



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Refer to
Legislative Secretary

JUN 20 1997

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910


OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>D. S. J.</u>
Time	<u>3:35pm</u>
Date	<u>6-20-97</u>

Dear Speaker Unpingco:

Enclosed please find a copy of Substitute Bill No. 244, "AN ACT TO REPEAL AND RE-ENACT §§4(a) AND 4(b) OF CHAPTER III OF PUBLIC LAW NO. 23-128, RELATIVE TO THE APPROPRIATION OF THE SUPPLEMENTAL ANNUITY BENEFITS TO THE GOVERNMENT OF GUAM RETIREMENT FUND.", which I have signed into law today as **Public Law No. 24-42.**

This legislation deletes the requirement of the Guam Housing and Urban Renewal Authority (GHURA) from the obligation to pay for the retirement benefits currently being paid out for retirees of the GHURA. This obligation was placed on autonomous agencies pursuant to Public Law No. 23-128, the "General Appropriation Act of 1997", however, GHURA was unable to perform this obligation due to the federal funding that supports that agency.

Very truly yours,


Carl T. C. Gutierrez
Governor of Guam

Attachment 00284

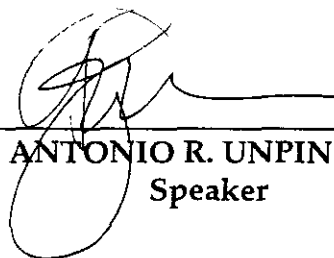
cc: The Honorable Joanne M. S. Brown
Legislative Secretary

Office of the Speaker
ANTONIO R. UNPINGCO
Date: 6.20.97
Time: 2PM
Rec'd by: M. S.
Print Name: Monique

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 244 (LS), "AN ACT TO REPEAL AND RE-ENACT §4 OF CHAPTER III OF PUBLIC LAW NO. 23-128, RELATIVE TO THE APPROPRIATION OF THE SUPPLEMENTAL ANNUITY BENEFITS TO THE GOVERNMENT OF GUAM RETIREMENT FUND," was on the 7th day of June, 1997, duly and regularly passed.




ANTONIO R. UNPINGCO
Speaker

Attested:




JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by the Governor this 13th day of June, 1997, at
8:10. o'clock A.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 6-20-97

Public Law No. 24-42

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

Bill No. 244 (LS)

As substituted by the Committee on
Power, Foreign Affairs and General
Government Services, and as amended
on the Floor.

Introduced by:

Felix P. Camacho
A. C. Blaz
T. C. Ada
F. B. Aguon, Jr.
E. Barrett-Anderson
J. M.S. Brown
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
Mark Forbes
L. F. Kasperbauer
A. C. Lamorena, V
C. A. Leon Guerrero
L. Leon Guerrero
V. C. Pangelinan
J. C. Salas
A. L.G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

**AN ACT TO REPEAL AND RE-ENACT §4 OF
CHAPTER III OF PUBLIC LAW NO. 23-128,
RELATIVE TO THE APPROPRIATION OF THE
SUPPLEMENTAL ANNUITY BENEFITS TO THE
GOVERNMENT OF GUAM RETIREMENT FUND.**

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

3 **Section 1. Legislative Findings and Intent.** The Guam Legislature
4 finds that certain autonomous agencies have had insufficient notice to budget
5 for its retirees' supplemental annuity payments in fiscal year 1997, as
6 mandated by Public Law No. 23-128, but are willing to negotiate a
7 reimbursement schedule to avoid the suspension of the annuity for the
8 balance of the fiscal year with the Government of Guam Retirement Fund.
9 The Guam Legislature intends to allow the Fund the flexibility to enter into
10 some form of promissory note with the affected agencies.

11 **Section 2.** Section 4 of Chapter III of Public Law No. 23-128 is hereby
12 repealed and re-enacted to read:

13 **"Section 4.** Twenty-four Million Fifty-seven Thousand Three
14 Hundred Two Dollars (\$24,057,302.00) to the Government of Guam
15 Retirement Fund for supplemental annuity benefits.

16 (a) Twenty-four Million Fifty-seven Thousand Three Hundred
17 Two Dollars (\$24,057,302.00) are appropriated from the General Fund to
18 the Government of Guam Retirement Fund for the benefits of those
19 employees who retired prior to October 1, 1995 for the continuing
20 provisions of Items (i) through (iv) below, and for the benefits of current
21 retirees for the continuing provisions of Items (v) through (viii) below:

1 (i) the One Thousand Two Hundred Dollars (\$1,200.00)
2 annuity benefits (to continue existing programs currently contained
3 in the semi-monthly payments);

4 (ii) the One Thousand Five Hundred Dollars (\$1,500.00)
5 supplemental annuity benefits (to continue existing programs
6 currently contained in the semi-monthly payments);

7 (iii) the Seven Hundred Dollars (\$700.00) supplemental
8 annuity benefits (to continue existing programs currently contained
9 in the semi-monthly payments);

10 (iv) the Eight Hundred Thirty-eight Dollars (\$838.00)
11 annuity benefits (to continue existing programs currently contained
12 in the semi-monthly payments);

13 (v) the Governor and Lieutenant Governor Pensions (to
14 continue existing programs currently contained in the semi-monthly
15 payments);

16 (vi) the Retiree Group Health, Dental, and Life Insurance
17 premiums (to continue existing programs currently contained in the
18 semi-monthly payments);

19 (vii) the Retiree life insurance subsidy (to continue existing
20 programs currently contained in the semi-monthly payments); and

21 (viii) to defray the cost of Medicare premiums for
22 government of Guam Retirees and their survivors who are eligible to
23 receive social security income benefits and are required under the

1 government of Guam Group Health Insurance program to pay such
2 premiums to continue to participate in such health insurance
3 program, failing which they are excluded therefrom (to continue
4 existing programs currently contained in the monthly payments).

5 (b) For fiscal year 1997, the Guam Power Authority, the Guam
6 Telephone Authority, the Guam Airport Authority, the Port Authority
7 of Guam, the Guam Economic Development Authority, the Guam
8 Housing Corporation, the Government of Guam Retirement Fund, the
9 Guam Mass Transit Authority and the Guam Visitors Bureau, shall
10 remit to the Government of Guam Retirement Fund an amount equal to
11 the number of employees which retired from each entity multiplied by
12 the amounts listed in Items (i) through (iv) in Subsection (a) of this
13 Section. The remittance shall be made in two (2) equal installments and
14 shall be due on or before December 31st and March 31st, respectively, of
15 each succeeding year. The Government of Guam Retirement Fund may
16 enter into and negotiate the terms of a promissory note with these
17 autonomous agencies to ensure uninterrupted supplemental annuity
18 payments to its retirees.

19 (c) The Government of Guam Retirement Fund may establish
20 administrative procedures to ensure the proper submission, receipt and
21 accounting of all sums remitted per Subsection (b) of this Section."

P.L. 24-42

155 Mesler Street
Agana, Guam 96910



TWENTY-FOURTH
GUAM LEGISLATURE

Senator Felix P. Camacho
Committee on Power, Foreign Affairs and General Government Services

Tel: (671)
472-3505 / 6

Fax: (671)
472-9747

May 23, 1997

The Honorable
Antonio R. Unpingco
Speaker, 24th Guam Legislature
Agana, Guam

via: Committee on Rules

Dear Mr. Speaker:

The Committee on Power, Foreign Affairs & General Government Services, to which was referred **Bill No. 244**, "An act to amend Chapter III, Section 4(a) and 4(b) of Public Law No. 23-128, relative to the appropriation of the supplemental annuity benefits to the government of Guam Retirement Fund" as substituted by the Committee herein reports back with the recommendation **TO DO PASS**.

Votes of committee members are as follows:

- 8 To Pass
- _____ Not To Pass
- _____ To The Inactive File
- _____ Abstained
- _____ Off-Island
- 6 Not Available

Sincerely,

Felix P. Camacho

Attachments

**COMMITTEE ON POWER, FOREIGN AFFAIRS
& GENERAL GOVERNMENT SERVICES
TWENTY-FOURTH GUAM LEGISLATURE
155 Hesler Street, Agana, Guam 96910**

Chairman: Senator Felix P. Camacho Vice Chairman: Senator Lawrence F. Kasperbauer Ex-Officio Member: Speaker Antonio R. Unpingco
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VOTING SHEET ON:

BILL NO. 244, "AN ACT TO AMEND CHAPTER III, SECTION 4(a) AND 4(b) OF
PUBLIC LAW NO. 23-128, RELATIVE TO THE APPROPRIATION OF THE
SUPPLEMENTAL ANNUITY BENEFITS TO THE GOVERNMENT OF GUAM
RETIREMENT FUND"

<u>COMMITTEE MEMBERS</u>	<u>INITIAL</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>
Sen. Felix P. Camacho	<i>FC</i>	✓			
Sen. Lawrence F. Kasperbauer					
Sen. Thomas C. Ada	<i>TA</i>	✓			
Sen. Elizabeth Barrett-Anderson	<i>EBA</i>	✓			
Sen. Francisco P. Camacho					
Sen. Mark C. Charfauros	<i>MC</i>	✓			
Sen. Edwardo J. Cruz, MD	<i>EJC</i>	✓			
Sen. William B. S.M. Flores					
Sen. Carlotta A. Leon Guerrero	<i>CLG</i>	✓			
Sen. Alberto A.C. Lamorena V					
Sen. Vicente C. Pangelinan	<i>VP</i>	✓			
Sen. Angel L.G. Santos					
Sen. Francis E. Santos					
Sen. Judith Won Pat-Borja	<i>JWP</i>	✓			

COMMITTEE ON POWER, FOREIGN AFFAIRS
& GENERAL GOVERNMENT SERVICES
TWENTY-FOURTH GUAM LEGISLATURE
155 Hesler Street, Agana, Guam 96910

COMMITTEE REPORT

ON

BILL NO. 244

“An act to amend Chapter III, Section 4(a) and 4(b) of Public Law No. 23-128,
relative to the appropriation of the supplemental annuity benefits to the government
of Guam Retirement Fund”

COMMITTEE MEMBERS

Chairman: Felix P. Camacho
Vice Chairman: Senator Lawrence F. Kasperbauer
Ex-Officio Member: Antonio R. Unpingco

Thomas C. Ada	Elizabeth Barrett-Anderson
Francisco P. Camacho	Mark C. Charfauros
Edwardo J. Cruz, MD	William B. S.M. Flores
Alberto A.C. Lamorena V	Carlotta A. Leon Guerrero
Vicente C. Pangelinan	Angel L.G. Santos
Francis E. Santos	Judith Won Pat-Borja

COMMITTEE REPORT
POWER, FOREIGN AFFAIRS & GENERAL GOVERNMENT SERVICES

BILL NO. 244

“An act to amend Chapter III, Section 4(a) and 4(b) of Public Law No. 23-128, relative to the appropriation of the supplemental annuity benefits to the government of Guam Retirement Fund”

I. PUBLIC HEARING

The Committee on Power, Foreign Affairs & General Government Services (CPFA&GGS) held a public hearing on Thursday, May 9, 1997, at 9:00 a.m. to hear testimony on Bill No.244, “An act to amend Chapter III, Section 4(a) and 4(b) of Public Law No. 23-128, relative to the appropriation of the supplemental annuity benefits to the government of Guam Retirement Fund”

The hearing was called to order by Senator Felix P. Camacho, Chairman of CPFA&GGS. Members present included Senators Francisco Camacho, Tom Ada, William Flores, Eduardo Cruz and Lou Leon Guerrero as guest.

Present to testify were Mr. John A. Rios, Acting Director of the Retirement Fund, Mr. Ricardo Unpingco, GPA General Manager with Mr. Randall Wiegand, GPA Comptroller and Mrs. Rita Franquez.

II. BACKGROUND

Public Law No. 23-128, stipulated that the Supplemental Annuity Benefits of \$4,238, given to retirees of certain autonomous agencies was to be funded by each respective agency in Fiscal Year 1997. In the past the benefit was paid for by General Fund revenues. The Retirement Fund was to make the bi-weekly payments throughout the year and the agencies were mandated to remit two equal installments due on or before December 31 1996 and March 31, 1997, to reimburse the Retirement Fund. As of May 1, 1997, certain agencies failed to make the remittance or attempted to request an extension for the amounts due the Retirement Fund. Because the Law provided no options to the Retirement Fund to negotiate an extension on the payments they notified each agency that it's retirees annuities will be suspended for the balance of the Fiscal Year if payments don't materialize.

Public Law No. 23-128, contained a typographical error in Section 4(a) (vii) which should read 4(a) (viii). This amendment is included within.

III. TESTIMONY

Mr. Ricardo Unpingco, GPA General Manager with **Mr. Randall Wiegand**, GPA Comptroller, offered written and oral testimony in support of this bill. GPA intends on complying with the law, however, the Retirement Fund rejected GPA's request for a payment plan through the balance of the Fiscal Year. GPA was not warned about the change in fiscal policy requiring GPA to budget for this COLA and therefore failed to factor this into account before the PUC when it filed its last rate increase petition. The COLA costs GPA \$800,000 in FY1997. Mr. Unpingco further stated that GPA should be permitted to provide its own separate yet competitive retirement plan for its retirees. His testimony is attached.

Mr. John A. Rios, Acting Director of the Retirement Fund, provided an update of outstanding balances due the Retirement Fund. He was available to respond to any inquiries. He pointed out that the Guam Housing and Urban Renewal Authority object on legal grounds to pay the annuity. On a question asked by Senator Camacho, the Retirement Fund will give each retiree a written notice about the suspension of the annuity by the end of the month. If payments fail to materialize, the Retirement Fund will suspend the payments immediately. The breakdown of agencies and their account balances is attached. The Retirement Fund submitted an update on the status of outstanding balances due as well as a short testimony supporting the bill as introduced. GHURA's letter to the Retirement Fund is attached. The Retirement Fund testimony is attached.

Mrs. Rita Franquez, a citizen, wants the Senators to protect the Retirement Fund reserves and get the autonomous agencies to pay up so that the retirees can receive their supplemental annuity benefit payments.

Senator Felix Camacho was concerned about the effect this has on the retirees. On a bi-weekly basis, the annuity amounts to \$176.57. The retirees not only need this money to buy essential goods and services they count on it as a supplement to their current retirement annuity. The Senator also noted that the Guam Memorial Hospital Authority and the Guam Waterworks Authority are exempt from the provisions of this Law, although they are autonomous agencies. The Senator expressed his disagreement over GHURA's stand not to comply with the provision of this Law and asked the Retirement Fund to look into the matter and possibly take issue with GHURA for payment. Senator Camacho asked Mr. Rios how he intends on notifying the retirees should the Retirement Fund Board maintain its stance on suspending the annuity to affected retirees. This is answered above. The Senator noted lastly that he hopes the Retirement Fund can hold off on its plan to stop the payments until after lawmakers addressed this issue, possibly by passing this bill.

Senators Vicente Pangelinan suggested to the Retirement Fund that they bill each agency bi-weekly so that each agency can remit the funds in the same manner. This pattern can be applied next Fiscal Year. The Senator objected to GPA General Manager's proposition that GPA be excluded from the COLA as formulated by Lawmakers.

Senator Tom Ada noted that the Retirement Fund has not paid the annuity and that it appears odd that they have pressed these agencies hard for remittance when they haven't made the payments too. The Senator is not sympathetic to the agencies given their outlandish spending patterns as reported by the news media.

Senator William Flores recommends that the Retirement Fund be allowed to place a lien on assets of these agencies for nonpayment. His statement is attached.

The **Bureau of Budget & Management Research**, in its Fiscal Note, states the overall impact is not tied to the General Fund.

IV. FINDINGS

The Committee finds that Bill No. 244, offers the Retirement Fund a tool to collect the funds due them, and more importantly, ensure the payments of the supplemental annuity benefits to all government of Guam retirees for the balance of this Fiscal Year. The bill is reported out with an additional sponsor and correct reference to section 4(a) (and not simply Section 4) in the act as written. The matter of exempting the GHURA from the list of agencies remains unsettled.

V. RECOMMENDATION

The Committee on Power, Foreign Affairs & General Government Services hereby reports out Bill No. 244, as substituted by the Committee with the recommendation **TO DO PASS**.



GOVERNMENT OF GUAM RETIREMENT FUND
P.O. BOX 3-C
AGANA, GUAM 96910

Telephone Nos. (671) 475-8900/8901
Facsimile No. (671) 476 8022



MAY 23 1997

Testimony on Bill 244

The Retirement Fund supports Bill no. 244, an act to amend P.L. 23-128, to allow the Fund to enter into promissory note arrangements with autonomous agencies with regard to the \$4,238 annual supplemental benefits for retirees of each agency. Our retirees, especially the ones who retired prior to the implementation of the Hay study and the \$5,440 salary adjustments, depend on this supplement to support their families. P.L. 23-128 as written requires that autonomous agencies remit payments to the Fund to pay for this benefit to retirees of their respective agencies. It also specifies that agencies remit payment in two installments due on or before December 31st and March 31st, respectively. Some agencies have expressed that they were not aware of this provision and had not budgeted for it. They have requested to make partial payments to the Fund to comply with the law, however, we have informed them that we are not authorized to accept their proposals because PL23-128 is specific as to the time and amount of payments. We support your effort to amend the law to address this concern.



GOVERNMENT OF GUAM RETIREMENT FUND
P.O. BOX 3-C
AGANA, GUAM 96910

Telephone Nos. (671) 475-8900/8901
Facsimile No. (671) 475-8922



MAY 23 1997

The Honorable Felix P. Camacho
Chairman, Committee on Power, Foreign Affairs
and General Government Services
24th Guam Legislature
155 Hesler Street
Agana, Guam 96910

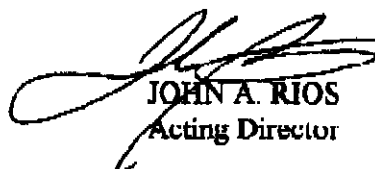
Dear Senator Camacho:

We are in receipt of \$1,327,308.00 from autonomous agencies to fund supplemental benefits for their retirees as authorized by Public Law 23-128. I have contacted Ms. Taling Taitano, Director of the Guam Housing and Urban Renewal Authority to discuss their position on this benefit for their retirees. She indicated that she will address a letter to you requesting your assistance in amending P.L. 23-128 to exclude GHURA from the list of agencies required to fund this benefit. The Retirement Fund Board of Trustees has authorized payment of this benefit for the Fund's retirees in the last Board meeting.

GPA and GTA have made partial payments and have requested that they be allowed to pay the remaining balances over the next few months. While P.L. 23-128 does not allow us to accept their proposals, they were informed that you have introduced legislation to amend the law to allow us to enter into promissory note arrangements for this purpose. PAG will remit the balance due after we review and certify the status of 43 retirees from their agency.

Should you require additional information, do not hesitate to contact me at the above numbers.

Sincerely,



JOHN A. RIOS
Acting Director

Commonwealth Now!

Government of Guam Retirement Fund
Accounts Receivable - Retirees \$4,238 Supplemental Benefits
as of May 23, 1997

Agency	No. of Retirees	Supplemental Amount	Amount Due	Amount Paid	Balance Due
GAA	28	\$4,238	\$ 116,545.00	\$ 116,545.00	
GEDA	5	\$4,238	\$ 21,190.00	\$ 21,190.00	
GHC	10	\$4,238	\$ 42,380.00	\$ 42,380.00	
GHURA	27	\$4,238	\$ 114,426.00		\$ 114,426.00
GMTA	3	\$4,238	\$ 12,714.00	\$ 12,714.00	
GPA	187	\$4,238	\$ 792,506.00	\$ 200,000.00	\$ 592,506.00
GTA	126	\$4,238	\$ 533,988.00	\$ 133,497.00	\$ 400,491.00
GVB	1	\$4,238	\$ 4,238.00	\$ 4,238.00	
PAG	231	\$4,238	\$ 978,978.00	\$ 796,744.00	\$ 182,234.00
			<u>\$2,616,965.00</u>	<u>\$1,327,308.00</u>	<u>\$1,289,657.00</u>

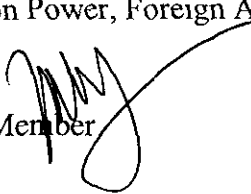


Senator William B.S.M. Flores, P.E.

From the Village of Talofofo
Representing the People of Guam

MEMORANDUM:

TO: Felix Camacho
Committee on Power, Foreign Affairs & General Government Services

FROM: Willy Flores 
Committee Member

DATE: May 9, 1997

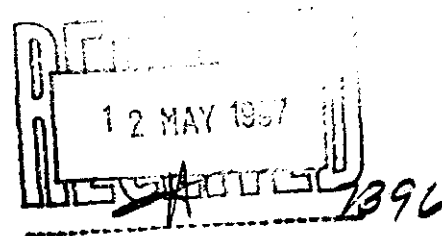
SUBJECT: GovGuam Retirees Supplemental Annuity Benefits

Following up on the public hearing this morning, I suggest that we consider allowing the Retirement Board to place liens on "delinquent" agencies and to allow them to seek payment assignments to satisfy the intent of the law and the Retirement Board's obligations.

Please consider this recommendation.

Thank you.

cc: All Members, Committee on Power, Foreign Affairs & General Government Services



The Testimony of
Ricardo S. Unpingco and Randall V. Wiegand
regarding Autonomous Agency Assessment of COLA for Retirees

Public Law 23-128 was passed in December, 1996 - after GPA had completed its budget for Fiscal Year 1997 and after GPA had filed its rate petition with the Public Utility Commission. As you are aware, the PUC made significant cuts in GPA's operating budget. GPA continues to struggle to provide adequate service to ratepayers while in a precarious financial position with two fully extended lines of credit, five million dollars in past due vendor balances, and minimal daily cash balances.

Further, GPA's legal counsel has suggested that the portion of P.L. 23-128 including the assessment of the arbitrary COLA payments may be in conflict with existing law.

Nonetheless, GPA chose not to engage the Legislature in a legal challenge, but rather to apply our best efforts towards compliance with P.L. 23-128 by identifying further areas of our operational budget where cuts may be effected in order to free up enough money to pay the \$800,000 assessment of retirement costs. Additionally, GPA attempted to reach an agreement with the Retirement Fund to make the COLA payments in four monthly installments beginning on May 1. This offer was rejected.

In light of the existing cash crisis at GPA, we believe it is completely unreasonable for the Legislature and the Retirement Fund to require or expect payment of this unforeseen, unbudgeted \$800,000 assessment in a single lump sum!

Finally, concerns have been raised within GPA of the legality of the arbitrary assessment for the benefit of persons who retired from GPA service prior to 10/1/95 only. If the Legislature intends for GPA to bear this burden into the future, we recommend the legality of excluding subsequent retirees be thoroughly scrutinized so as to avoid GPA's involvement in a legal battle over this matter in the near future.

GHURA

Guam Housing and Urban Renewal Authority
Aturidat Ginima' Yan Rinueban Siudat Guahan
117 Bien Verida Avenue • Sinajana, Guam 96926
Phones: (671) 477-9851 to 4 • Fax: (671) 472-7565 • TTY # (671) 472-9701



Carl T. C. Gutierrez
Governor

Madelaine Z. bardselle
Lieutenant governor

Taling M. Takana
Executive Director

Jose T. San Nicolas
Deputy Director

Board of Commissioners

David N. Sanford
Chairman

Glorina Q. Perez
Vice Chairperson

Soledad A. Lujan
Member

Jaime D. S. Paulino
Member

Jesus S. Okada
Member

Juan C. Wusstig
Member

Vicente Q. Sanchez
Member

MAY 02 1997

MEMORANDUM

TO: Acting Director, Government of Guam Retirement Fund

FROM: Executive Director

SUBJECT: Funding for Supplemental Retirees Benefits
Public Law 23-128

The Guam Housing and Urban Renewal Authority (GHURA) is in receipt of the Retirement Fund Director's March 21, 1997 letter requesting remittance of \$114,426.00 to cover supplemental benefits for 27 retirees, pursuant to Public Law 23-128, and your letter of April 9, 1997 advising that the Retirement Fund Board has directed discontinuance of supplemental benefit payments to the affected retirees if remittance is not made by May 1, 1997.

The GHURA Board of Commissioners has been advised by counsel that Section 4(b) of Public Law 23-128 is unenforceable as to GHURA.

As you may know, GHURA receives no local funding. The Legislature is without authority to "re-appropriate" the federal funds that GHURA receives for its programs and operations. GHURA would be in violation of both local and federal law if it remitted the funds requested in the Retirement Fund Director's letter of March 21, 1997.

Local law provides that "No new program created by the Legislature . . . shall have force or effect unless funding for such program is appropriated from local funds to finance the cost of implementing such program." 5 GCA §4113. A 1978 decision by Jude Cristobal Duenas confirmed, as a matter of federal law pursuant to the Organic Act, that funds appropriated or granted to the government of Guam directly from the federal government cannot be re-appropriated by the Guam Legislature.



Acting Director, Government of Guam Retirement Fund

Page Two

MAY 02 1997

[The Organic Act] is paramount to local legislation and provides that the United States Congress can make appropriations directly to the government of Guam. Where these appropriations or grants completely fund a specific purpose without the need of local funding, and where the appropriation or grant does not provide for local legislative control, there is no authority for the Guam Legislature to assume the responsibility for reappropriating these funds.

Wong v. Camina, 2 Guam Reports 132, 133 (1978).

The provisions of Public Law 23-128 that direct GHURA to fund supplemental payments to retirees put both of our boards in an untenable position. The GHURA Board of Commissioners understands that the Retirement Fund Board cannot continue to fund benefits for which it has no money. At the same time, the GHURA Board of Commissioners would place the Authority's standing with the federal Department of Housing and Urban Development (HUD) in jeopardy and risk the loss of continued HUD funding if it were to use federal funds as a source for retiree benefits.

Based on the advice of counsel, the Board of Commissioners has determined to respectfully decline the Retirement Fund's request for remittance at this time. However, the Authority remains open to the consideration of an alternative solution, if one can be found that is legal and does not compromise GHURA's mission of providing decent and affordable housing for the people of Guam.


TALING M. TAITANO

cc: Governor of Guam
Bureau of Budget & Management Research

**FISCAL NOTE
BUREAU OF BUDGET AND MANAGEMENT RESEARCH**

BBMR-F7

MAY 09 1997

Bill Number: 244 Date Received: May 06, 1997
 Amendatory Bill: Yes Date Reviewed: May 07, 1997

Department/Agency Affected: Government of Guam Retirement Fund
 Department/Agency Head: Joseph Torres, Acting Director
 Total FY Appropriation to Date: Autonomous

Bill Title (preamble): AN ACT TO AMEND CHAPTER III, SECTION 4 AND 4(b) OF PUBLIC LAW NO. 23-128, RELATIVE TO THE APPROPRIATION OF SUPPLEMENTAL ANNUITY BENEFITS TO THE GOVERNMENT OF GUAM RETIREMENT FUND.

Change in Law: Amends Chapter III, Section 4 and 4(b) of P.L. 23-128.

Bill's Impact on Present Program Funding:

Increase _____ Decrease _____ Reallocation _____ No Change X

Bill is for:

Operations _____ Capital Improvement _____ Other X

FINANCIAL/PROGRAM IMPACT

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)			
PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
<i>Autonomous</i>	<i>1/</i>		

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL	<i>1/</i>					
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? Yes -- IF NO, ADD'L AMOUNT REQUIRED \$ _____
 AGENCY/PERSON/DATE CONTACTED: _____

ESTIMATED POTENTIAL MULTI-YEAR REVENUES						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	<i>1/</i>					
OTHER						
TOTAL						

ANALYST *md* DATE *05/07/97* DIRECTOR *Joseph Rivera* DATE *MAY 08 1997*
 M. Dizon Joseph E. Rivera, Acting

FOOTNOTES: *See attached.*

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Bill 244 proposes to amend a P.L. 23-128 to allow the Government of Guam Retirement Fund to enter into and negotiate the terms of a promissory note with the various autonomous agencies to ensure uninterrupted supplemental annuity payments to its retirees. The fiscal effect of such a measure does not appear to directly affect the General Fund because autonomous agencies are funded with their own revenues. However it may have a minimal indirect affect on the government's General Fund, but because the terms of the proposed negotiations are unknown the affect is unknown at this time.