

Office of the Governor of Guahan

P.O. Box 2950 Hagåtña, GU 96932  
Tel: (671) 472-8931 • Fax: (671) 477-4826 • Email: governor@guam.gov

Felix P. Camacho  
Governor

Michael W. Cruz, M.D.  
Lieutenant Governor

Office of the Speaker  
Judith T. Won Pat, Ed.D.  
Date: 12/13/2010  
Time: 4:56pm  
Received by: [Signature]

Honorable Judith T. Won Pat, Ed.D  
Speaker  
*I Mina' Trenta Na Liheslaturan Guahan*  
155 Hessler Street  
Hagåtña, Guam 96910

DEC 13 2010

2010 DEC 14 AM 8:47  
MLW

Dear Speaker Won Pat:

Submitted herewith is Bill 438-30 (COR), "AN ACT TO ADD NEW SUBSECTIONS (5), (6), (7) AND (8) TO §13109 (a), CHAPTER 13 OF TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO SECTION 30 FUNDS AND OTHER FEDERAL MATTERS," which I have vetoed.

The documents requested for in Bill No. 438 are available under the Sunshine Reform Act of 1999 except information that is otherwise protected by federal and local law. Section 30 cash advance request to the Secretary of the United States Department of the Treasury is a function of the executive branch. The Organic Act states that the Secretary of Treasury shall remit to the government prior to the commencement of any fiscal year Section 30 funds which the Governor has estimated will be collected during the next fiscal year. The difference in amounts between estimated and collected is made up in subsequent remittals. Bill No. 438 proposes to have the Special Accounting Service comprised of executive and legislative officers concur or recommend a revised Section 30 cash advance which the committee could already do so as long as it does not violate the Organic Act. As previously stated, this information is available to *I Liheslaturan Guahan* except as otherwise protected by law. As a matter of fact, the information requested in Bill No. 438 has been provided by the departments when requested by *I Liheslaturan Guahan*. Therefore, Bill No. 438 is not necessary and as such I have vetoed the measure.

*Sinseru yan Magåhet,*

FELIX P. CAMACHO  
*I Maga' Låhen Guahan*  
Governor of Guahan

Attachment

I MINA'TRENTA NA LIHESLATURAN GUÅHAN  
2010 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 438-30 (COR), "AN ACT TO ADD NEW SUBSECTIONS (5), (6), (7) AND (8) TO §13109(a), CHAPTER 13 OF TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO SECTION 30 FUNDS AND OTHER FEDERAL MATTERS", was on the 30<sup>th</sup> day of November 2010, duly and regularly passed.

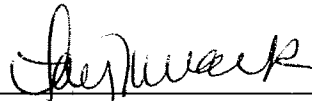


Judith T. Won Pat, Ed. D.  
Speaker

Attested:

  
Tina Rose Muña Barnes  
Legislative Secretary

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This Act was received by I Maga'lahaen Guåhan this 1st day of Dec, 2010, at  
1100 o'clock A.M.



Assistant Staff Officer  
Maga'lahaen's Office

APPROVED:

  
FELIX P. CAMACHO  
I Maga'lahaen Guåhan

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

***I MINA'TRENTA NA LIHESLATURAN GUÅHAN***  
**2010 (SECOND) Regular Session**

**Bill No. 438-30 (COR)**

As substituted by the Committee on Appropriations,  
Taxation, Banking, Insurance, Retirement and Land,  
and amended on the Floor.

Introduced by:

v. c. pangelinan  
T. R. Muña Barnes  
Judith T. Won Pat, Ed.D.  
T. C. Ada  
V. Anthony Ada  
F. B. Aguon, Jr.  
F. F. Blas, Jr.  
E. J.B. Calvo  
B. J.F. Cruz  
J. V. Espaldon  
Judith P. Guthertz, DPA  
Adolpho B. Palacios, Sr.  
R. J. Respicio  
Telo Taitague  
Ray Tenorio

**AN ACT TO *ADD* NEW SUBSECTIONS (5), (6), (7) AND  
(8) TO §13109(a), CHAPTER 13 OF TITLE 2, GUAM  
CODE ANNOTATED, RELATIVE TO SECTION 30  
FUNDS AND OTHER FEDERAL MATTERS.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that with various parts of the military buildup in progress, the need to accurately  
4 forecast the amount of the Section 30 funds which is due to Guam is essential for  
5 development of sound fiscal policy strategies.

1           In May 2009, members of the Executive Branch and the Guam Economic  
2 Development Authority made a presentation to Standard and Poors, which  
3 estimated that by 2017 Section 30 funds will increase to \$133.5 Million Dollars a  
4 year. This is a \$90 Million Dollars or three hundred nine percent (309%) increase  
5 over Fiscal Year 2010.

6           As outlined in the Organic Act of Guam, *I Maga'lahaen Guåhan*, with the  
7 concurrence of the government comptroller, estimates forthcoming duties, taxes  
8 and fees, also referred to as Section 30 funds, which are remitted to Guam prior to  
9 the start of said fiscal year.

10           In Fiscal Years 2003 and 2004 the requests submitted for remittance to the  
11 government of Guam by the Chief Executive were overestimated by Sixteen  
12 Million Five Hundred Twenty Thousand Fifty-two Dollars (\$16,520,052), which  
13 resulted in an overpayment that was required to be repaid to the federal  
14 government. The federal government recouped this overpayment by reducing the  
15 Section 30 remittance in the amount of Five Million Five Hundred Six Thousand  
16 Six Hundred Eighty-four Dollars (\$5,506,684) in Fiscal Years 2007, 2008 and  
17 2009.

18           In Fiscal Years 2005 and 2007, the Chief Executive again submitted  
19 remittance requests which were overestimated by Twenty-three Million Two  
20 Hundred Thirty-three Thousand One Hundred Eighty-one Dollars (\$23,233,181).  
21 To recoup this overpayment of Section 30 funds, the amount of Five Million Eight  
22 Hundred Eight Thousand Two Hundred Ninety-five Dollars (\$5,808,295) in Fiscal  
23 Years 2010, 2011, 2012 and 2013 have and will be reduced in each of these years.

24           *I Liheslaturan Guåhan* finds that the practice of overestimating Section 30  
25 advance requests impacts the amount of funds available for appropriation in future  
26 fiscal years. An example of the negative impact of this practice was the island  
27 experiencing budget shortfalls, which led to the government-wide increases of

1 certain fees and the implementation of new fees for services previously provided at  
2 no charge to residents. Recent pledges of Section 30 funds for debt service leave  
3 little room for error without impacting government of Guam operations and bond  
4 ratings.

5 *I Liheslaturan Guåhan* further finds the need for fiscal responsibility among  
6 government officials extends to the federal sources of revenues, which our island is  
7 entitled to receive. We must not only project the amount of Section 30 funds due  
8 but must track the movement of personnel to recapture any additional funds or  
9 reimburse any funds as a result of said personnel movements.

10 It is, therefore, the intent of *I Liheslaturan Guåhan* to task the Office of  
11 Finance and Budget, the Special Accounting Service, and the Special Economic  
12 Service with the responsibility of compiling and providing to *I Liheslaturan*  
13 *Guåhan* and *I Maga'lahen Guåhan* as accurate a forecast as possible of the amount  
14 of Section 30 funds to be expected.

15 Recent government-wide audit findings highlighted issues related to  
16 incorrect classification of reimbursements as revenue as well as garnishment of  
17 federal grant monies due to the non-payment of monies due to federal departments  
18 for services rendered.

19 *I Liheslaturan Guåhan* finds that the dollar amount of these highlighted  
20 transactions materially affect current and future funding of the government of  
21 Guam, and therefore should be automatically transmitted as communication for  
22 purposes of examination and planning by *I Liheslaturan Guåhan*.

23 **Section 2.** New Subsections (5), (6), (7) and (8) are hereby *added* to  
24 §13109(a), Chapter 13 of Title 2, Guam Code Annotated, to read:

25 “(5) (A) *No later than* fifteen (15) days after the end of the third  
26 quarter of each fiscal year, *I Maga'lahen Guåhan* (the Governor of Guam)  
27 *shall* make available in a report to the Speaker of *I Liheslaturan Guåhan* and

1 the Office of Finance and Budget all correspondence between the United  
2 States Department of the Treasury, the Department of Interior, the Office of  
3 Insular Affairs, or its successor, and any other entities of the United States  
4 Government related to prior and future fiscal year estimates and  
5 reconciliations of duties, fees and taxes (also referred to as Section 30 funds)  
6 remitted prior to the commencement of the forthcoming fiscal year.

7 (B) The report *shall* also contain the Section 30 Cash Advance  
8 Request to the Secretary of the United States Department of the Treasury or  
9 his representative for the immediate forthcoming fiscal year.

10 (C) *Prior to* the issuance of the report outlined in subsection (A),  
11 the Bureau of Budget and Management Research and the Department of  
12 Revenue and Taxation *shall* present to the Special Accounting Service all  
13 data and information used to develop the request outlined in subsection (B).  
14 The Special Accounting Service *shall* evaluate and certify by a majority of  
15 members, concurrence of the Section 30 Cash Advance Request by *I*  
16 *Maga'lahi* (the Governor) or provide a revised recommendation.

17 (6) *No later than* fifteen (15) days after receipt of any United States  
18 Department of the Treasury warrants issued to Guam relative to transactions  
19 with the Internal Revenue Service, pursuant to Section 30 of the Organic  
20 Act, *or* the Guam Territorial Income Tax, *I Maga'lahaen Guåhan* (the  
21 Governor of Guam) *shall* transmit to the Speaker of *I Liheslaturan Guåhan*  
22 and the Office of Finance and Budget all correspondence between the United  
23 States Department of the Treasury, the Department of Interior, the Office of  
24 Insular Affairs, or its successor, and any other entities of the United States  
25 Government related to said warrants.

26 (7) *No later than* fifteen (15) days after receipt of any United States  
27 Department of the Treasury notice of garnishments, *I Maga'lahaen Guåhan*

1 (the Governor of Guam) *shall* transmit to the Speaker of *I Liheslaturan*  
2 *Guåhan* and the Office of Finance and Budget all correspondence between  
3 the United States Department of the Treasury, the Department of Interior,  
4 the Office of Insular Affairs, or its successor, and any other entities of the  
5 United States Government related to said garnishments.

6 (8) *No later than* fifteen (15) days after the end of the third quarter  
7 of each fiscal year, *I Maga'lahen Guåhan* (the Governor of Guam) *shall*  
8 transmit to the Speaker of *I Liheslaturan Guåhan* and the Office of Finance  
9 and Budget the projected provision for tax refund data by provision category  
10 by quarter for the most recent five (5) calendar years and the projection for  
11 the immediate forthcoming calendar year.”

12 **Section 3. Effective Date.** This Act *shall* become effective upon  
13 enactment.

14 **Section 4. Severability.** *If* any provisions of this Act or the application  
15 thereof to any person or circumstance is held invalid, such invalidity *shall not*  
16 affect any other provision or application of this Act which can be given effect  
17 without the invalid provision or application, and to this end the provisions of this  
18 Act are severable.