</u>
Print Name:	<u>Arlene B. Tores</u>

Dear Speaker Parkinson:

Enclosed please find Substitute Bill No. 140 (LS), "AN ACT TO AMEND 11 GCA §30107, TO ADD NEW §§30107.1 AND 30107.2 TO TITLE 11, GUAM CODE ANNOTATED, AND TO AMEND 5 GCA §22109, ALL RELATIVE TO THE TOURIST ATTRACTION FUND", which was **signed** into law May 13, 1995 as **Public Law No. 23-15**.

Very truly yours,


MADELEINE Z. BORDALLO
Acting Governor of Guam

Enclosure

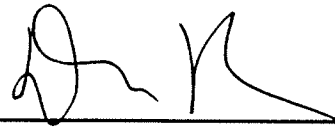
230426

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>4:41pm</u>
Date	<u>5/16/95</u>

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 140 (LS), "AN ACT TO AMEND 11 GCA §30107, TO ADD NEW §§30107.1 AND 30107.2 TO TITLE 11, GUAM CODE ANNOTATED, AND TO AMEND 5 GCA §22109, ALL RELATIVE TO THE TOURIST ATTRACTION FUND," was on the 13th day of May, 1995, duly and regularly passed.



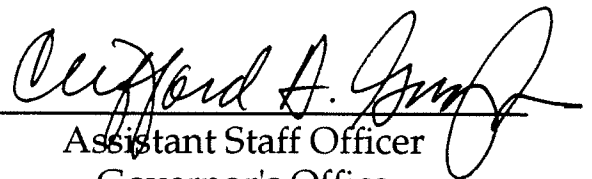
DON PARKINSON
Speaker

Attested:




JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this ^{13th} day of May, 1995,
at 8:15 o'clock P.M.



Clifford A. Gump
Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 5-13-95

Public Law No. 23-15

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 140 (LS)
As substituted by the Committee
on Tourism & Transportation

Introduced By:

J. P. Aguon
F. E. Santos
J. T. San Agustin
T. S. Nelson
T. C. Ada
E. Barrett-Anderson
A. C. Blaz
J. S. Brown
F. P. Camacho
M. C. Charfauros
H. A. Cristobal
M. Forbes
A. C. Lamorena
C. Leon Guerrero
L. Leon Guerrero
S. L. Orsini
V. C. Pangelinan
D. Parkinson
A. L. G. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO AMEND 11 GCA §30107, TO ADD NEW
§§30107.1 AND 30107.2 TO TITLE 11, GUAM CODE
ANNOTATED, AND TO AMEND 5 GCA §22109, ALL
RELATIVE TO THE TOURIST ATTRACTION FUND.

1 **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**
2 **Section 1. Legislative findings and intent.** As the economy of Guam
3 becomes increasingly dependent on the continued success of its tourist

1 industry, the Legislature hereby reaffirms its belief that it is in the public's best
2 interest to have a Tourist Attraction Fund ("TAF") which is funded and
3 administered independently from other government agencies and programs.
4 The Legislature finds further that the relevant statutory language that "all
5 expenditures of the Tourist Attraction Fund shall be by appropriation of the
6 Legislature" is not sufficiently specific to protect the TAF from unauthorized
7 uses and uses contrary to the purpose of existing law. Thus, the Legislature
8 finds that 11 GCA §30107 must be amended to emphasize that the TAF is not a
9 part of the General Fund, that the TAF is not available for any purpose not in
10 conformity with existing enumerated purposes relating exclusively to tourism,
11 and that the TAF is not to be used for any purpose without the consent of the
12 Legislature.

13 Therefore, it is the intent of the Legislature to amend existing Guam
14 statutory law to clarify that the TAF be used only for purposes conforming
15 with those tourism purposes and values as set forth in 11 GCA §30107, that
16 the expenditures from the TAF shall be made only with consent of the
17 Legislature, that de-appropriated TAF funds and interest earned on TAF
18 investments and accounts be returned to the TAF, and that the Director of
19 Administration report monthly to the Legislature's committee which oversees
20 the TAF concerning the condition and activity within the TAF.

21 **Section 2. §30107 of Title 11, Guam Code Annotated, is amended to**
22 **read:**

23 **"§30107. Creation of Tourist Attraction Fund.**

24 There is hereby created, separate and apart from other funds of the
25 government of Guam, a fund known as the Tourist Attraction Fund
26 (hereinafter "TAF"). The TAF shall not be commingled with the

1 General Fund and shall be kept in a separate bank account. All
2 proceeds from taxes collected under this Chapter shall be deposited
3 in the TAF and shall be expended **exclusively** for purposes
4 authorized in §§9107 and 9113 of Title 12, Guam Code Annotated.
5 The TAF may also be used to fund the following projects:

6 (a) The creation, improvement or beautification of
7 roads, avenues, boulevards, parkways, intersections,
8 bicycle paths, motor bike trails, footpaths, biking trails,
9 stairways, rivers, streams, estuaries, lagoons, or other
10 means of access and transportation;

11 (b) The development and restoration of points of
12 natural beauty or historic social or cultural significance,
13 including means of access, parking, safety devices,
14 concessions, restrooms, view points and information
15 pavilions;

16 (c) The construction of monuments, memorials,
17 statues, fountains, arches, and similar projects;

18 (d) The construction of buildings to be used for
19 public purposes including zoos and aquariums, museums,
20 athletic facilities, cultural centers, and performing arts
21 complexes;

22 (e) Landscaping, provision of decorations or the
23 enhancement of beauty of any of the projects listed in this
24 Section;

25 (f) Accessory projects reasonably necessary to
26 projects listed in this Section;

1 (g) Projects and programs identified in the Tumon
2 Bay Master Plan.

3 Except as provided in subparagraph (i) (A) of paragraph (d) of
4 §6130 of the Government Code, all expenditures of the TAF shall be
5 **made exclusively** by appropriation of the Legislature. No further
6 appropriations shall be made of monies in the TAF which have been
7 pledged for the payment of any debt or debts created pursuant to
8 said §6130 and such monies may be used for payment of such debt
9 or debts without further appropriations. The TAF shall not be used
10 for any purposes other than those enumerated or reasonably
11 inferred herein or for purposes other than those relating to Guam
12 tourism. Specifically, the TAF shall not be used as a pledge of
13 security or as collateral for government loans without prior
14 authorization by the Legislature."

15 **Section 3. New §30107.1 is added to Title 11, Guam Code Annotated,**
16 **to read:**

17 "§30107.1. **Unused TAF Funds.** Notwithstanding the general
18 provisions of 5 GCA §22406 which require that unused and de-
19 appropriated funds revert to the General Fund, or any other provision of
20 Guam law to the contrary, all de-appropriated or unused funds
21 appropriated from the TAF shall, in all circumstances, and whether in
22 whole or in part, be returned to the TAF and not the General Fund."

23 **Section 4. A new §30107.2 is hereby added to Title 11, Guam Code**
24 **Annotated, to read:**

25 "§30107.2. **Interest.** Notwithstanding the provisions of 5 GCA
26 §21103, 21107 and 21110 or any other provision of Guam law to the

1 contrary, all interest earned on TAF-Funded investments or
2 accounts shall be returned to the TAF.”

3 **Section 5. 5 GCA §22109 is amended to read:**

4 **“§22109. Reports on Fund Conditions.** The Director of Administration
5 shall make a monthly report to the Governor and the Legislature of the
6 condition of, and activity within, every fund of the Government of Guam. He
7 shall make a monthly report to the Chairman of the Legislature’s committee
8 which oversees the Tourist Attraction Fund (TAF) of the condition of, and
9 activity within, the TAF. He shall further make an annual report which shall
10 be made available to the general public.”

11 **Section 6. Effective Date.** The provisions of this Act shall become
12 effective immediately.

TWENTY-THIRD GUAM LEGISLATURE

1995 (FIRST) Regular Session

Date: 5/13/95

VOTING SHEET

Bill No. 140

Resolution No. _____

Question: _____

NAME	AYE	NO	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓		:	
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL 21

23-13

SENATOR
JOHN PEREZ AGUON



CHAIRMAN
COMMITTEE ON TOURISM & TRANSPORTATION

23RD GUAM LEGISLATURE

OFFICE: 479 W. O'Brien Drive · Suite 301 · Bank of Guam, Santa Cruz · Agana
MAIL: 155 Hesler St. · Agana, Guam · 96910 · (671)472-3570/1/2 · Fax: (671)477-8358

May 9, 1995

Honorable Don Parkinson, Speaker
23rd 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. 140 - An act to amend Title 11 GCA §30107 and to add new §30107.1 and §30107.2 relative to the Tourist Attraction Fund.

The Committee voting record on the subject matter is as follows:

TO PASS	<u>11</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 Bill 140 as Substituted by the Committee on Tourism & Transportation. A copy of the voting sheet, report and all pertinent documents are attached for your information.


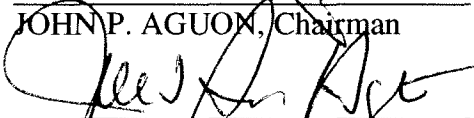



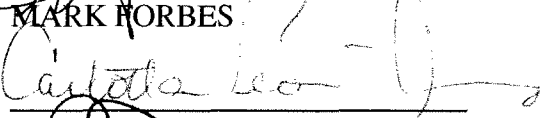
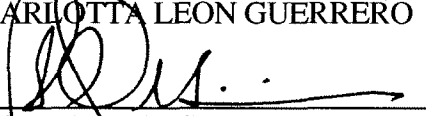



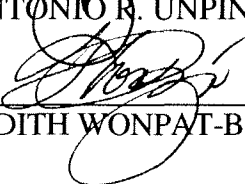
Sincerely,

JOHN PEREZ AGUON

Attachments

VOTING SHEET
COMMITTEE ON TOURISM & TRANSPORTATION
23RD GUAM LEGISLATURE

BILL NO. 140 (As Substituted by the Committee on Tourism & Transportation) - AN ACT TO AMEND TITLE 11 GCA §30107 AND TO ADD NEW §30107.1 AND §30107.2 RELATIVE TO THE TOURIST ATTRACTION FUND.

	TO PASS	NOT TO PASS	TO ABSTAIN	TO PLACE IN INACTIVE FILE
 JOHN P. AGUON, Chairman	✓			
 JOE T. SAN AGUSTIN, Vice Chairman	✓			
 JOANNE S. BROWN	✓			
 FELIX P. CAMACHO	✓			
 MARK FORBES	✓			
 CARLOTTA LEON GUERRERO	✓			
 SONNY L. ORSINI	✓			
 VICENTE C. PANGELINAN	✓			
 FRANCIS E. SANTOS	✓			
 ANTONIO R. UNPINGCO	✓			
 JUDITH WONPAT-BORJA	✓			



23rd Guam Legislature
**COMMITTEE ON
TOURISM and
TRANSPORTATION**

COMMITTEE REPORT

**BILL NO. 140 - AN ACT TO AMEND
TITLE 11 GCA §30107 AND TO ADD
NEW §30107.1 AND §30107.2
RELATIVE TO THE TOURIST
ATTRACTION FUND.**

PUBLIC HEARING:

April 3, 1995

MARK-UP MEETING:

May 1, 1995

SENATOR JOHN PEREZ AGUON, Chairman

SENATOR JOE T. SAN AGUSTIN
Vice Chairman

SENATOR JOANNE S. BROWN
SENATOR FELIX P. CAMACHO
SENATOR MARK FORBES

SENATOR CARLOTTA LEON GUERRERO
SENATOR SONNY L. ORSINI
SENATOR VICENTE C. PANGELINAN
SENATOR FRANCIS E. SANTOS
SENATOR ANTONIO R. UNPINGCO
SENATOR JUDY WON PAT-BORJA

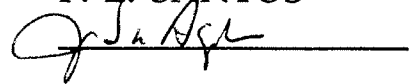
TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No.: 140

As substituted by the Committee on
Tourism & Transportation

Introduced By:

J. P. AGUON
F. E. SANTOS



AN ACT TO AMEND TITLE 11 GCA §30107, TO ADD NEW
§30107.1 AND §30107.2, AND TO AMEND TITLE 5 GCA §22109
RELATIVE TO THE TOURIST ATTRACTION FUND.

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

2 **Section 1. Legislative findings and intent.**

3 As the economy of Guam becomes increasingly dependent on the
4 continued success of its tourist industry, the Legislature hereby reaffirms its
5 belief that it is in the public interest to have a Tourist Attraction Fund ("TAF")
6 which is funded and administered independently from other government
7 agencies and programs. The Legislature finds further that the relevant
8 statutory language that "all expenditures of the Tourist Attraction Fund shall
9 be by appropriation of the Legislature" is not sufficiently specific to protect
10 the TAF from unauthorized uses and uses contrary to the purpose of existing
11 law. Thus, the Legislature finds that Title 11 GCA §30107 must be amended to
12 emphasize that the TAF is not a part of the General Fund, that the TAF is not
13 available for any purpose not in conformity with existing enumerated
14 purposes relating exclusively to tourism, and that the TAF is not to be used
15 for any purpose without the consent of the Legislature.

16 Therefore, it is the intent of the Legislature to amend existing Guam
17 statutory law to clarify that the TAF be used only for purposes conforming

1 with those tourism purposes and values as set forth in Title 11 GCA §30107,
2 that the expenditures from the TAF shall be made only with consent of the
3 Legislature, that de-appropriated TAF funds and interest earned on TAF
4 investments and accounts be returned to the TAF, and that the Director of
5 Administration report monthly to the Legislature's committee which oversees
6 the TAF concerning the condition and activity within the TAF.

7 **Section 2. §30107 of Title 11 GCA is amended to read:**

8 **“§30107. Creation of Tourist Attraction Fund.**

9 There is hereby created, separate and apart from other funds
10 of the government of Guam, a fund known as the Tourist
11 Attraction Fund [~~(the “Fund”)~~] (hereinafter “TAF”). [~~This Fund~~] The
12 TAF shall not be commingled with the General Fund and shall be
13 kept in a separate bank account. All proceeds from taxes collected
14 under this Chapter shall be deposited in the [~~Fund~~] TAF and shall be
15 expended exclusively for purposes authorized in §§9107 and 9113 of
16 Title 12, Guam Code Annotated. The [~~Fund~~] TAF may also be used
17 to fund the following projects:

18 (a) The creation, improvement or beautification of
19 roads, avenues, boulevards, parkways, intersections,
20 bicycle paths, motor bike trails, footpaths, biking trails,
21 stairways, rivers, streams, estuaries, lagoons, or other
22 means of access and transportation;

23 (b) The development and restoration of points of
24 natural beauty or historic social or cultural significance,
25 including means of access, parking, safety devices,
26 concessions, restrooms, view points and information
27 pavilions;

1 (c) The construction of monuments, memorials,
2 statues, fountains, arches, and similar projects;

3 (d) The construction of buildings to be used for
4 public purposes including zoos and aquariums, museums,
5 athletic facilities, cultural centers, and performing arts
6 complexes;

7 (e) Landscaping, provision of decorations or the
8 enhancement of beauty of any of the projects listed in this
9 **[19655] Section:**

10 (f) Accessory projects reasonably necessary to
11 projects listed in this **[19655] Section:**

12 (g) Projects and programs identified in the Tumon
13 Bay Master Plan.

14 Except as provided in subparagraph (i) (A) of paragraph (d) of
15 §6130 of the Government Code, all expenditures of the **[Fund] TAF**
16 shall be **made exclusively** by appropriation of the Legislature. No
17 further appropriations shall be made of moneys in the **[Fund] TAF**
18 which have been pledged for the payment of any debt or debts
19 created pursuant to said §6130 and such moneys may be used for
20 payment of such debt or debts without further appropriations. **The**
21 **TAF shall not be used for any purposes other than those**
22 **enumerated or reasonably inferred herein or for purposes other**
23 **than those relating to Guam tourism. Specifically, the TAF shall not**
24 **be used as a pledge of security or as collateral for government loans**
25 **without prior authorization by the Legislature.**"

26 Section 3. New §30107.1 and 30107.2 are added to Title 11 GCA to read:

27 "§30107.1. Unused TAF Funds.

1 Notwithstanding the general provisions of §22406 of Title 5
2 GCA which requires that unused and de-appropriated funds revert
3 to the General Fund, or any other provision of Guam law to the
4 contrary, all de-appropriated or unused funds appropriated from
5 the TAF shall, in all circumstances, and whether in whole or in part,
6 be returned to the TAF and not the General Fund.

7 **§30107.2. Interest.**

8 Notwithstanding the provisions of §21103, 21107 and 21110 of
9 Title 5 GCA, or any other provision of Guam Law to the contrary,
10 all interest earned on TAF-Funded investments or accounts shall be
11 returned to the TAF.”

12 **Section 4. Title 5 GCA §22109 is amended to read:**

13 **“§22109. Reports on Fund Conditions.** The Director of
14 Administration shall make a monthly report to the Governor and the
15 Legislature of the condition of, and activity within, every fund of the
16 Government of Guam. **He shall make a monthly report to the**
17 **Chairman of the Legislature’s committee which oversees the Tourist**
18 **Attraction Fund (TAF) of the condition of, and activity within, the TAF.**
19 He shall further make an annual report which shall be made available
20 to the general public.”

21 **Section 5. Effective Date.**

22 The provisions of this Act shall become effective immediately.

COMMITTEE REPORT

The Committee on Tourism and Transportation held a public hearing on April 3, 1995 at 11 a. m. in the legislative public hearing room to receive testimonies on Bill 140 – An act to amend Title 11 GCA §30107 and to add new §30107.1 and §30107.2 relative to the Tourist Attraction Fund.

Present at the hearing were Senators John Perez Aguon, Chairman of the Committee, Joe T. San Agustin, Antonio R. Unpingco, Carlotta Leon Guerrero, Sonny L. Orsini, Felix Camacho, all committee members, and Senator Anthony C. Blaz.

Signing in to testify in favor of the bill were James Nelson, GVB General Manager, David Tydingco, President of the Guam Hotel and Restaurant Association (GHRA), Jeanne M. B. Pangelinan.

In a joint written testimony, James Nelson and David Tuncap, Chairman of the GVB Board of Directors fully endorsed the passage of Bill 140 and strongly supported the proposed new sections mandating that unused and deappropriated TAFs and any interest on TAF accounts be returned to the TAF. They recommended to include a provision that would require that occupancy taxes paid by hotels be deposited into the TAF within ten (10) days after receipt.

David Tydingco said that GHRA supported the intent of Bill 140 because it clarifies the ambiguities in the enabling legislation and insures that funds collected and intended to be deposited in the Tourist Attraction Fund are properly disposed of.

Tydingco said: "The original intent in creating the Tourist Attraction Fund was to assure a specific revenue source outside of the government of Guam's General Fund. Because of ambiguities in the enabling legislation, revenues from the TAF have been used for other purposes".

Armed with a letter from Governor Carl T.C. Gutierrez supporting the inclusion of the operational costs for the Guam Council on the Arts and Humanities Council (CAHA), Executive Director, Deborah J. Bordallo, in a written testimony requested the inclusion of Art and Humanities Gallery/Exhibition Centers in the list of construction projects listed in

the bill which may be funded by the Tourist Attraction Fund. Bordallo told the Committee that CAHA envisions affording to the visitors to Guam the opportunity to experience the arts and culture of the people and is in the process of moving to the heart of the tourist industry, Tumon.

Elaborating on the reason for the request, Bordallo said: "At its new location, CAHA will be able to provide exhibits by local, national and international artists for visitors and our island community. The gallery will also function as a demonstration gallery. Programs will be created where there will be demonstrations of our culture's traditional visual and performing art forms. The new location also allows more accessibility for tourists because the gallery is within walking distance from the various hotels. Therefore, CAHA now has the opportunity to generate more revenue because of the visibility of the gallery to the tourists."

Continuing her testimony, Bordallo said: "The importance of the Arts and Humanities Centers to our tourist industry cannot be emphasized enough. The promotion of the arts and culture of our people by the tourism industry reflects the industry's appreciation of and sensitivity to the culture of the people of Guam. It is also a means of further developing our people's sense of pride in their culture and island. This sense of pride and education are key elements to the survival of our culture".

John S. Salas, Director of the Department of Administration, told the Committee that the language in Bill 140 makes the Tourist Attraction Fund (TAF) more restrictive than the Territorial Highway Fund which allows the General Fund to use any of the surpluses for other purposes. He stated that currently, there is no co-mingling of the TAF with any other object classification or accounts within the General Fund.

"We have on occasions used it to pledge against a line of credit over the last several years", Salas said, "and primarily to pay for emergency situations in our payroll where our cash collections during our payroll period is not sufficient to cover the payroll in its entirety but it is not in any way co-mingled for any other purposes. We also pay in other instances some critical vendors that require payment but again, this is more of a pledge as oppose to using

it or co-mingling it with other funds. The funds is in fact still within the TAF account.

It is for that reason and in our current cash situation that we do not support the language in Bill 140.

When Senator Aguon said: "The bottom line is, what you're trying to tell me is that you support the intent of the bill but you don't support the implementation?" John Salas responded: "absolutely".

Senator Aguon said: "I hope you can understand where this island is going in terms of the overall perspective of the development of this territory. You made it very clear that tourism is our number one industry and it is something that is very critically needed, something that we need to nurture. And in order to be able to do that, you must have set-aside resources to build on. My biggest problem is that this government has created a situation where they continue to spend all the money that they have regardless of what the situation is, based on the facts that have been presented.

"What really disturbed me, and is very frustrating about the whole situation here", Senator Aguon continued, "is that the law is very clear, the law says 'that it is separate and apart from the General Fund, and only the Legislature can authorize the expenditure of that fund'".

Senator Aguon shared with the DOA Director a legal opinion from his legal counsel regarding the TAF, which states that "the expenditures made by Governor Ada, the previous administration, is illegal", and I would like for your agency, since you're in charge of the cash, to look at this opinion that was provided this Committee as far as the illegality of the expenditures made by the previous administration because I was made to understand that there is no more money in this particular fund.

"I want you to examine the expenditures made by the previous administration to find out whether it's legal and what course of action can we take if it is illegal", Senator Aguon told Salas.

John Salas told the Committee that according to the statement as of January 31, 1995, the cash balance of the TAF is approximately 2.7 million dollars. Senator Aguon asked if "cash

balance” means money available for appropriation and when John Salas did not respond, Senator Aguon said: “let’s arrange for a separate meeting so that you can have all the information, and told Ms. Pierce to have all her notes together for the meeting because he has been having a difficult time with the previous leaders trying to set a meeting to discuss the Tourist Attraction Fund”.

Addressing Ms. Pangelinan, Deputy Director of CAHA, and referring to Governor Gutierrez’ letter supporting the proposed inclusion of CAHA’s operational costs in Bill 140, Senator Aguon said: “To CAHA, I don’t know how we can provide you with funds and you have a beautiful testimony here, you sent me this letter which you said is the Governor’s testimony”.

After reading the third paragraph in the letter which states in part: “I would like to suggest however, that the inclusion of CAHA’s operational costs into the TAF fund should not create a dependency on the part of CAHA to the TAF. The sanctity, intent and integrity of the fund must be preserved to the greatest extent possible. . . .” Senator Aguon said: “I don’t know how the Governor supported the pledging of the 2.5 million for operation. “I’ll ask these questions later because I want to talk in details about money taken, money paid, all those balances but we don’t have that information”.

Senator Aguon requesting a special favor of John Salas, said: “Will you tell Joe Rivera, Acting Director of BBMR, to find the time, and I’m willing to be patient enough to see what time he’s got; so that we can all get together, not having a hearing like today not showing up, but a time when they can always show up, so that we can look at the situation and I can report this information to everyone in the Legislature. I can’t make a report right now because the only information that I have must come from you folks, because you have control of the actual cash receiving, the actual expenditures, so I need your support to be able to report properly to the rest of the senators. So ask Joe Rivera when he really has the time so that we can all sit down and have a round-table discussion when you have all the information”.

Senator Antonio Unpingco asked John Salas what happens if the Legislature passes Bill 140

with the restrictions as stated, will they be able to meet the payroll?

Salas said that they have 547 million dollars of projected revenue for which appropriations and laws have been passed against those projected revenues are estimates, to be simple, the way that the bill is crafted is so restrictive that the only way those funds could be used is for the administration to come before the Legislature and ask if we could use x-dollars from the fund to pay other obligations or other debts.

Senator Unpingco reworded his question for clarification, "Are you saying that if we were to pass the bill as it is right now, that you will not be able to pay the payroll or whatever obligation that we have presently?"

Salas said that there could be 100 million dollars in the TAF but the way the bill was crafted, TAF cannot be used to pay the payroll or any other obligation. When Senator Aguon queried, "Isn't that the existing law John?"

Salas said apparently there has been a legal opinion that say it could be used/pledged, "I'm using the word 'pledge' because that's what my legal advisor said could be done, that's what they sign off for".

Senator Sonny Orsini supports the intent and implementation of Bill 140. He said that it is imperative that the integrity of the Tourist Attraction Fund be preserved. He said: "I think the law is very clear that it is the Legislature who can authorize any expenditure of that fund and I believe the intent of this legislation is to insure that no further expenditure of this fund is done throughout this term or any other term of any administration".

There being no further witnesses, the Chairman declared the hearing adjourned.

ROUNDTABLE

APRIL 19, 1995

The Committee reconvened on April 19, 1995, at 3:30 p. m. in the conference room of Senator John Perez Aguon's office, for a roundtable discussion with DOA and BBMR staff regarding the status of the Tourist Attraction Fund, information which was not available during the public hearing on Bill 140, held April 3, 1995.

Present at the meeting were Senators John Perez Aguon, Chairman of the Committee,

Committee members Joe T. San Agustin, Vice Chairman, Francis E. Santos and Joanne M. S. Brown. Also present were John S Salas, Director, Department of Administration (DOA), John De Norcey, Comptroller, DOA, Joe Rivera, Director, Bureau Budget, Management & Research (BBMR), Frances Balajadia, Deputy Director, BBMR, Paul Leon Guerrero, Budget Analyst, BBMR, Philip Carbullido, Committee Legal Counsel, Tony Aguon, Sen. Orsini's staff, and Fred Gofigan, Sen. Unpingco's staff. Also present were David Tuncap, GVB Board Chairman, Therese C. Paulino, GVB Deputy General Manager, and Lisa Arriola, GVB Research & Publicity Specialist.

Senator Aguon opened the meeting reminding the participants that the Tourist Attraction Fund (TAF), for the longest time is the healthiest fund but in the last few years the information he gets is that the fund is "broke". He said that he was alarmed because the Legislature provided funding for the Guam Visitors Bureau, money that was very clear at the time. The projection was clear on the amount that would be collected so the Legislature set aside money for the operation of the GVB, but the money was never release from the budget for the operation of the Bureau.

"I just want to make it very clear that we have an obligation", Aguon said, "that the first responsibility as far as the TAF is concerned is to take care of the debt service of the Infrastructure Bond which is 2.5 million dollars. Second is the operation of the GVB, everything else is secondary. It is a clear violation of the law if we use the money before taking care of the fundamental needs of the Guam Visitors Bureau."

Senator Aguon encouraged Therese C. Paulino, Deputy General Manager of GVB, to stand tall and fight for what's rightfully coming to her in terms of what is authorized for her to spend, based on the TAF collection.

As an example, he said that he noted that so much of the projected TAF collection in the overall budget submitted by the Governor to the Legislature was set aside for CAHA, Parks & Recreation, GUAM Museum and GVB, and asking for the total set-aside, Paul Leon Guerrero, BBMR, responded that including the Infrastructure Bond debt service requirement, the total is 16.7 million dollars and the projected collection for 1996 is 16.5

million dollars.

Senator Aguon said: "This is something that you should be alarmed. Are you telling me now that you are eliminating the budget for the Guam Community College (GCC), for the 2+2 program, teaching our young people to acquire the skills in tourism that's an ongoing project that we budgeted for, are you eliminating that, is that the decision made to eliminate?"

At this point Joe Rivera, Acting Director of BBMR, interjected to explain how the numbers were derived. He said the numbers, referring to the funds under discussion, all take off from the General Fund.

Senator Aguon interrupted saying: "I want to restrict our discussion to the Tourist Attraction Fund, I don't mind you spending money, but do you have it".

Rivera said that the short answer to the Senator's question is that the budget bill is the authority for the Guam Community College (GCC) to raise its tuition to accommodate even the tourism program..

Repeating his question, Senator Aguon said: "The Executive Branch then made the decision to cut off the funding coming from the TAF to fund that particular program, and GCC will raise the tuition to take care of that program?" Joe Rivera responded, "yes".

"Again, in the whole scheme of things we're trying to get autonomous agencies to become autonomous", Rivera said, "and I know you don't want to speak of the General Fund but all of these decisions. . . ." Senator Aguon again interrupted: "I'm not questioning why you're doing it, I only want to know what you've done. So you're saying then that with the increase in tuition, you're going to have enough money to take care of that particular program?"

Rivera said: "If the language provided in the budget bill is enacted, 'yes'".

In response to Senator Aguon's question, Chairman Tuncap said that GVB is not aware of the provision in the budget bill as mentioned by Joe Rivera.

Senator San Agustin asked if the 1.6 million dollar GCC budget is for tourist related program. Senator Aguon informed him that the Legislature appropriated 1.6 million

dollars every year for the program.

Senator Aguon asked Therese Paulino, GVB's Deputy General Manager, if the beach cleanup is included in the 10 million dollar proposed FY'96 GVB budget, her response was negative.

When Senator Aguon inquired where is GVB going to get the fund for the beach cleanup, Paul Leon Guerrero, BBMR, said: "Just like what you did this year Senator, you went ahead and appropriated from the TAF unreserved/surplus". "But you don't have any more, you don't have a surplus here", Senator Aguon said, referring to the TAF funding outline provided by BBMR.

As Senator San Agustin noted the \$275,165 surplus listed in the TAF funding outline, Leon Guerrero told Senator Aguon that John De Norcey probably can give the available TAF balance. Senator Aguon said: "We're going to get to that but based on the figures in here, the TAF funding outline, it looks like we are not going to have a balance".

John De Norcey informed the Committee that the previous administration used 6 million dollars of the TAF in September of '94 and 2.5 million dollars in December as collaterals for two separate loans and when the loans mature the bank used the collateralized amount as payment because there was no other source of funds to pay the loans. Senator San Agustin said it is a "back door appropriation".

In answer to a question from Senator Aguon, John De Norcey said that there should be around 3 million dollars unreserved in the TAF at the end of March. Interest is credited to the TAF since last year.

Senator Aguon expressed serious concern, in terms of the budget, that he sees the 1.6 million not a part of the TAF for training our people to be a part of the industry, to really have the experience to prevent hiring from outside. He said that he is really worried about that, His other concern is cleaning the beach, and he advised the GVB Board Chairman to check it out because that's a major concern, a lot of people are complaining.

"The administration has to ask the Legislature for money to clean the beaches", Senator Aguon said, "and I don't see anything in the budget document that actually asks the

Legislature for money to clean the beaches”.

Paul Leon Guerrero, BBMR, told the Senator that if all things hold true, they looking at the end of the fiscal year for a 4 million dollar unreserved balance from which the Senator can appropriate for GCC program on top of the recommended level, and there will be sufficient funding available for maintenance of the beaches.

There being no further questions, the Chairman thanked all participants and declared the meeting adjourned.

MARK-UP MEETING

May 1, 1995

The Committee on Tourism and Transportation met to discuss Bill 140 as introduced. Present at the Mark-Up meeting were: Senators John Perez Aguon, Chairman; Carlotta Leon Guerrero; Joanne S. Brown; Judith Won-Pat Borja; and Antonio R. Unpingco, committee members. Also present were Tony Aguon, Senator Sonny Orsini's staff; Michael Carlson, Senator Francis Santos' staff; and Ben Laguana, Senator Felix Camacho's staff.

The Chairman reiterated to the members present that the purpose of the bill is to protect the integrity of the Tourist Attraction Fund (TAF) and to prevent its use for any purpose without legislative authorization, citing for example the 8.4 million dollars used by the past administration to collateralize loans and subsequently forfeited when the loans were due.

Upon Senator Joanne S. Brown's suggestion, the Committee recommended amending the bill to specifically provide that the TAF shall not be used as pledge of security or as collateral for government loans without prior authorization by the Legislature. The committee also further recommended that the Director of Administration shall make a monthly report to the Chairman of the Legislative committee which oversees the Tourist Attraction Fund.

RECOMMENDATION

The Committee recommended that Bill 140 be passed as substituted.

SENATOR
JOHN PEREZ AGUON



CHAIRMAN
COMMITTEE ON TOURISM & TRANSPORTATION

23RD GUAM LEGISLATURE

OFFICE: 479 W. O'Brien Drive · Suite 301 · Bank of Guam, Santa Cruz · Agana
MAIL: 155 Hesler St. · Agana, Guam · 96910 · (671)472-3570/1/2 · Fax: (671)477-8358

April 25, 1995

MEMORANDUM

TO: Members, Committee on Tourism and Transportation
FROM: Chairman, Committee on Tourism and Transportation
SUBJECT: Bills 17 and 140 Markup Meeting

Please be advised that I have scheduled a Markup meeting for Monday, May 1, 1995, at 9:30 a. m. in the Committee conference room located on the third floor of the "old" Bank of Guam building on O'Brien Drive in Santa Cruz, Agana.

Copies of the Committee reports on the bills are attached for your review, and please bring your copies to the meeting.

Your participation is greatly appreciated.


JOHN PEREZ AGUON

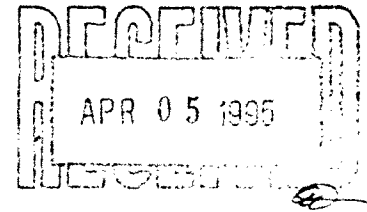
TOURIST ATTRACTION FUND
FUNDING OUTLINE
 April 19, 1995
 DISK: 95-004 FINANCIAL FILE: THFP001

MONTHS	FY90	FY91	FY92	FY93	FY94	FY95	FY96	FY97
October			1,499,697	1,272,399	755,210	1,313,025		
November			1,460,176	1,388,123	703,623	1,118,092		
December			1,280,529	1,591,226	813,148	1,176,203		
January			2,266,417	1,577,928	937,902	1,388,230		
February			1,840,005	1,512,731	1,113,520	1,628,350		
March			1,404,445	1,129,625	1,183,378			
April			1,343,248	1,331,195	1,212,883			
May			1,806,460	1,308,290	1,003,453			
June			1,566,317	1,442,702	1,046,220			
July			1,856,962	1,058,633	1,061,165			
August			1,559,403	1,009,071	1,000,000			
September			1,251,263	1,186,205	1,000,000			
Subtotal						6,623,900	0	
TOTAL ACTUAL & FORECAST	13,657,567	15,501,231	19,134,922	15,808,128	12,356,413	15,400,000	16,500,000	
PCT CHANGES		13.50%	23.44%	-17.39%	-21.84%	24.63%	7.14%	

	FY90	FY91	FY92	FY93	FY94	FY95	FY96	FY97
Annual Debt Service Requirements						2,441,561	2,451,408	
20% Annual Debt Service						488,312	490,282	
Minimum Depository Requirements						2,929,873	2,941,690	
Forecast Level						15,400,000	16,500,000	
Maximum GVB Budget Level						12,470,127	13,558,310	
GVB Budget						10,902,862	10,000,000	
Parks & Rec - Parks Maintenance						0	2,330,000	
Guam Council						0	1,126,488	
Guam Museum						0	316,939	
Others						0	0	
Return of 20% Deposit						488,312	490,282	
Surplus (Deficit)						2,055,577	275,165	



GOVERNMENT OF GUAM
AGANA, GUAM 96910
DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON ATMENESTRASION)
DIRECTOR'S OFFICE
(UFISINAN DIRECKTOT)



POST OFFICE BOX 884 * AGANA, GUAM 96910
TEL: (671) 475-1101 * FAX: (671) 477-6788

April 5, 1995

The Honorable John P. Aguon
Chairman
Committee on Tourism and Transportation
Twenty-third Guam Legislature
155 Hesler Place
Agana, Guam 96910

Dear Senator Aguon:

I would like to correct a statement I made during my testimony on Bill 140. During that hearing, I stated that Governor Gutierrez authorized the pledging of \$2.5 million dollars from the Tourist Attraction Fund (TAF) toward a \$6 million line of credit. This statement was made in error. Although a \$6 million line of credit was obtained by Governor Gutierrez in March 1995, no monies were pledged from the TAF FUND.

I apologize for attributing the pledging of TAF fund monies to Governor Gutierrez. I'm also looking forward to sitting down with you and your staff to reconcile and clarify the TAF account and fund balances.

Sincerely,


JOHN S. SALAS
Director

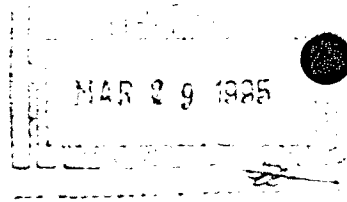
cc: Governor Gutierrez

00





Guam Visitors Bureau
Setbision Bisitan Guahan



Commonwealth Now!

30 March 1995

HONORABLE JOHN P. AGUON
Chairman, Committee on Tourism & Transportation
23rd Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Chairman Aguon:

Hafa Adai! On behalf of the Guam Visitors Bureau, thank you for the opportunity to present testimony on Bill No. 140, "An Act to Amend Title 11 GCA §30107 and to Add New §30107.1 and §30107.2 Relative to the Tourist Attraction Fund."

The Guam Visitors Bureau fully endorses the passage of Bill No. 140, as it serves to further ensure that Guam's Tourist Attraction Fund (TAF) remains separate and apart from the General Fund, and that funding from the TAF be appropriated exclusively by the Legislature for tourism-related purposes. In addition, the Bureau supports the proposed new sections mandating that unused and de-appropriated TAF funds and any interest on TAF accounts be returned to the TAF.

One recommendation the Bureau is submitting on Bill No. 140 is to include a provision that would require that occupancy taxes paid by hotels be deposited into the TAF within ten (10) days after receipt. The Bureau is recommending this addition to the measure to ensure consistency in reporting, and to ensure that deposits be made expeditiously.

At the recent GVB Quarterly General Membership Meeting and in the spirit of open dialogue, the Bureau informed its members of the ailing condition of the TAF as a result of questionable actions by the previous administration. What was once a quite healthy TAF with a

30 March 1995

Page 2

balance of over \$8 million, had unfortunately been raided for collateral for the income tax rebate loan and lump sum teacher payments, essentially leaving this Fund broke. From the Bureau's standpoint, our budget allotments for Fiscal Year 1994 were short by some \$2.1 million. We have had to contend with drastically cutting our current Fiscal Year 1995 budget from \$11.2 million to \$8.8 million, and carrying the heavy burden of re-evaluating, re-prioritizing and in some instances, eliminating our projects. Nevertheless, we are committed to maintaining a lean, but reasonable, working budget.

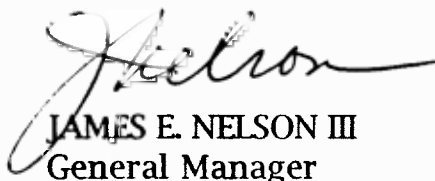
Mr. Chairman, tourism is too important to this island to leave intact any potential loopholes in the existing TAF legislation. Rest assured, the current Guam Visitors Bureau Board of Directors is committed to doing its utmost in preserving the integrity of the Tourist Attraction Fund, and will continue to support legislation toward this effort. We applaud your efforts to this end.

The Guam Visitors Bureau strongly encourages the passage of Bill No. 140. Once again, *Dangkolo na si Yu'os Ma'ase* for this opportunity to testify.

Yours truly,



DAVID TUNCAP
Chairman of the Board



JAMES E. NELSON III
General Manager



GUAM HOTEL & RESTAURANT ASSOCIATION

**TESTIMONY BEFORE THE COMMITTEE ON TOURISM &
TRANSPORTATION ON
BILL NO. 140, AN ACT TO AMEND TITLE 11,
GCA SUBSECTION 30107.1 AND TO ADD NEW SUBSECTION 30107.2
RELATIVE TO THE TOURIST ATTRACTION FUND
APRIL 3, 1995**

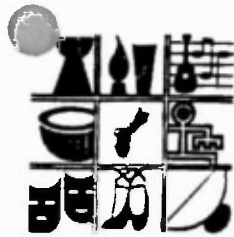
Hafa Adai Mr. Chairman, Members of the Committee:

The Guam Hotel & Restaurant Association fully supports the intent of Bill No. 140. The original intent in creating the Tourist Attraction Fund was to assure that a specific revenue source outside of the government of Guam's General Fund would be created to fund projects that would allow our visitor industry to grow. Because of ambiguities in the enabling legislation, revenues from the Tourist Attraction Fund have been used for other purposes.

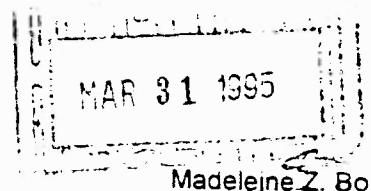
Bill No. 140 clarifies any ambiguities that may exist and will assure that funds collected and intended to be deposited in the Tourist Attraction Fund are properly disposed of. We look forward to the passage of Bill No. 140.

I would be glad to answer any questions you may have relative to the above.

Carl T.C. Gutierrez
Governor



GUAM
COUNCIL ON THE
ARTS AND
HUMANITIES
AGENCY



Madeleine Z. Bordallo
Lieutenant Governor

Deborah J. Bordallo
Executive Director

KAHAN I KUTTURAN GUAHAN

Anthony C. Corn
Chairman of the Board

Officers

March 30, 1995

Manny Crisostomo
Vice-Chairman

Marie Barretto
Secretary

Honorable John P. Aguon
Senator
Twenty-Third Guam Legislature
155 Hesler St.
Agana, Guam 96910

Dear Senator Aguon:

Board Members

Hafa Adai! On behalf of the Guam Council on the Arts and Humanities Agency (CAHA), I would like to express the Agency's concern regarding the language of **Bill 140—An Act to Amend Title 11 GCA 30107 And to Add New 30107.1 and 30107.2 Relative To The Tourist Attraction Fund.**

Lourdes Aguon

Jose Babauta

Julia Breeding

Upon reviewing the proposed Bill, it was noted that specifications were made for the **use of the funds in the Tourist Attraction Fund**. These specifications, **however**, did not mention the inclusion of art galleries, "...**(d) The construction of buildings to be used for public purposes including zoos and aquariums, museums, athletic facilities, cultural centers, and performing arts complexes...**" CAHA would like to request that there be an inclusion of **Arts and Humanities Gallery/Exhibition Centers** to this section of Bill 140.

Christina Flores

Bernadine Gines

Theresa Gutierrez

Mari Flor Herrero

There has been much publicity at the local and national level of the newly elected Congress' plan to eliminate the National Endowment for the Arts (NEA). Because the NEA is a primary source of Federal funding for CAHA, the reality of losing Federal funds has placed the agency in a serious predicament. The future of CAHA and the continued funding of Arts programs on Guam is dependent upon the Agency's ability to create a viable source of income to sustain the Arts programs on the island.

00 3 1995

With this situation in mind, CAHA has now developed a plan to promote *Cultural Tourism* on Guam. "Cultural tourism describes the phenomenon of people traveling for the sake of experiencing either another culture [the concepts, habits, skills, arts, instruments, institutions, etc., of a given people in a given period; civilization] or the cultural attractions of a particular place [its museums, festivals, galleries, artists, musicians, theater, architecture, etc.]" (*Cultural Tourism*, Bridgette Beattie McCarthy, 1991.) This concept has been capitalized upon by many of the great travel destinations of the world. Many travel brochures, travel videos and other promotional items use contemporary, historical and folk art to promote their city or country. Could you imagine promoting Japan without using the images of their great temples, the traditional kimonos or samurai swords, or the performers of their traditional dances? Could you imagine promoting France without incorporating the great art galleries of the country such as the Louvre and the historical site of Our Lady of Lourdes? Or a little closer to home, could you imagine promoting Hawaii without using the images of the traditional leis, costumes or dances? These cities/countries have gone beyond the promotional level and have provided venues for the tourists to experience the arts and culture of the people.

CAHA envisions affording the same opportunity to the visitors to Guam to experience the arts and culture of the people. CAHA is currently in the process of moving to the heart of the tourist industry on island, Tumon. At its new location, CAHA will be able to provide exhibits by local, national and international artists for visitors and our island community. The gallery will also function as a demonstration gallery. Programs will be created where there will be demonstrations of our culture's traditional visual and performing art forms. The new location also allows more accessibility for tourists because the gallery is now within walking distance from the various hotels. Therefore, CAHA now has the opportunity to generate more revenue because of the visibility of the gallery to the tourists.

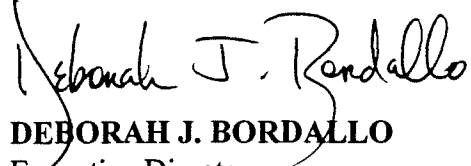
It is for this reason that CAHA requests the inclusion of **Arts and Humanities Gallery/Exhibition Centers** in Bill 140. The importance of such centers to our tourist industry cannot be emphasized enough. The promotion of the arts and culture of our people by the tourism industry reflects the tourism industry's appreciation of and sensitivity to the culture of the people of Guam. It is also a means of further developing our people's sense of pride in their culture and island. This sense of pride and education are key elements to the survival of our culture.

I erensian-mami ana' fan riku hit. Anai mas ta praktitika I erensiata, siempri mas metgut I espiritun Chamorro. Man malagu yan man nesisita lokue' na'-u fanungu' I bisita put I erensiata. Nihi ta ekstendi huyong gi bisitan-mami I espiritun Chamorro.

Our heritage enriches us. The more we practice our heritage, the stronger becomes our Chamorro Spirit. Our visitors want and need to learn about our heritage. Let us extend our Chamorro Spirit to our visitors.

Si Yu'os Ma'ase' for your time and assistance. Please feel free to contact me at 477-7413 or 472-8059 if you should have any questions or concerns.

Mas fi'et,

A handwritten signature in black ink that reads "Deborah J. Bordallo". The signature is written in a cursive style with a large, stylized initial 'D'.

DEBORAH J. BORDALLO
Executive Director

cc: Governor
Lt. Governor



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 29 1995

Ms. Deborah J. Bordallo, Director
Guam Council on the Arts and
Humanities Agency
P.O. Box 2950
Agana, Guam 96910

Dear Ms. Bordallo:


With regards to your inquiry on my position relative to Bill No. 140 "AN ACT TO AMEND TITLE 11 GCA §30107 AND TO ADD NEW §30107.1 AND §30107.2 RELATIVE TO THE TOURIST ATTRACTION FUND" as introduced by Senators Aguon and Santos, I would like to offer the following:

1. I am in full support of including the operational costs for CAHA under the Tourist Attraction Fund (TAF). CAHA for a long time was the only available venue for culturally sensitive and enriching artwork created by our talented local artists and artisans. Their works have been used time and again in promotional materials and advertisements designed to attract visitors to our island and has contributed greatly to the success of our tourist industry.
2. The intent of moving CAHA's offices and gallery to Tumon Bay is focused on providing a venue for our local artists that would be convenient and accessible to our visitors as well as our residents. This would provide our visitors an opportunity to experience and participate with our local artists by showcasing their artwork in a setting deserving of their efforts. This, I believe is in keeping with the intent of Section 2 §30107 subsection (d). Particularly with the inclusion of "art galleries" as you have suggested.
3. I would like to suggest however, that the inclusion of CAHA's operational costs into the TAF fund should not create a dependency on the part of CAHA to the TAF. The sanctity, intent and integrity of the fund must be preserved to the greatest extent possible. To this end, CAHA must remain diligent in it's pursuit of outside funding through CPAC, NEA and

any other sources at its disposal for specific project funding and the advancement of the arts and humanities. Moreover, I believe that CAHA should be innovative in developing alternative funding to keep its operational subsidy from the TAF at a minimum. This could include charging entrance fees and/or commissions on artwork sold on its premises.

I am pleased with the work that you and your staff have accomplished in the last 100 days. I look forward to your pending move bringing our arts and humanities one step closer to our visitors. I am sure that through your efforts and innovation CAHA will become a great asset to our visitor industry, our residents and the advancement of our culture and heritage.

Yours Truly,



Carl T.C. Gutierrez,
Governor of Guam



BUREAU OF BUDGET & MANAGEMENT RESEARCH
OFFICE OF THE GOVERNOR, Post Office Box 2950, Agaña, Guam 96910

CARL F. C. GUTIERREZ
GOVERNOR

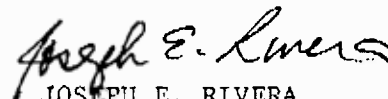
MADELINE Z. BORDALLO
I.T. GOVERNOR

JOSEPH E. RIVERA
DIRECTOR

FRANCES J. BALAJADIA
DEPUTY DIRECTOR

The Bureau requests that Bill No(s) 140 be granted a waiver pursuant to Public Law 12-229 for the following reasons:

Bill No. 140 proposes to amend Title 11, subsection 30107, Guam Code Annotated to add a new subsection 30107.1 and 30107.2 relative to the Tourist Attraction Fund (TAF). The intent restricts the usage of the Fund to those purposes specifically outlined under subsection 30107, Title 11, GCA. In addition, it requires that all unused funds and interests earned on the TAF revert back to the TAF. As such, the intent of the proposed Bill is administrative in nature and poses no fiscal impact to the General Fund at this time.


JOSEPH E. RIVERA
Acting



PACIFIC DAILY NEWS, Friday, March 31, 1995

NOTICE OF PUBLIC HEARING

Senator John Perez Aguon



23rd Guam Legislature
Chairman, Committee on
Tourism & Transportation
Public Hearing Room, Guam Legislature

Monday, April 3, 1995

9 a.m.

**Nomination of Ms Eleanor A. Hills
to the**

**Port Authority of Guam Board of Directors
for a three-year term to expire on February 16, 1998.**

**Nomination of Former Senator Pilar C. Lujan
to the**

**Guam Airport Authority Board of Directors
for a three year term to expire on January 17, 1998.**

10 a.m.

BILL NO. 17

An act to establish the Southern Advisory Tourism Council to plan for the orderly development of tourism in southern Guam. (By Sens. J. P. Aguon and J. T. San Agustin)

BILL NO. 140

An act to amend Title 11 GCA §30107 and to add new §30107.1 and §30107.2 relative to the Tourist Attraction Fund. (By Sens. J. P. Aguon and F. E. Santos)

NOTICE OF PUBLIC HEARING

id
at
3
2

SENATOR
JOHN PEREZ AGUON



CHAIRMAN
COMMITTEE ON TOURISM & TRANSPORTATION

23RD GUAM LEGISLATURE

OFFICE: 479 W. O'Brien Drive · Suite 301 · Bank of Guam, Santa Cruz · Agana
MAIL: 155 Hesler St. · Agana, Guam · 96910 · (671)472-3570/1/2 · Fax: (671)477-8358

RECEIVED R.

March 16, 1995

The Honorable Carl T. C. Gutierrez
Governor
Territory of Guam
Governor's Complex
Adelup, Guam 96910

ACKNOWLEDGEMENT RECEIPT

Received By Quirantes
Time 11:20
Date 3/20/95

Dear Governor Gutierrez,

Hafa adai. Please be advised that I have scheduled a Public Hearing in the Legislature's Public Hearing Room to begin at 9 a.m. on Monday, April 3, 1995. Please note the documents attached concerning legal issues surrounding the appointment of Former Senator Lujan. The agenda is as follows:

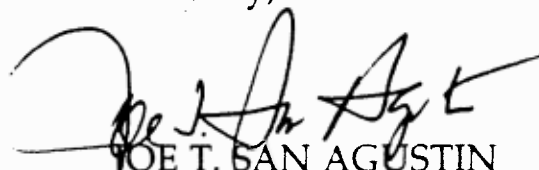
Nomination of Ms Eleanor A. Hills to the Port Authority of Guam Board of Directors for a three year term to expire on February 16, 1998.

Nomination of Former Senator Pilar C. Lujan to the Guam Airport Authority of Guam Board of Directors for a three year term to expire on January 17, 1998.

BILL NO. 17 - An act to establish the Southern Advisory Tourism Council to plan for the orderly development of tourism in southern Guam. (Introduced by Sen. J. P. Aguon and Sen. J. T. San Agustin)

BILL NO. 140 - An act to amend Title 11 GCA §30107 and to add new §30107.1 and §30107.2 relative to the Tourist Attraction Fund. (Introduced by Sen. J. P. Aguon and Sen. F. E. Santos)

Sincerely,


JOE T. SAN AGUSTIN
Acting Chairman

Enclosures



23RD GUAM LEGISLATURE

OFFICE: 479 W. O'Brien Drive · Suite 301 · Bank of Guam, Santa Cruz · Agana
MAIL: 155 Hesler St · Agana, Guam · 96910 · Tel: (671) 472-3570-1, 2 · Fax: (671) 477-8355

March 13, 1995

MEMORANDUM

TO: Members, Committee on Tourism & Transportation
FROM: Acting Chairman, Committee on Tourism & Transportation
SUBJECT: Public Hearing

Please be advised that I have scheduled a Public Hearing for 9 a.m. Monday, April 3, 1995, in the Legislative Public Hearing Room on the following:

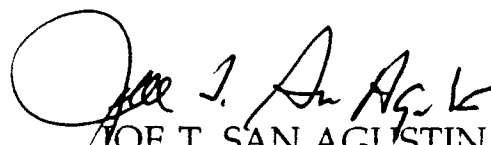
Nomination of Ms Eleanor A. Hills to the Port Authority of Guam Board of Directors for a three year term to expire on February 16, 1998.

Nomination of Former Senator Pilar C. Lujan to the Guam Airport Authority of Guam Board of Directors for a three year term to expire on January 17, 1998.

BILL NO. 17 - An act to establish the Southern Advisory Tourism Council to plan for the orderly development of tourism in southern Guam. (Introduced by Sen. J. P. Aguon and Sen. J. T. San Agustin)

BILL NO. 140 - An act to amend Title 11 GCA §30107 and to add new §30107.1 and §30107.2 relative to the Tourist Attraction Fund. (Introduced by Sen. J. P. Aguon and Sen. F. E. Santos)

All supporting documents are attached. Please note also the additional documents, also attached, concerning legal issues surrounding the appointment of Former Senator Lujan. Your attendance and participation will be appreciated.


JOE T. SAN AGUSTIN
Acting Chairman

Attachments

c: All Senators
All Media



COMMITTEE ON RULES

Twenty-Third Guam Legislature
155 Hesler St., Agana, Guam 96910

received
3-2-95

February 24, 1995

MEMORANDUM

TO: Chairperson, Committee on Tourism and Transportation

FROM: Chairman, Committee on Rules

SUBJECT: Referral - Bill No. 140

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.


SONNY LUJAN ORSINI

003528

Attachment

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No.: 140

Introduced By:

35

J. P. AGUON
F. E. SANTOS

AN ACT TO AMEND TITLE 11 GCA §30107 AND TO ADD NEW
§30107.1 AND §30107.2 RELATIVE TO THE TOURIST
ATTRACTION FUND.

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

2 Section 1. Legislative findings and intent.

3 As the economy of Guam becomes increasingly dependent on the
4 continued success of its tourist industry, the Legislature hereby reaffirms its
5 belief that it is in the public interest to have a Tourist Attraction Fund ("TAF")
6 which is funded and administered independently from other government
7 agencies and programs. The Legislature finds further that the relevant
8 statutory language that "all expenditures of the Tourist Attraction Fund shall
9 be by appropriation of the Legislature" is not sufficiently specific to protect
10 the TAF from unauthorized uses and uses contrary to the purpose of existing
11 law. Thus, the Legislature finds that Title 11 GCA §30107 must be amended to
12 emphasize that the TAF is not a part of the General Fund, that the TAF is not
13 available for any purpose not in conformity with existing enumerated
14 purposes relating exclusively to tourism, and that the TAF is not to be used
15 for any purpose without the consent of the Legislature.

16 Therefore, it is the intent of the Legislature to amend existing Guam
17 statutory law to clarify that the TAF be used only for purposes conforming
18 with those tourism purposes and values as set forth in Title 11 GCA §30107,

1 that the expenditures from the TAF shall be made only with consent of the
2 Legislature, and that de-appropriated TAF funds and interest earned on TAF
3 investments and accounts be returned to the TAF.

4 Section 2 §30107 of Title 11 GCA is amended to read:

5 "§30107. Creation of Tourist Attraction Fund.

6 There is hereby created, separate and apart from other funds
7 of the government of Guam, a fund known as the Tourist
8 Attraction Fund [~~the "Fund"~~] (hereinafter "TAF"). [~~This Fund~~] The
9 TAF shall not be commingled with the General Fund and shall be
10 kept in a separate bank account. All proceeds from taxes collected
11 under this Chapter shall be deposited in the [~~Fund~~] TAF and shall be
12 expended exclusively for purposes authorized in §§9107 and 9113 of
13 Title 12, Guam Code Annotated. The [~~Fund~~] TAF may also be used
14 to fund the following projects:

15 (a) The creation, improvement or beautification of
16 roads, avenues, boulevards, parkways, intersections,
17 bicycle paths, motor bike trails, footpaths, biking trails,
18 stairways, rivers, streams, estuaries, lagoons, or other
19 means of access and transportation;

20 (b) The development and restoration of points of
21 natural beauty or historic social or cultural significance,
22 including means of access, parking, safety devices,
23 concessions, restrooms, view points and information
24 pavilions;

25 (c) The construction of monuments, memorials,
26 statues, fountains, arches, and similar projects;

27 (d) The construction of buildings to be used for

1 public purposes including zoos and aquariums, museums,
2 athletic facilities, cultural centers, and performing arts
3 complexes;

4 (e) Landscaping, provision of decorations or the
5 enhancement of beauty of any of the projects listed in this
6 [19655] Section;

7 (f) Accessory projects reasonably necessary to
8 projects listed in this [19655] Section;

9 (g) Projects and programs identified in the Tumon
10 Bay Master Plan.

11 Except as provided in subparagraph (i) (A) of paragraph (d) of
12 §6130 of the Government Code, all expenditures of the [Fund] TAF
13 shall be made exclusively by appropriation of the Legislature. No
14 further appropriations shall be made of moneys in the [Fund] TAF
15 which have been pledged for the payment of any debt or debts
16 created pursuant to said §6130 and such moneys may be used for
17 payment of such debt or debts without further appropriations. The
18 TAF shall not be used for any purposes other than those
19 enumerated or reasonably inferred herein or for purposes other
20 than those relating to Guam tourism."

21 **Section 3. New §30107.1 and 30107.2 are added to Title 11 GCA to read:**

22 **"§30107.1. Unused TAF Funds.**

23 Notwithstanding the general provisions of §22406 of Title 5
24 GCA which requires that unused and de-appropriated funds revert
25 to the General Fund, or any other provision of Guam law to the
26 contrary, all de-appropriated or unused funds appropriated from
27 the TAF shall, in all circumstances, and whether in whole or in part,

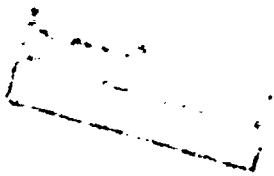
1 be returned to the TAF and not the General Fund.

2 **§30107.2. Interest.**

3 Notwithstanding the provisions of §21103, 21107 and 21110 of
4 Title 5 GCA, or any other provision of Guam Law to the contrary,
5 all interest earned on TAF-Funded investments or accounts shall be
6 returned to the TAF.

7 **Section 4. Effective Date.**

8 The provisions of this Act shall become effective immediately.



F. PHILIP CARBULLIDO
RICHARD A. PIPES
SANTA CRUZ BUILDING
SANDRA D. LUNCH
MILES D. DOLINGER

LAW OFFICES
CARBULLIDO & PIPES
A PROFESSIONAL CORPORATION
YOUNG'S PROFESSIONAL BUILDING, SUITE 107
788 NORTH MARINE DRIVE
UPPER TUMON, GUAM 96911

TELEPHONE (671) 649-5287
FACSIMILE (671) 649-7444

February 15, 1995

**VIA FACSIMILE
477-8358**

CONFIRMATION

**Senator John P. Aguon
Chairman,
COMMITTEE ON TOURISM AND TRANSPORTATION
Twenty-Third Guam Legislature
Bank of Guam
Santa Cruz Building
479 West O'Brien Drive
Agana, Guam 96910**

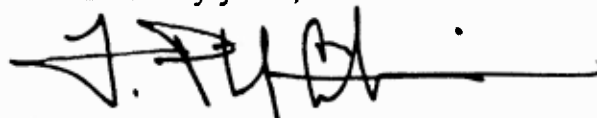
Re: Tourist Attraction Fund

Dear Senator Aguon:

Per your letter of February 6, 1995, please find enclosed our legal memorandum regarding the Governor's authority to transfer funds out of the Tourist Attraction Fund ("TAF") for non-tourism related purposes, and our first draft of legislation to clarify the TAF's independence from the General Fund.

I look forward to working with you and your staff on this issue.

Sincerely yours,



F. Philip Carbullido

Enclosure:

cc: Mr. Bil Phillips

MJD:amn/F#0016.05/MJD/Aguon/Tafcvr.ltr

7622

F. PHILIP CARBULLIDO
RICHARD A. PIPES
CYNTHIA V. ECKEB
SANDRA D. LYNCH
MILES J. DOLINGER

LAW OFFICES
CARBULLIDO & PIPES
A PROFESSIONAL CORPORATION
YOUNG'S PROFESSIONAL BUILDING, SUITE 100
766 NORTH MARINE DRIVE
UPPER TUMON, GUAM 96911

TELEPHONE (671) 649-8297
FACSIMILE (671) 649-7446

M E M O R A N D U M

CONFIRMATION

TO : Senator John P. Aguon

FROM : F. Philip Carbullido, Esq.
Miles J. Dolinger, Esq.

DATE : February 15, 1995

SUBJECT : Governor's Use of Tourist Attraction Fund As Loan Collateral

SUMMARY AND ISSUES

As part of his plan to provide for the payment of tax rebates owed to the people of Guam, Governor Ada proposed last fall that the Government of Guam take out a private bank loan. To help secure the loan as required by the Bank of Hawaii, Governor Ada ordered the transfer of monies comprising the Tourist Attraction Fund ("TAF") previously held on account by the Bank of Guam. The governor acted without the consent of the Legislature, and justified this action under the specific legislative authority of 5 G.C.A. § 22413, (hereinafter, "Line of Credit statute"), which gives the Governor the authority to arrange a line of credit, not to exceed Ten Million Dollars, with any licensed lending institution on Guam, and provides that legislative approval is only required if the loan is more than Six Million Dollars.

The primary issues are: (1) Whether the Line of Credit statute is organic; (2) Whether the Governor's authority under the Line of Credit statute extends to actually transferring money to serve as security for the loan without legislative approval; and (3) Whether money previously appropriated to the TAF is available for this purpose.

AUTHORITY TO BORROW MONEY ON BEHALF OF GOVERNMENT GUAM

The governor has specific legislative authority to arrange for a line of credit on behalf of the Government of Guam. 5 G.C.A. §22413 provides,

"Line of Credit. The Governor, on behalf of the Government of Guam, is authorized to arrange a line of credit not to exceed Ten Million Dollars with any bank or commercial lending institution licensed on Guam, provided that any

Senator John P. Aguon,
COMMITTEE ON TOURISM AND
TRANSPORTATION

February 15, 1995

agreement between any bank or commercial lending institution licensed on Guam and the Governor of Guam for a line of credit in excess of Six Million Dollars shall be subject to the approval of the legislature by resolution for the amount in excess of Six Million Dollars. . . ."

Section 22413 includes mandatory, specific terms for a line of credit, including the requirements that there be a government cash shortage, no pre-paid charges, a competitive interest rate, that interest be exempt from taxation, that funds necessary for the repayment of interest and principal be appropriated from the general fund. 5 G.C.A. § 22413(a)-(h).

The statute makes no mention of collateral or security, but provides that the Governor shall negotiate all terms for the line of credit not specifically defined therein. 5 G.C.A. §22413(e). According to a legal opinion of Former Chief Deputy Attorney General Donald L. Panllette, this latter provision empowered the Governor to pledge the TAF as collateral to negotiate a more favorable repayment term with the lender. Memo to Governor, February 22, 1994 page 4.

Even if the Governor's actions were within the scope of the Line of Credit statute, there are still questions whether the Line of Credit statute or the Governor's actions violate the Organic Act. We think they do.

Under general principles of law the Governor's powers are executive and administrative in nature, 16 Am. Jur. 2d §§ 303-305, whereas taxing and spending powers are reserved to the legislative branch. 16 Am. Jur 2d § 319. The Organic Act gives the Governor the power to supervise and control executive agencies, veto legislation, appoint and remove executive officers, faithfully execute the laws, raise militia, prepare financial reports and issue executive orders and regulations not in conflict with any other laws. Organic Act of Guam §1422. The Organic Act makes no mention of the Governor's power to incur public indebtedness or to arrange lines of credit.

The Legislature's power to make appropriations, on the other hand, is express. The Organic Act provides that, "appropriations, except as otherwise provided in this chapter, and except such appropriations as shall be made from time to time by the Congress of the United States, *shall be made by the legislature.*" Organic Act of Guam §1423(j). The Organic Act provides that legislative authority extends to all subjects of legislation of local

Senator John P. Aguon,
COMMITTEE ON TOURISM AND
TRANSPORTATION

February 15, 1995

application not inconsistent with other provisions of the Organic Act or the relevant laws of the United States, and further contemplates the Legislature's authority to issue "bonds and other obligations" as necessary. Organic Act §1423(a).

Arguably, the Line of Credit statute itself is inorganic because the Organic Act does not give the Governor the power to incur public indebtedness, an act which goes beyond the listed enumerated powers and which exceeds traditional executive functions. The Legislature's attempt to delegate its authority in enacting the Line of Credit statute may have violated the doctrine of separation of powers. The general rule is that lawmaking functions assigned exclusively to the legislature may not be delegated to any other authority regardless of any emergency or exigency. 16 Am. Jur. 2d §335. Powers which may not be delegated are those exclusively and inherently legislative in nature, as opposed to quasi-legislative or administrative powers. *Id.* at § 337. Whether the Governor's transfer of money from the TAF to secure a government loan is administrative or legislative in nature is unclear; where the negotiation of terms for a line of credit may be administrative, actually transferring Six Million Dollars under an existing and restricted appropriation is probably as exercise of legislative power.

In addition, state legislatures are said to have "plenary," i.e. exclusive, power to issue securities and obligations, (64 Am. Jur. 2d §§ 50, 69), and although Am. Jur. discusses situations where this power may be delegated to subdivisions of the state, no such provision is made for the executive. *Id.*

The Governor may try to argue that pledging the TAF as collateral was not an "appropriation," and thus did not infringe on legislative authority under Section 1423(j) of the Organic Act. Generally, an "appropriation" requires a, "designation or authorization for the expenditure of public monies for a distinct use or the setting apart from the public revenue of a definite sum for a specific object." 63 Am. Jur. 2d 429. Contrast this definition with a mere *promise* to make an appropriation to pay a debt of the state, or a transfer of an unused surplus of an appropriation to the general fund, which courts have held were not appropriations in denying recovery in suits against the state for monies promised. *Id.*; 58 Cal. Jur 3d at p. 238.

The TAF funds were actually transferred to the Bank of Hawaii and held under a lien for this particular loan. As the Governor has done more than merely promise the funds, it seems clear that the TAF monies were adequately separated and designated to be

February 15, 1995

an "appropriation." Therefore, the Governor's transfer of those funds to secure a bank loan was probably an infringement of legislative authority and a violation of separation of powers.

AVAILABILITY OF TOURIST ATTRACTION FUND

The Tourist Attraction Fund was expressly created separate and apart from other funds of the Government of Guam and its use is limited to those enumerated purposes having to do with island beautification, improvement, construction and tourism. Guam Gov. Code §19655. The statute further provides that, "all expenditures of the Fund shall be by appropriation of the Legislature." *Id.* Like other budgeted projects, the Tourist Attraction Fund gets annual appropriations, (12 GCA §9113), which are subject to the procedures of the Executive Budget Law, (5 GCA §§4101 et seq.), under which the Governor merely makes recommendations and submits a proposed budget; actual appropriations are made only after authorization by the Legislature.

By using the TAF to secure the Government's tax rebate loan, the Governor has clearly violated the express terms of the TAF statute, Gov. Code §19655.

"ILLEGAL EXPENDITURES"

Finally, this situation may also be prohibited by the "illegal expenditures" provisions of 5 G.C.A. § 22401. This statute states, in pertinent part, that,

"No officer or employee of the government of Guam, *including the Governor of Guam*, shall:

- (1) Make or authorize any expenditure from, or create or authorize any obligation under, any appropriation or fund in excess of the amount available therein, *or for other than an authorized purpose*;
- (2) Commence, continue, or proceed with any operational activity, construction, improvement, *contract, or obligation without an appropriation or fund for the payment thereof*, . . .
- (6) (i) As used in this Section, the term *appropriation* means the funds allocated by the Legislature which directs how the amount, manner and

February 15, 1995

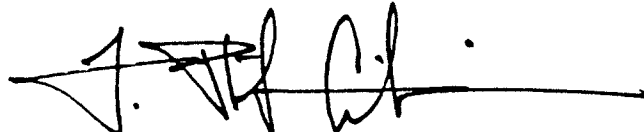
purpose of the funds are to be used."

5 G.C.A. §22401 (Enacted by P.L. 21-148 (1993))(italics added).

The Governor's reallocation of the TAF funds seems to have violated the terms of this statute because that expenditure was not made for an authorized purpose (Section 22401(1)), and was made without a proper appropriation from the Legislature directing the "amount, manner and purpose," (Section 22401(6)(i)).

CONCLUSION

A strong argument can be made that the Line of Credit statute justifying the Governor to transfer TAF funds to secure the income tax rebate loan is inorganic and infringes on the Legislature's exclusive spending power. In addition, the Governor's transfer of TAF funds without legislative approval, and the use of TAF restricted funds for an unauthorized purpose, violates the terms of both the TAF statute and the Illegal Expenditures statute.



F. PHILIP CARBULIDO

SENATOR
JOHN PEREZ AGUON



CHAIRMAN
COMMITTEE ON TOURISM & TRANSPORTATION

23RD GUAM LEGISLATURE

OFFICE: 479 W. O'Brien Drive · Suite 301 · Bank of Guam, Santa Cruz · Agaña
MAIL: 155 Hesler St · Agaña, Guam · 96910 · (671)472-3570/1/2 · Fax: (671)477-8358

February 6, 1995

ACKNOWLEDGEMENT RECEIPT

Received By Cai [Signature]

Time 2:15 pm

Date Feb. 08, 1995

F. Philip Carbullido, Esq.
Carbullido and Pipes
Young's Professional Building
788 North Marine Drive, Suite 100
Upper Tumon, Guam 96911

Dear Attorney Carbullido,

Hafa adai. Recently we have had occasion to discuss the status of the Tourist Attraction Fund and the enabling statutes which created it. As you may recall, the Governor last year utilized millions of dollars from the TAF to guarantee a loan and for other purposes.

Would you please prepare an opinion relative to the Governor's legal standing to utilize those funds in that manner, and draft whatever amendments may be necessary to prevent the recurrence of such an act.

In addition, please also provide the following:

1. Language in the draft legislation which would provide that interest earned by TAF-funded investments and accounts be placed into the TAF; and
2. Language that would amend existing law to provide that funds originally appropriated from the TAF and subsequently de-appropriated, for whatever reason, whether in whole or in part, be returned to the TAF.

If you have any questions regarding this request, please consult with Bill Phillips in my office.

Thank you in advance for your timely action on this request.

Sincerely,

[Signature]
JOHN PEREZ AGUON

Introduced

MAR 13 1995

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No.: 140(LS)

Introduced By:

J. P. AGUON
F. E. SANTOS

AN ACT TO AMEND TITLE 11 GCA §30107 AND TO ADD NEW §30107.1 AND §30107.2 RELATIVE TO THE TOURIST ATTRACTION FUND.

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

2 **Section 1. Legislative findings and intent.**

3 As the economy of Guam becomes increasingly dependent on the
4 continued success of its tourist industry, the Legislature hereby reaffirms its
5 belief that it is in the public interest to have a Tourist Attraction Fund ("TAF")
6 which is funded and administered independently from other government
7 agencies and programs. The Legislature finds further that the relevant
8 statutory language that "all expenditures of the Tourist Attraction Fund shall
9 be by appropriation of the Legislature" is not sufficiently specific to protect
10 the TAF from unauthorized uses and uses contrary to the purpose of existing
11 law. Thus, the Legislature finds that Title 11 GCA §30107 must be amended to
12 emphasize that the TAF is not a part of the General Fund, that the TAF is not
13 available for any purpose not in conformity with existing enumerated
14 purposes relating exclusively to tourism, and that the TAF is not to be used
15 for any purpose without the consent of the Legislature.

16 Therefore, it is the intent of the Legislature to amend existing Guam
17 statutory law to clarify that the TAF be used only for purposes conforming
18 with those tourism purposes and values as set forth in Title 11 GCA §30107,

1 that the expenditures from the TAF shall be made only with consent of the
2 Legislature, and that de-appropriated TAF funds and interest earned on TAF
3 investments and accounts be returned to the TAF.

4 **Section 2 §30107 of Title 11 GCA is amended to read:**

5 **“§30107. Creation of Tourist Attraction Fund.**

6 There is hereby created, separate and apart from other funds
7 of the government of Guam, a fund known as the Tourist
8 Attraction Fund [~~the “Fund”~~] (hereinafter “TAF”). [~~This Fund~~] The
9 TAF shall not be commingled with the General Fund and shall be
10 kept in a separate bank account. All proceeds from taxes collected
11 under this Chapter shall be deposited in the [~~Fund~~] TAF and shall be
12 expended exclusively for purposes authorized in §§9107 and 9113 of
13 Title 12, Guam Code Annotated. The [~~Fund~~] TAF may also be used
14 to fund the following projects:

15 (a) The creation, improvement or beautification of
16 roads, avenues, boulevards, parkways, intersections,
17 bicycle paths, motor bike trails, footpaths, biking trails,
18 stairways, rivers, streams, estuaries, lagoons, or other
19 means of access and transportation;

20 (b) The development and restoration of points of
21 natural beauty or historic social or cultural significance,
22 including means of access, parking, safety devices,
23 concessions, restrooms, view points and information
24 pavilions;

25 (c) The construction of monuments, memorials,
26 statues, fountains, arches, and similar projects;

27 (d) The construction of buildings to be used for

1 public purposes including zoos and aquariums, museums,
2 athletic facilities, cultural centers, and performing arts
3 complexes;

4 (e) Landscaping, provision of decorations or the
5 enhancement of beauty of any of the projects listed in this
6 [19655] Section;

7 (f) Accessory projects reasonably necessary to
8 projects listed in this [19655] Section;

9 (g) Projects and programs identified in the Tumon
10 Bay Master Plan.

11 Except as provided in subparagraph (i) (A) of paragraph (d) of
12 §6130 of the Government Code, all expenditures of the [Fund] TAF
13 shall be made exclusively by appropriation of the Legislature. No
14 further appropriations shall be made of moneys in the [Fund] TAF
15 which have been pledged for the payment of any debt or debts
16 created pursuant to said §6130 and such moneys may be used for
17 payment of such debt or debts without further appropriations. The
18 TAF shall not be used for any purposes other than those
19 enumerated or reasonably inferred herein or for purposes other
20 than those relating to Guam tourism.”

21 **Section 3. New §30107.1 and 30107.2 are added to Title 11 GCA to read:**

22 **“§30107.1. Unused TAF Funds.**

23 Notwithstanding the general provisions of §22406 of Title 5
24 GCA which requires that unused and de-appropriated funds revert
25 to the General Fund, or any other provision of Guam law to the
26 contrary, all de-appropriated or unused funds appropriated from
27 the TAF shall, in all circumstances, and whether in whole or in part,

1 be returned to the TAF and not the General Fund.

2 **§30107.2. Interest.**

3 Notwithstanding the provisions of §21103, 21107 and 21110 of
4 Title 5 GCA, or any other provision of Guam Law to the contrary,
5 all interest earned on TAF-Funded investments or accounts shall be
6 returned to the TAF.

7 **Section 4. Effective Date.**

8 The provisions of this Act shall become effective immediately.