



# House Journal

## EIGHTH SPECIAL SESSION, 2008

First Day

Friday, July 30, 2008

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened its First Day, Eighth Special Session on Friday, July 30, 2008, at 2:10 p.m., in the House Chamber on Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Arnold I. Palacios, Speaker of the House, presided.

A moment of silence was observed.

The Clerk called the roll and seventeen members were present; Representative Ray N. Yumul, Representative Oscar Babauta and Representative Rosemond Santos were excused.

### INTRODUCTION OF BILLS

H. B. NO. 16-131: A BILL FOR AN ACT TO AMEND 4 CMC § 8182 TO AVAIL NMC CREES OF THE SPECIAL WATER RATES ESTABLISHED FOR FARMERS AND RANCHERS; AND FOR OTHER PURPOSES. (REP. RAMON A. TEBUTEB +2)

Representative Tebuteb: If there is no objection, I would like this be put on calendar, Mr. Speaker.

There was no objection.

Speaker Palacios: When we get to the calendar I will discuss that.

Representative Tebuteb: Thank you.

H. L. B. NO. 16-19: (REP. RAMON A. TEBUTEB)

Representative Tebuteb: I would like to ask any member if you are happy and interested please.

There was no objection.

Speaker Palacios: Thank you.

H. B. NO. 16-132: A BILL FOR AN ACT TO AUTHORIZE THE MARIANAS VISITORS AUTHORITY TO REGULATE TOUR OPERATORS AND TOUR GUIDES BY AMENDING 4 CMC § 2103; AND FOR OTHER PURPOSES. (REP. JOSEPH C. REYES)

H. B. NO. 16-133: A BILL FOR AN ACT TO REPEAL AND REENACT TITLE 4, CHAPTER 10, AS AMENDED BY PUBLIC LAW 15-16; TO REPEAL AND REENACT SECTION 4 OF PUBLIC LAW 15-16; AMEND 3 CMC § 4331(K) AND FOR OTHER PURPOSES. (REP. JOSEPH C. REYES)

Speaker Palacios: Are there any more introduction of Bills? Representative Benavente.

Representative Benavente: Thank you Mr. Speaker. I have an unnumbered bill to introduce. It is a bill for an act to require government officers and employees to comply with request for public records by a member of the Legislature by amending 1 CMC §1308 and for other purposes. Thank you.

H. B. NO. 16-134: A BILL FOR AN ACT TO REQUIRE GOVERNMENT OFFICERS AND EMPLOYEES TO COMPLY WITH REQUESTS FOR PUBLIC RECORDS BY A MEMBER OF THE LEGISLATURE BY AMENDING 1 CMC § 1308; AND FOR OTHER PURPOSES. (REP. DIEGO T. BENAVENTE)

Speaker Palacios: Thank you. Are there any other bills? Representative Hofschneider.

Representative Hofschneider: Thank you Mr. Speaker, I have an unnumbered bill. A bill for an act to establish a Commonwealth Autism Commission to develop a state plan to guide services for individuals autism spectrum disorders and for other purposes, introduced by myself and I welcome others to sponsor.

H. B. NO. 16-134: A BILL FOR AN ACT TO ESTABLISH A COMMONWEALTH AUTISM COMMISSION TO DEVELOP A STATE PLAN TO GUIDE SERVICES FOR INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS; AND FOR OTHER PURPOSES. (REP. HEINZ S. HOFSCHEIDER)

Speaker Palacios: Thank you. Are there anymore? Okay.

## INTRODUCTION OF RESOLUTIONS

H. R. NO. 16-47: A HOUSE RESOLUTION TO CONGRATULATE AND TO RECOGNIZE THE ASIA PACIFIC REGIONAL LITTLE LEAGUE (ASPAC) COMMITTEE FOR THEIR OUTSTANDING VOLUNTEER WORK IN ORGANIZING THE 2008 ASIA PACIFIC REGIONAL LITTLE LEAGUE BASEBALL TOURNAMENT THAT WAS HELD ON SAIPAN FROM JUNE 28 – JULY 3, 2008. (REP. EDWARD T. SALAS)

H. R. NO. 16-48: A HOUSE RESOLUTION TO CONGRATULATE THE CNMI JUNIOR LEAGUE TEAM FOR GARNERING SECOND PLACE IN THE 2008 ASIA PACIFIC REGIONAL LITTLE LEAGUE BASEBALL TOURNAMENT THAT WAS HELD ON SAIPAN FROM JUNE 28 – JULY 3, 2008. (REP. EDWARD T. SALAS)

H. R. NO. 16-49: A HOUSE RESOLUTION TO CONGRATULATE THE CNMI SENIOR LEAGUE TEAM FOR GARNERING SECOND PLACE IN THE 2008 ASIA PACIFIC REGIONAL LITTLE LEAGUE BASEBALL TOURNAMENT THAT WAS HELD ON SAIPAN FROM JUNE 28 – JULY 3, 2008. (REP. EDWARD T. SALAS)

Representative Salas: I would like to indulge the members to put this as committee as a whole and also to place it on the calendar.

There was no objection.

Speaker Palacios: So ordered these resolutions are ordered to be on today's resolution calendar. Are there any more resolutions? Representative Apatang.

H. J. R. NO. 16-11: A HOUSE JOINT RESOLUTION AUTHORIZING THE PUBLIC SCHOOL SYSTEM (PSS), ON BEHALF OF THE GOVERNMENT OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, TO INCUR A PUBLIC DEBT UP TO \$20,000,000.00 (TWENTY MILLION U.S. DOLLARS) FOR THE FINANCING OF THE CONSTRUCTION OF A GYMNASIUM AT SAIPAN SOUTHERN HIGH SCHOOL, KAGMAN HIGH SCHOOL, HOPWOOD JR. HIGH SCHOOL, ROTA HIGH SCHOOL, AND TINIAN JR./SR. HIGH SCHOOL; AND CLASSROOM RENOVATION AND OTHER CAPITAL IMPROVEMENT PROJECTS BY THE PUBLIC SCHOOL SYSTEM, BY AFFIRMATIVE VOTE OF TWO-THIRDS OF THE MEMBER OF EACH HOUSE OF THE LEGISLATURE PURSUANT TO ARTICLE X SECTION 3 OF THE COMMONWEALTH CONSTITUTION. (REP. DAVID M. APATANG +3)

Representative Apatang: I welcome anybody else who wants to sign it.

### **MESSAGES FROM THE GOVERNOR**

Speaker Palacios: Representative Hofschneider.

Representative Hofschneider: Thank you Mr. Speaker. Governor's Communication 16-153, Mr. Speaker, this is relating to deleting previously establish threshold of \$500,000 for CUC to borrow in the market. I know that there is a lot of back and forth opinions going on with the Legislature but I think that, one, the Constitution for all intense and purposes made it very clear that legislating is the purview of the Legislature and it is not an Executive function. Reorganizing the government is the purview of the Executive Branch but when you go beyond and you legislate that is usurpation of legislative power. The fact that it takes two to tangle in the respect of the Legislative Branch the Senate has to act and the House has to act consistently on the same plain. That means that in order for us to stop this provision where it is included in the Executive Order taking out the \$500,000 restriction that means you know the skies is the limit. The Senate and the House has to be consistent in its decision. If one acts contrary to the other then the effect of the Executive Order becomes law sixty days thereafter. That means if the Senate does not do anything and just sit by and allow the sixty days to expire whereby the House may take the action of objecting or deleting or amending or killing the entire Executive Order it is fruitless because both Houses have to act either in favor or oppose to the Executive Order for it to have an effect. The fact that the Constitution, Article X, is very specific, that no Branches of the government of the CNMI, its instrumentalities, or its subdivisions may borrow for operations. The attempt to continue taking a stab based purely on legal opinions is posing a chaotic approach to the Commonwealth and in fact it may appear now that there is an obvious disrespect to the Constitution particularly Article X of our Constitution whereby prohibiting borrowing of any sort by any entity of the CNMI government. There is a remedy and the remedy is if two branches of government are in disagreement then there is a certified that should be

posed to the Supreme Court and have the Supreme Court answer that, but it is quite disturbing that this is not the first attempt that an Administration has proposed to borrow for operations. As I recall dating back as far back as Froilan Tenorio's Administration, they have in fact exhaustively researched the legal parameters of Article X and the entire CNMI Constitution as to the permissibility of the CNMI its instrumentalities or subdivisions borrowing for operations and they have in fact stayed away conclusively being convinced that borrowing for operations is prohibited under the Constitution unless ratified by the people themselves. Now, borrowing for Capital Improvement Projects (CIP) infrastructures those are permitted. I know that there are complications being realized with MPLT and the Executive Branch as to Public Law 16-7 there is reluctance now that the intent of Public Law 16-7 which was recently passed and signed into law allowing the advancement of income from MPLT because if they advanced it then that constitutes borrowing one, it would contradict the fiduciary of MPLT in fact by breaking the principle not interest. So I am disturbed Mr. Speaker if I know that we have sixty days to think about this but the fact that if we do not do anything to amend Executive Order and disallowing and or emplacing a legislation before the sixty days is up and making it very clear that borrowing for operations can only be achieved if through an initiative of some sort and ratified by the people themselves allowing us to borrow for operations. It is fitting and it is the responsibility of the Legislature not to turn away from the Constitutional prohibition under Article X of our Constitution and by sitting idly by and allowing the sixty days to expire therefore Executive Order may have a force and effect thereafter and may proceed based on legal opinions that they may borrow for operations. It will be setting precedence in the wrong direction it will be setting precedence as to this 16<sup>th</sup> Legislature is an accomplice or complicit to be very specific to the violations of the Constitution of the Northern Marianas about borrowing for operations. We have no other choice but to amend the Executive Order or preempt it with a legislation that clearly is consistent with Article X of our Constitution or prohibiting borrowing from any sort for operations. Thank you Mr. Speaker.

Speaker Palacios: Thank you. Representative Benavente.

Representative Benavente: Thank you Mr. Speaker. The Constitution actually allows the Governor the authority to reorganize and in the process of that authority it proposes to change existing law there in the provision as stated by Representative Hofschneider where the Legislature then has the sixty days to either amend or reject that change in existing law and if not then it actually has the force and effect of law. The provision of the restriction on the \$500,000.00 that came with the reorganization of the CUC I believe where the Governor did have the authority because I believe within the constitutional language on reorganization it talks about reorganizing the Executive Branch. So the \$500,000.00 would have then the force and effect of law presently, I think the concern that I would have is that without any consideration for reorganizing its departments and agencies, does the Governor then have the authority to go in and use the Executive Order authority to change existing law and that I believe Mr. Speaker should be a question to the legal counsel because I do not think that the Governor under Constitution goes beyond the authority of the Governor to reorganize the Executive Branch and in this case the \$500,000.00 has the force and effect of existing law there is no proposal to reorganize further CUC to make any changes within the CUC and goes directly into amending an existing force and effect of law. So that would be my question Mr. Speaker and I know that we do have the sixty days to consider this action that this proposal would not become effective to after sixty days, but that is something I believe that the members and the legal counsel should consider. Thank you.

Speaker Palacios: Thank you. Representative Reyes.

Representative Reyes: Thank you Mr. Speaker, I kindly ask that you get a legal opinion from the House counsel with regards to Executive Order 08-09 for dissemination to the members with regards to this. Thank you.

Speaker Palacios: Representative Hocog.

Representative Hocog: Thank you Mr. Speaker, both Representative Hofschneider and Representative Benavente made a good remarks in respect to a possible controlling of the Constitutional obligation to get a loan from MPLT is very clearly stated in the Constitution that we cannot do that to use that for operation, but I believe Mr. Speaker, this Executive Order amending the borrowing power Executive in particular CUC from \$500,000 to \$5 million is purported probably from Public Law 16-7. I understand that there is some concerns by MPLT regarding the release of the earmark for the next two fiscal year and what this Executive Order is trying to entail probably Mr. Speaker is to ensure that MPLT will be hog by the Executive Order that the Governor just sent to us along with Public Law 16-7. I would conform to this Executive Order Mr. Speaker, to increase the \$500,000 to what Public Law 16-7 so is stated in the amount of \$3.4 million. I cannot find any good reason why MPLT Trustees will be so hesitant if they are certain in the first place when the question was asked whether the anticipated earmarking of MPLT interest in the next two years is safe to assume on an annual basis that the Commonwealth or the General Fund will receive \$1.7 million. They had so stated that it is very safe to earmark a figure in the amount of \$1.7 million each fiscal year and to go back to the worse scenario when Froilan was then the Governor during that time when he used under his authority in the absence of an appropriation by the Legislature using the tax rebate trust account to pay Mitsubishi with the demand that if CUC will not pay Mitsubishi before 4:30 p.m. the whole engine will be sent back to Japan, then Governor Froilan exerted his authority as Governor in the absence of legislative concurrence and paid Mitsubishi the whole amount. He went to court it is probably an inappropriate action but the court did not compel him to be liable for what he did. At the time when that will happen, Mr. Speaker, the lives of the people the Third Senatorial District will be in danger as well as the safety. Again MPLT by virtue of Public Law 16-7 which was passed by both Houses embraces their authority with their commitment that \$1.7 million on each fiscal year is safe to assume that the Commonwealth General Fund will receive and I believe that this Executive Order exceeded the intent of having MPLT Trustees to release the proposed earmarking of the revenue but I really do not see Mr. Speaker what dereliction fiduciary duty MPLT will realize more if and so. PMIC, Telesource unplugged their power generation into the grid that will create Mr. Speaker, unsafe, unsecured public interest. By trying to evade the amount of \$3.4 million dollars that will compliment Public Law 16-7 the Administration propose further than what was supposedly earmarked under Public Law 16-7. If this Executive Order can be taken and make an amendment at this point of time to ensure that Public Law 16-7 is in the right course I believe today we can amend this Executive Order and explicitly mention on the amount that was earmark under Public Law 16-7. We cannot Mr. Speaker, in all honesty continue to delay the requirement the necessity of the Third Senatorial District and the Second District not to provide an efficient and essential power generation to avoid continuity of two hours of black outs unannounced load shedding and I would probably confirm that people would rather pay this high utility rates with a twenty four seven service than paying this high rates with unannounced load shedding and continuous black outs in the Third Senatorial District in this community and if there is no objection for further delaying CUC in engaging the provision to provide the Third Senatorial District with power efficiency I guess Mr. Speaker I would like to move and amend this section of the Executive Order before us from \$500,000.00 to \$3.4 million dollars. Thank you.

Speaker Palacios: Thank you. Let me first state and legal counsel correct me if I am wrong. The only way to approve of this or to modify it or to reject it would be through a resolution and we cannot just make a motion to approve of it we need to have a resolution specifically referencing this. We got this at ten forty five this morning so we still have time to consider this I intend to instruct the Committee on Judiciary, Governmental, and Operations and the legal counsel to take note of the concerns that are raised by those who have spoken Representative Hofschneider, Representative Benavente, Representative Reyes, and Representative Hocog and for those that will still raise concern about this Executive Order take note of them and please come up with a recommendation and that is unfortunately our Chair but the Vice Chair of JGO present please take note of that. I will officially be submitting an official instruction to look into the issue, okay. Is there anymore discussion on the particular Governor's Communication 16-153? Representative Sablan.

Representative Sablan: Thank you Mr. Speaker. I think the argument could be made that in 2006 with the Governor's Reorganization Plan 2, that he may have overstepped his constitutional authority even then and went beyond changes in allocation of offices and changes in functions and duties within the Executive Branch and actually completely rewrote statues. Unfortunately the 15<sup>th</sup> Legislature did not act on the Executive Order then and so we presume that there is changes carry the force of law, but I think that the issue that Representative Hofschneider raised with respect to the Constitution is my primary concerns as well anyway, whether it is \$500,000 or \$5 million or \$3.4 million it really does not matter. Does CUC in fact have the authority to borrow funds for operations? I think that is something that we need to clarify. I understand that it is the Attorney General's opinion that CUC is not part of the Government and they can borrow funds for operations but I would like to get a second opinion I would like to hear from our own legal counsel with respect to whether or not this is a violation of the Constitution. I am glad that this is coming back to the JGO Committee but if we could get a response from our legal counsel about that particular issue, that would help us.

Speaker Palacios: Before I recognize the legal counsel, you are right there has been numerous opinions as recently as two weeks ago regarding borrowing for operations, I too, is under the impression and fully believe that we cannot borrow for operations of the Government, but I do not know if this specific EO itself is confined to borrowing for operations. I think if you look at it I think it expanding the \$500,000 --- (*End of Tape 1, Side A*) (*Beginning of Tape 1, Side B*) and then I personally agree that is almost unconstitutional it is unconstitutional that is my opinion, but if it is for Capital Improvement Projects (CIP) they can do it. The existing statute which was effectuated by EO 2006-4 I believe in one of the provision restricts CUC from incurring a debt of over \$500,000 and that is what this is trying to do. Go ahead Representative Hofschneider.

Representative Hofschneider: Before you recognize the legal counsel. If that is the case Mr. Speaker then an Executive Order that is ambiguous in its intent whether you know we are making assumption as it is written and the way we are interpreting it means in our mindset today as we speak that it is not for operations because obviously we will contest it. But the fact that it is ambiguous in clarity whether it is operations or CIP be it as it may. If the Administration proposes to borrow money to buy parts to buy a generators I would be the first to stand up Mr. Speaker and support a legislation to do so, but to increase the ceiling the debt service a couple of things come to mind and that is as we speak there is an accruing debt for multiple contracts specifically two contracts that are mentioned in Public Law 16-7, that is Telesource and PMIC. How many more contracts or vendors that have not been paid and is accumulating and there is a question as to how much ongoing debt an accruing debt may be permitted by CUC. So one can say, no we are not borrowing for operations what we meant was the ceiling allowable is \$5 million dollars a total of \$5

million accruing and accrued total liability which is really a loan you are borrowing it from a vendor that you are not paying, Mobile, Telesource, PMIC who else. So if the clarity is the issue I urge the Governor to submit a legislation proposing a loan instrument to purchase fixed assets, purchase parts, purchase new power generation then I will be the first one to stand up Mr. Speaker and support that legislation, but if it is an ambiguity sense which it is under Executive Order the vehicle that we are facing today is the wrong vehicle, why all these façade. If the issue is to purchase parts because we do not have the money to buy complete parts for the complete overhauling and accomplish the overhauling at the most expedient timeframe then I will support that, but there is no way that I took an oath of office here Mr. Speaker as well as all of us here to look the other way on the section of the Constitution that prohibits borrowing for operations. Thank you.

Speaker Palacios: Thank you. If there is no objection let now recognize the legal counsel to just clarify some of these. Ian.

LC Ian Catlett: Thank you Mr. Speaker. I believe there is a full opinion being researched on this issue so I do not want to give an off the cuff answer that might conflict that, I think it is probably better to wait for the longer opinion, but what it comes down to is probably two things whether CUC is a Government agency and there has been an argument going back and forth on that and then the second issue is what is the character or the nature of this funding, is it a loan or it is an earmark or an appropriation or something else, so I believe that is probably what it will come down to. In your Department and Agency Communication 16-34 which is on the agenda today, the AG is appearing again to approve of this type of arrangement the problem is it is a Memorandum to the Speaker it is not an actual published legal opinion so we cannot really rely on that, but they do cite legal opinion AG opinion 06-07 which would come to the same or roughly the same conclusions. So it is pretty clear what the AG's position is but again I would rather wait for that full opinion from the Legislature to come out.

Speaker Palacios: Thank you. Again as I have stated I am instructing the Committee on JGO to look into this and with the assistance of the legal counsel to consider all the relevant questions that have been raised so far in this discussion as well as consideration of the legal opinion's forthcoming on the borrowing issue. I ask that the committee and our legal counsels work expediently to address the questions being raised. Representative Hofschneider.

Representative Hofschneider: Just to add Mr. Speaker to what our legal counsel has sort of a review to us on what area of definition are they looking. We ran across this same issue Mr. Speaker several years back as to whether CUC is a public entity or not. There are case precedence Mr. Speaker and I beg to be corrected, but so long as it is not publicly trading and it is a creature of the Legislature by law it remains a public entity.

Speaker Palacios: Thank you. Is there anymore discussion? Ready. Representative Salas.

Representative Salas: Just on Governor's Communication 16-145, Mr. Speaker, first let me just express my thanks for your letter of June 24, 2008 to the Governor on behalf of the Leadership in regard to Executive Order 08-06 Renewal of Declaration of a State of Emergency on CPA. Your letter basically puts the Governor on notice that we are on top of the CPA's situation and we are very concern of the lack of a functioning Board to manage our Airport and Seaport. I am kind of curious Mr. Speaker, if the Governor has transmitted to the presiding officers of the Legislature a comprehensive report on the exercise of his emergency powers when he declared his first State of Emergency on May 13, 2008, Executive Order 08-04. I believe that pursuant to 1 CMC Section

7403 (a) the Governor has somewhat described the emergency which required exercise of his authority but he has not detailed the measures being taking to deal with the emergency nor given a financial plan for meeting the cost of these measures. So basically I am trying to find out if he has written to or if not then may I ask that you follow with a subsequent letter ask him for detail?

Speaker Palacios: I believe the Governor through a plan that was submitted by the Acting Executive Director of the Commonwealth Ports Authority, Mr. Cabrera has submitted that plan and reports and subsequently Mr. Cabrera has submitted reports. I believe those reports were in our previous session materials but if not I will make sure that perhaps our Clerk can see to it that you get a copy, okay, and further on that issue we are also aware that the Governor has indeed after this communication submitted nominations to the Board of Directors of the Commonwealth Ports Authority. Representative Sablan.

Representative Sablan: Thank you Mr. Speaker this is on the same communication regarding the State of Disaster Emergency Declaration. I am a bit troubled by the Governor citations for why a State of Emergency Declaration is necessary to reinstate. He specifically cites the lack of a Board of Directors to continue the actions and policies set into place by this Administration to avoid technical default on the Bond Indenture and I would like to call the members attention to the reports submitted by the CPA Director this is Department and Agency Communication 16-38 on page 4, where the Director says that CPA management can and as operated CPA pending the nomination and confirmation of a full Board. He also notes that the Emergency Declaration can be terminated because corrective measures have been fully implemented and then he also says that of course it will be more prudent to restore CPA's Board as soon as possible the impression that I get the message that I carry with me from this communication from the CPA Director is that a State of Emergency Declaration may not be necessary to continue and perhaps in your follow up with the Governor, Mr. Speaker I would like to request that you include a question about exactly this point that is raised by this communication. What is the real necessity of the State of Emergency, if we are hearing from the people on the ground at CPA who are more familiar than we are and certainly than the Governor is with what is going on with CPA. Why is the State of Emergency even necessary?

Speaker Palacios: Thank you. I took note of that communication and it is very interesting because even the CPA Executive Director is basically advising the Governor that we need to lift this Emergency Declaration and with that I believe that again the Governor took the next step and immediately submitted nominations awaiting confirmation by the Senate. It is my believe that once the Senate confirms the nominees for the Board of Directors of CPA then I believe this Emergency Declaration will be lifted, that is my belief. Now we hope that the Senate will act expediently on the nominees so that we could move beyond the Emergency Declaration and restore the Autonomy back to CPA.

Representative Sablan: And I would hope that the Senate would act expeditiously and that there will be a full governing restored but again Mr. Speaker the CPA Director is saying that they have and are still operating just fine even without a full governing Board and I think we should take that very seriously as well. So what then is the purpose of the State of Emergency?

Speaker Palacios: That there is a vacuum in terms of the governing Board of Directors. There is no Board of Directors of CPA right now because they do not have a quorum. Okay. So I believe that once those nominees are confirmed and at least have five or four I am not sure a quorum or a majority confirmed then it goes back to autonomy. Representative Reyes.

Representative Reyes: Thank you Mr. Speaker, just quickly in reference of Governor's Communication 16-153 and 16-34 I know that the legal counsel said there is somebody looking into this right now reviewing as to the question of the public debt thing. I just thought I mention that I did also at one time a when I chaired the Retirement Fund I did have a different opinion from another law firm with regards to this issue. Maybe I should give you a copy of that because it appears to be two different things of what the AG is saying and what an independent counsel says. I just thought I mention that. Thank you.

Speaker Palacios: Yes certainly I we have a copy of that and it is something that our legal counsel will probably use to reference. Thank you we move to Senate Communications.

GOV. COMM. 16-141: (7/7/08) IN RESPONSE TO THE SPEAKER WITH REGARDS TO THE CPA BOARD.

GOV. COMM. 16-142: (7/11/08) CERTIFICATION OF VACANT POSITION AND SALARY CAP WAIVER FOR DR. SCHRAUDENBACH.

GOV. COMM. 16-143: (7/11/08) CERTIFICATION OF VACANT POSITIONS AT THE DEPARTMENT OF PUBLIC HEALTH-ROTA.

GOV. COMM. 16-144: (7/11/08) CERTIFICATION OF VACANT POSITIONS AT THE DEPARTMENT OF LABOR.

GOV. COMM. 16-145: (7/14/08) EXECUTIVE ORDER 08-07 – DECLARATION OF A STATE OF DISASTER EMERGENCY: COMMONWEALTH PORTS AUTHORITY APPROACH OF TECHNICAL DEFAULT ON \$20 MILLION INDENTURE.

GOV. COMM. 16-146: (7/11/08) INFORMING THE HOUSE THAT HE SIGNED INTO LAW H. B. NO. 16-11, HS1 (DIVERS SAFETY FIRST ACT OF 2008). [BECAME **PUBLIC LAW 16-6**]

GOV. COMM. 16-147: (7/17/08) ASKING THE LEGISLATURE TO PASS LEGISLATION TO EARMARK INTEREST AND DIVIDEND INCOME OF MPLT INVESTMENTS FOR 2009 AND 2010 FOR TEMPORARY ADDITIONAL POWER GENERATION AND THE LIQUIDATION OF EXISTING CUC FINANCIAL AND CONTRACTUAL OBLIGATIONS.

GOV. COMM. 16-148: (7/18/08) INFORMING THE HOUSE THAT HE DISAPPROVED S. B. NO. 16-19, SD1 (ALLOW MAYORS OF THE RESPECTIVE MUNICIPALITIES THE OPPORTUNITY TO AFFECT THE DISPOSITION OF PUBLIC LANDS). [DEADLINE 10/16/08]

GOV. COMM. 16-149: (7/21/08) INFORMING THE HOUSE THAT HE SIGNED INTO LAW H. B. NO. 16-130, HD1 (EMERGENCY POWER GENERATION ACT OF 2008). [BECAME **PUBLIC LAW 16-7**]

GOV. COMM. 16-150: (7/22/08) CERTIFICATION OF VACANT POSITION AT THE DEPARTMENT OF PUBLIC LANDS.

GOV. COMM. 16-151: (7/22/08) APPOINTMENT OF MR. MIKE PAI TO SERVE AS THE CNMI PUBLIC AUDITOR, SUBJECT TO LEGISLATIVE CONFIRMATION. [FOR CONSIDERATION]

GOV. COMM. 16-152: (7/28/08) EXECUTIVE ORDER 08-08: REORGANIZATION PLAN NO. 03 OF 2008 – AMENDMENT CUC REORGANIZATION PLAN NO. 02 OF 2006 (EO 2006-04).

GOV. COMM. 16-153: (7/30/08) EXECUTIVE ORDER 08-09: REORGANIZATION PLAN NO. 04 OF 2008 – AMENDMENT CUC REORGANIZATION PLAN NO. 02 OF 2006 (EO 2006-04).

### SENATE COMMUNICATIONS

Speaker Palacios: Are there any comments? Short recess.

*The House recessed at 2:55 p.m.*

*RECESS*

*The House reconvened at 3:03 p.m.*

Speaker Palacios: Floor Leader.

Floor Leader Camacho: Thank you Mr. Speaker I believe we are still under Senate Communication.

Speaker Palacios: Correct.

Floor Leader Camacho: Mr. Speaker a motion to place House Bill No. 16-77, HS1, HD6, SD1, reference to Senate Communication 16-50 on the bill calendar.

The motion was seconded.

Speaker Palacios: Discussion.

The motion was carried by voice vote.

Speaker Palacios: Are there anymore discussion under Senate Communications? Representative Hofschneider. Short recess.

*The House recessed at 3:05 p.m.*

*RECESS*

*The House reconvened at 3:08 p.m.*

Speaker Palacios: Floor Leader.

Floor Leader: Thank you Mr. Speaker I think we are going back to Governor's Communication. In reference to Governor's Communication 16-148 referencing Senate Bill 16-19, SD1, allowing mayors of respective municipalities the opportunity to effect the dispositions of public lands a motion to override the Governor's veto.

GOV. COMM. 16-148: (7/18/08) INFORMING THE HOUSE THAT HE DISAPPROVED S. B. NO. 16-19, SD1 (ALLOW MAYORS OF THE RESPECTIVE MUNICIPALITIES THE OPPORTUNITY TO AFFECT THE DISPOSITION OF PUBLIC LANDS). [DEADLINE 10/16/08]

The motion was seconded.

Speaker Palacios: Discussion. Representative Hocog.

Representative Hocog: Yes, thank you Mr. Speaker. I guess the bill is not asking much it is not taking away power the Secretary of Public Lands, but in many incidents and instances Mr. Speaker, in the past proposed public purpose was impeded because of non-consultation with the Mayor and the land exchange had been taking place on areas that are supposedly to used for public purpose and that is why this particular bill was crafted just to ensure that the Mayor on the respective Senatorial District will be given the opportunity to comment on areas that would be land exchanged by individuals wanting to go into a public purpose public land and this is the only issue that we need to have Mayor work together in consultation with the Department of Public Lands so that we can avoid future encroachment of public purpose land areas and this is what the bill is all about. Thank you.

Speaker Palacios: Representative Hofschneider.

Representative Hofschneider: Thank you Mr. Speaker. I have two concerns, one I agree with the Governor's veto message that this is another layer of bureaucracy and in as much as time is money in terms of an investor's point of view, bureaucracy will inevitably be costly to investments or developers. On the hand there is also a concern as to the intent of the legislation going against the constitutional fundamental policies of MPLC then now DPL. The fundamental policy clearly is transferred as mandated in the Constitution over to the Executive Branch. Now in the absence of a full governing Board, the Governor sits as the Board and in spite of advisory Boards in placed and he also mentioned that the added Bureaucratic layer could and should be removed by making sure that the each Senatorial District appoints their appropriate Advisory member to the Board. Be it as it may I think that the most important question considering to override this bill is it is in fact each community that must come out and stand up for that respective Senatorial community as to what sort of development or as Representative Hocog stated that land exchanges thereabouts in each Senatorial District should be considered whether they have in fact considered that for public purpose so that the greater community may be enriched other than the recipient of a land exchange. But I think that the language itself is reaching out to each respective community to be responsive and accountable for the developments or the disposition as stated in the Constitution of Public Lands, clearly we do not contest the fact that the management in disposition of public lands rest with the Executive Branch and that is coming from the fundamental policy that is still alive from the former MPLC provisions. If in fact the language or the legislation preempts or is an impediment to the existing fundamental policy in the management decision and the disposition of public lands then this bill is clearly unconstitutional, but the fact that the legislation talks about consultation and giving due consideration to the suggestions being submitted twenty days after by the respective Mayor does not infringe upon the language currently emplaced in our Constitution about the management and disposition of public lands. I think asking and consulting and due consideration for each respective Senatorial District does not infringe the Constitution. If it is at the most then this law would not be effectuated it will be rendered unconstitutional and therefore there is no force and effect of that law to be applied by DPL. Thank you.

Speaker Palacios: Respective Sablan.

Representative Sablan: Thank you Mr. Speaker. I was a bit taken aback by the Governor's reading of S.B. 16-19, particularly the part where he interprets the bill as requiring the Secretary of DPL to adhere to the Mayor's position on the disposition of public lands and that was not at all my reading of the bill, in looking at this section 105 on page 2 of the bill and it says that DPL shall advise the respective Mayor's of municipalities about the proposed action that the Secretary shall give due consideration and for good cause that is shown by the Mayor modify to the extent feasible. I do not see any language about mandating the Secretary to change plans dealing with public land because of the Mayor's position. Could I just get some clarification from our legal counsel as to whether or not it could be interpreted that way and also about the constitutionality question that is raised by the Governor and again that was another interpretation that took me aback?

Speaker Palacios: Before I do that let me recognize Representative Aldan.

Representative Aldan: Thank you Mr. Speaker, under Public Law 15-2 there was a section that DPL was supposed to create the Advisory Board. I do not know if we have an existing Advisory Board. If that would have been created, let me give you situation on Tinian where the Leadership was looking at opening up a homestead little that we found out it was already being arranged by DPL to have an investor take over that part of the land. If this law is in placed I think the Leadership will be aware of where DPL is going and what kind of investment is being brought into our islands and like I believe Representative Hofschneider said, that for every Senatorial Districts the community has to back up that investment or economic developer, if not then where is the developer going. My only saying on this is this is only to consult the Mayor and the Mayor would have an answer to the people when bulldozers and structures are being built we understand what is going on and that is all this bill is asking. Thank you.

Speaker Palacios: Thank you. Let me recognize Representative Palacios.

Representative Raymond Palacios: Thank you Mr. Speaker. First of all if the intent of the bill is to assure that a representative from each respective municipality in this case as stated in the measure which says, that the Mayor be given the opportunity to affect the disposition of public lands in their respective municipality. My question is and it is a good thing that Representative Aldan brought up whether there is an Advisory Board, that I do not know as well, but if there is, my question is, is this intent presently in place in Public Law 15-2, is an establishment of an Advisory Board a provision of the law Section 104 (a) somehow satisfy or addresses what this measure calls for? Can we accomplish what this measure calls for through collaborative and collective effort and consultation by each representative of the municipality and the Mayor? Let us not forget that these members are appointed the Advisory Board I mean, not only to serve and protect our public lands in general and to promote and to support progress and development, it is also their fiduciary duty to do likewise to their respective community. My concern Mr. Speaker and members of this body is that, if there is an Advisory Board and it is according to Public Law 15-2, it states that one resident of each Senatorial District appointed by the Mayor of that respective municipality and also these members serves at the pleasure of the that particular municipalities and Mayor, then you know what is stopping the Mayor from relaying the concern over to that Advisory Board member. I am kind of confused here Mr. Speaker and member, like I said it is a good thing that Representative Aldan brought up whether there is no Advisory Board in placed and if that is the case then what is the purpose of Public Law 15-2. So my question would be, is there an Advisory Board at DPL?

Speaker Palacios: Let me answer that question. When Public Law 15-2 was enacted one of the selling points was the Advisory Board because certainly we did not want Public lands to be completely under one individual under the Executive Branch without no checks and balance of all the municipalities. The unfortunate that thing that has transpired over the past two and a half years is that the Board when that bill became law its as if the provision of establishing an Advisory Board was never there and there was not even an nomination and I think that was one of the frustrations of the respective Mayors as well as respective Representatives' from the local delegations have had in dealing with land leases in the respective communities that they were not aware of. So to answer that question really the Advisory Board was never instituted or implemented. This would basically take over to some respect at least a consultative process with the Mayor of each respective municipality particularly in the First and Second Senatorial Districts. You still have the floor Representative Palacios.

Representative Palacios: Yes, Mr. Speaker, like I said I am still kind of confused because you are saying that there was never an established Advisory Board then also in Public Law 15-2 it is the Mayor's responsibility to appoint a representative from their respective municipality and did that appointment ever occur?

Speaker Palacios: Let me ask Representative Aldan to respond and then Representative Hocog.

Representative Aldan: Mr. Speaker the Mayor did appoint instead of using as our representative but however the main office here on Saipan the Secretary calls when do they meet and who else was appointed for Saipan but this Board never met. There is a representative from Tinian according to him there is no meeting that has taken placed in regards to this.

Speaker Palacios: You mean the function never effect.

Representative Aldan: Yes, the Mayor's Office on Tinian even has their own Advisory Board in regards to public land---(*End of Tape 1, Side B*)

*(Beginning of Tape 2, Side A)*

Speaker Palacios: Okay we are back to further discussion, Representative Hocog I believe you had your hands up to provide a response to Representative Palacios' query.

Representative Hocog: Thank you Mr. Speaker. Yes, Representative Palacios made point about the Public Law that was created by the 15<sup>th</sup> Legislature that the Mayor were given the authority, but the people that supposedly appointed never accepted and that is because Mr. Speaker they did not accept such an appointment number one, they are not being compensated. Secondly, as an Advisory there is no effect of their advice and that is the reason that I understand an individual from Rota that was appointed to sit on that Board and rejected, another individual was appointed and again rejected the appointment. This is because they do not want to sit as an Advisory that do not hold authority. They were saying that their time will be a total waste to do something and not being heard thereof. So in the absence of those Board appointment the Mayor will be the ultimate individual to be in consultation with the DPL as they are the Commander in Chief for the municipality and they deal with people daily and deal with investment opportunity on a weekly, daily, or monthly. Because of the experience that had transpired in the past Public Land had exchanged properties to land owners that are supposedly to be designated for public purposes impeding that a development that will ensure the public interest and that is why that this legislation is crafted just to ensure that the Mayor

of Rota can have a say so and make comments with respect to the industrial economic development of the land area under each municipality at least he will make the Public Land inform of a potential public interest from individual wanting to exchange his property with what was determine to be a public purpose and this is why it is important to share this type of understanding and communication among the Senatorial municipality that we are separated by water. Thank you.

Speaker Palacios: Thank you. Last question, Representative Palacios.

Representative Raymond Palacios: Yes, I have two concerns Mr. Speaker and just for the record Mr. Speaker and members of this body I am in full support of having a representative from each respective municipality have issues affecting their municipality because you know, who knows better regarding each certain municipality other than the residents of that municipality. But I have two questions that I would like to ask, we are saying that this measure is only a consultation base if that is the case then what would this measure really accomplish? It does not mandate the DPL. Now the question that Representative Sablan brought up, does this measure depending on the interpretation of the language and I think this goes to Ian, is DPL mandated to adhere to the Mayor's concern or position, needs, interests regarding their respective municipality?

Speaker Palacios: I will allow the legal counsel to now answer the questions queried even by Representative Sablan and now by Representative Palacios.

Ian Catlett: Thank you Mr. Speaker. Beginning on page 2, line 7, "The secretary shall give due consideration to the Mayor's position and, for good cause shown by the mayor, modify, to the extent feasible" that is a consultation provision it is not perfectly clear who determines what is good cause. If you read it as DPL determining whether the Mayor has good cause you can almost read that as may modify, which in this case it would not be a mandate and it will not be unconstitutional. If you read it as some other measure of good cause and it would then mandate the secretary to make the changes suggested then it might approach a problem with the Constitution, but I think in the findings section page 1, line 5 and 6, it requires DPL and you put this in the findings to give due consideration, that clearly is not a mandate it requires them to consider something it does not make them do anything. So I think this is constitutionally sound.

Speaker Palacios: Okay, ready. Clerk please call the roll.

The Clerk called the roll on the motion to override Governor's veto on S. B. NO. 16-19, SD1:

Representative Edwin P. Aldan	Yes
Representative David M. Apatang	Yes
Representative Diego T. Benavente	Yes
Representative Joseph N. Camacho	Yes
Representative Francisco S. Dela Cruz	Yes
Representative Joseph P. Deleon Guerrero	Yes
Representative Victor B. Hocog	Yes
Representative Heinz S. Hofschneider	Yes
Representative Raymond D. Palacios	Yes
Representative Justo S. Quitugua	Yes
Representative Joseph C. Reyes	Yes
Representative Christina Marie E. Sablan	Yes
Representative Edward T. Salas	Yes
Representative Ramon A. Tebuteb	Yes
Representative Ralph DLG. Torres	Yes
Representative Stanley T. McGinnis Torres	No

Speaker Arnold I. Palacios

Yes

Speaker Palacios: By a vote of sixteen yes and one no Governor's veto of S.B. 16-19, SD1 is hereby overwritten by the House. Floor Leader, can we move onto House Communications.

Floor Leader Camacho: Yes sir.

SEN. COMM. 16-48: TRANSMITTING A CERTIFIED COPY OF S. R. NO. 16-14, ENTITLED, "A SENATE RESOLUTION COMMENDING DR. LORENZO PATERNO HOCOG FOR HIS ACHIEVEMENTS AND CONTINUED SERVICE TO THE PEOPLE OF THE CNMI," WHICH WAS ADOPTED BY THE SENATE.

SEN. COMM. 16-49: (7/18/08) RETURNING H. B. NO. 16-130, HD1 THE EMERGENCY POWER GENERAL ACT OF 2008, WHICH WAS PASSED BY THE SENATE WITHOUT AMENDMENT ON JULY 18, 2008. [FOR INFO]

SEN. COMM. 16-50: (7/25/08) RETURNING H. B. NO. 16-77, HS1, HD6, THE CUC PRIVATE PARTNERSHIP ACT OF 2008, WHICH WAS PASSED BY THE SENATE WITH AMENDMENTS ON JULY 25, 2008, IN THE FORM OF **H. B. No. 16-77, HS1, HD6, SD1**. [FOR ACTION ON THE SENATE AMENDMENTS]

SEN. COMM. 16-51: (7/25/08) RETURNING H. B. NO. 16-105 (TO APPROPRIATE \$291,210.00 FROM THE PSS GENERAL BOND OBLIGATION TO FINANCE THE PSS CLASSROOMS REPAIRS AND RENOVATIONS AND PARKING LOT PAVING ACTIVITIES) WHICH WAS PASSED BY THE SENATE WITHOUT AMENDMENT ON JULY 25, 2008. [WILL GO TO THE GOVERNOR]

SEN. COMM. 16-52: (7/25/08) RETURNING H. B. NO. 16-106 (TO REAPPROPRIATE \$1,877.19 FROM SLL 14-31 FOR THE PAYMENT OF SMALL CLAIMS NO. 07-0939 AND TO REAPPROPRIATE \$10,213.00 FROM SLL 14-30 FOR THE REPAIRS AND MAINTENANCE OF WILLIAM S. REYES ELEMENTARY SCHOOL; AND FOR OTHER PURPOSES) WHICH WAS PASSED BY THE SENATE WITHOUT AMENDMENT ON JULY 25, 2008. [WILL GO TO GOVERNOR]

SEN. COMM. 16-53: (7/25/08) RETURNING H. B. NO. 16-107, HD1 (TO APPROPRIATE \$20,000 FROM THE DEVELOPER'S TAX FUND COLLECTION, THIRD SENATORIAL DISTRICT; TO REAPPROPRIATE \$3,000 FROM SAIPAN LOCAL LAW 15-10; TO REAPPROPRIATE \$10,000 FROM SAIPAN LOCAL LAW 15-12; TO REAPPROPRIATE \$10,000 FROM SAIPAN LOCAL LAW 15-28; AND TO REAPPROPRIATE THE FUND BALANCE IN THE AMOUNT OF \$8,620.00 FROM THE COMPLETED AND CLOSED LOCAL PROJECTS TO FUND THE REPLACEMENTS OF THE DILAPIDATED KINDERGARTEN CLASSROOMS AS SAN VICENTE ELEMENTARY SCHOOL; AND FOR OTHER PURPOSES) WHICH WAS PASSED BY THE SENATE WITHOUT AMENDMENT ON JULY 25, 2008. [WILL GO TO GOVERNOR]

SEN. COMM. 16-54: (7/25/08) RETURNING H. B. NO. 16-113 (TO NAME THE BASEBALL FIELD IN SINAPALO, ROTA AS THE "JOAQUIN MESNGON OGO BASEBALL FIELD; AND FOR OTHER PURPOSES) WHICH WAS PASSED BY THE SENATE WITHOUT AMENDMENT ON JULY 25, 2008. [WILL GO TO GOVERNOR]

SEN. COMM. 16-55: (7/25/08) RETURNING H. J. R. NO. 16-8 (CDBG APPLICATIONS) WHICH WAS ADOPTED BY THE SENATE WITHOUT AMENDMENT ON JULY 25, 2008. [FOR INFO]

SEN. COMM. 16-56: (7/25/08) INFORMING THE HOUSE THAT THE SENATE OVERRODE THE GOVERNOR'S VETO OF S. B. NO. 16-19 ON JULY 25, 2008. [FOR INFO – *SEE GOV. COMM. 16-148*]

SEN. COMM. 16-57: (7/25/08) INFORMING THE HOUSE THAT THE SENATE ACCEPTED THE HOUSE AMENDMENTS TO S. B. NO. 16-13, SD3, HS1, HD1 (TO FORBEAR, IN CERTAIN INSTANCES, THE COLLECTION OF THE EDUCATIONAL FINANCIAL ASSISTANCE LIABILITY OF RETURNING COLLEGE STUDENTS THAT CANNOT FIND EMPLOYMENT WITHIN THE PUBLIC OR PRIVATE SECTOR OF THE COMMONWEALTH DUE TO BUDGETARY LIMITATIONS). [FOR INFO]

SEN. COMM. 16-58: (7/25/08) TRANSMITTING S. B. NO. 16-22, SS1, ENTITLED, "TO AMEND PARTS OF 1 CMC 1601 ET SEQ., THE NORTHERN MARIANA ISLANDS ELECTION LAW; AND FOR OTHER PURPOSES," WHICH WAS PASSED BY THE SENATE ON JULY 25, 2008. [FOR ACTION]

SEN. COMM. 16-59: (7/25/08) TRANSMITTING S. B. NO. 16-23, ENTITLED, "TO REDUCE UNEMPLOYMENT AMONG RESIDENT WORKERS BY ENCOURAGING THEM TO WORK UNDER CONTRACTS FOR SERVICES TO THE COMMONWEALTH GOVERNMENT OR FOR CAPITAL IMPROVEMENT PROJECTS THAT PAY THE EMPLOYEES UNDER THE CONTACTS AT LEAST THE PREVAILING U.S. MINIMUM WAGE; AND FOR OTHER PURPOSES," WHICH WAS PASSED BY THE SENATE ON JULY 25, 2008. [FOR ACTION]

### **HOUSE COMMUNICATIONS**

HSE. COMM. 16-57: (7/18/08) FROM REPRESENTATIVE SANTOS TO CUC EXECUTIVE DIRECTOR ANTONIO MUNA REGARDING THE POSTMASTER'S REQUEST TO ACCOMMODATE THE MAIN BRANCH DURING THE SCHEDULED POWER OUTAGES.

HSE. COMM. 16-58: (7/18/08) FROM REPRESENTATIVE APATANG REGARDING THE FATE OF 300 LOCAL IMMIGRATION OFFICERS.

Speaker Palacios: Are there any comments? Ready.

### **COMMUNICATIONS FROM THE JUDICIAL BRANCH**

None

### **COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE**

None

### **COMMUNICATIONS FROM DEPARTMENTS & AGENCIES**

DEPT./AGCY. COMM. 16-34: (7/3/08) FROM ASST. ATTORNEY GENERAL ANTHONY WELCH TO THE SPEAKER REGARDING THE USE OF MPLT FUNDS FOR CUC'S OPERATING EXPENSES.

DEPT./AGCY. COMM. 16-35: (7/14/08) A COPY OF A LETTER FROM CUC EXECUTIVE DIRECTOR ANTONIO MUNA TO MR. STEPHEN DUNLOP (AGGREKO ITNL. POWER PROJECTS) ON CUC'S INTEREST TO LEASE TEMPORARY POWER UNITS.

DEPT./AGCY. COMM. 16-36: (7/14/08) FROM NMIRF ADMINISTRATOR MARK AGUON REGARDING THE SPECIAL ANNUITY BENEFITS.

DEPT./AGCY. COMM. 16-37: (7/17/08) MEMORANDUM FROM CUC EXECUTIVE DIRECTOR ANTONIO MUNA TO THE GOVERNOR WITH REGARDS TO POWER PRODUCTION RECOVERY PLAN.

DEPT./AGCY. COMM. 16-38: (7/13/08) FROM CPA ACTING EXECUTIVE DIRECTOR LEE CABRERA SUBMITTING THE THIRD INTERIM BOND INDENTURE COMPLIANCE REPORT.

DEPT./AGCY. COMM. 16-39: (7/21/08) FROM ACTING PSS COMMISSIONER CRAIG H. GARRISON SUBMITTING PSS'S FY 2009 BUDGET REQUEST. (*SEE PDF FILE ON LEGISLATURE'S SERVER FOR WORKSHEETS*)

DEPT./AGCY. COMM. 16-40: (7/23/08) FROM NMIRF CHAIRMAN JUAN T. GUERRERO REQUESTING AN AUDIENCE WITH THE EXECUTIVE AND LEGISLATIVE BRANCHES WITH RESPECT TO THE SPECIAL ANNUITY FOR FORMER GOVERNORS AND LIEUTENANT GOVERNORS.

DEPT./AGCY. COMM. 16-41: (7/10/08) FROM EXECUTIVE DIRECTOR ANTONIO MUNA REGARDING LIHEAP CLIENTS. (*INFORMATION REQUESTED PERTAINING TO H. B. NO. 16-56*)

Speaker Palacios: Representative Stanley Torres.

Representative Stanley Torres: Can we go to number 8?

Speaker Palacios: Communications from the Judicial Branch?

Representative Stanley Torres: Yes, I have one, may I.

Speaker Palacios: Please proceed. Is that from the Judicial Branch?

Representative Stanley Torres: In reference to what happened during the weekend, the marijuana bust.

Speaker Palacios: Okay I will give you brief...

Representative Stanley Torres: I said to bring this up on the Judicial Branch because the Judicial van vehicle was impounded and just to make a statement that it is ironic that a senior employee of the Judiciary Branch is not necessarily for being busted but when you are on leave you take a

government vehicle home back and forth and not park it, it stuck my mind to find out that government vehicle is driven back and forth when an employee is on leave and then later on being impounded for being used as whatever that violates the law a government vehicle uses. It is an evidence that the incident may have relationship to what the Attorney General, Gregory Mathew, and Nick Nisperos plan to have on the criminalization marijuana may have penetrate to the Judicial Branch and I guess that the Attorney General did not convinced the Legislature so he took it over to the other Branch of the Governor and that is what is happening. I do not what my friend Richard Pierce, SAA, would say about this but I would like to hear his reaction on what has taken place during the weekend. Thank you.

Speaker Palacios: Thank you. That is certainly a different perspective of but thank you for that. Communications from Departments and Agency? Ready. Representative Tebuteb.

Representative Tebuteb: This is in regards to the all the communications from the Youth Congress Clerk, Roslyn M. Deleon Guerrero, some of it are address to agencies and some of it these communications are addressed to the body to the Legislature. I would like to ask the Speaker to take a note on that and maybe even consider to provide these to the appropriate committee. Thank you Mr. Speaker.

Speaker Palacios: Just on that note Representative Tebuteb, I have indeed began to forward these resolutions from the Youth Congress for our considerations and relevant committee chairs have forwarded most of these resolutions. Representative Torres.

Representative Stanley Torres: Where are we now? Under Department and Agencies? May I have the floor again, pleas?

Speaker Palacios: Sure you have the floor.

Representative Stanley Torres: Mr. Speaker and members since the CUC message is in this calendar I would like to bring up something in reference to CUC is asking the Mobile for a extension of credit of 60 days has abbreviated EOM (End of the Month) credit term. It brings back some message not too long ago. Mobile is willing to extend such deal provided that the Government or CUC extend a new extension for separate from the existing extension which was signed last year or a year and a half they want another five year extension in order for them to consider extending the EOM to CUC. I took that as coercion they want a total of ten years so it guaranteed themselves a business and to profit, right? I think that something must be draft up and sent to Mobile, what are you trying to do. Are they not satisfied that they have another four years before we put this contract to bid, it is very interesting. Thank you.

Speaker Palacios: Thank you for that Representative Torres. Ready. If there is no objection I would like to ask that we leave the Standing Committee Reports on the calendar and we move on to the Resolution and Bill Calendars so that we can dispose of the Resolutions introduced today and some of the bills that have been pending in the Bill Calendar. Is there any objection?

Members voiced no objection.

## **OTHER COMMUNICATIONS**

None

## REPORTS OF STANDING COMMITTEES

S. C. R. NO. 16-32: REPORTING ON **H. B. NO. 16-40**, ENTITLED: TO AMEND PARTS OF 1 CMC 6101 ET SEQ., AND FOR OTHER PURPOSES; **H. B. NO. 16-62**, ENTITLED: TO AMEND 1 CMC § 7205 BY ADDING A NEW SUBSECTION (C) TO ADD A PENALTY PROVISION FOR THE FAILURE TO ENACT A BUDGET BY SEPTEMBER 1; AND FOR OTHER PURPOSES; **H. B. NO. 16-64**, ENTITLED: TO ESTABLISH AN ADMINISTRATIVE OFFICE OF THE COURTS, AND FOR OTHER PURPOSES; **H. B. NO. 16-101**, ENTITLED, “TO REPEAL AND REENACT CHAPTER 1 OF DIVISION 8 OF TITLE 4 OF THE COMMONWEALTH CODE (4 CMC § 8111 ET SEQ.), AS ESTABLISHED BY EXECUTIVE ORDER NO. 2006-04, REORGANIZATION PLAN NO. 2 OF 2006 RELATING TO THE COMMONWEALTH UTILITIES CORPORATION; AND FOR OTHER PURPOSES. *YOUR COMMITTEE ON JUDICIARY AND GOVERNMENTAL OPERATIONS RECOMMENDS THAT THE FOUR BILLS BE FILED BY THE HOUSE.*

S. C. R. NO. 16-33: REPORTING ON **H. B. NO. 16-8**, ENTITLED: “TO AMEND 9 CMC § 5657 REGARDING ACCESSIBLE PARKING FOR PERSONS WITH DISABILITIES, AND FOR OTHER PURPOSES.” *YOUR COMMITTEE ON JUDICIARY AND GOVERNMENTAL OPERATIONS RECOMMENDS PASSAGE OF THE BILL IN THE FORM OF H. B. NO. 16-8, HSI.*

S. C. R. NO. 16-34: REPORTING ON **H. B. NO. 16-125**, ENTITLED: “TO AMEND PUBLIC LAW 15-46; AND FOR OTHER PURPOSES. *YOUR COMMITTEE ON JUDICIARY AND GOVERNMENTAL OPERATIONS RECOMMENDS PASSAGE WITHOUT AMENDMENTS.*

S. C. R. NO. 16-35: REPORTING ON **H. B. NO. 16-47**, ENTITLED: “TO REPEAL AND REENACT TITLE 6, DIVISION 3, ARTICLE 4 OF THE COMMONWEALTH CODE TO PROHIBIT SMOKING IN ALL WORKPLACES AND PUBLIC PLACES, AND FOR OTHER PURPOSES.” *YOUR COMMITTEE ON HEALTH, EDUCATION, AND WELFARE RECOMMENDS PASSAGE IN THE FORM OF H. B. NO. 16-47, HD1.*

## REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

## UNFINISHED BUSINESS

None

## RESOLUTION CALENDAR

Speaker Palacios: Floor Leader.

Floor Leader Camacho: Thank you Mr. Speaker. If there is no objection from the members since it is stemming from the same events, if we can consolidate in one motion the resolutions.

Members voiced no objection.

Speaker Palacios: Okay proceed.

Floor Leader Camacho: Thank you Mr. Speaker. A motion to adopt H. R. Nos. 16-47, 16-48, 16-49 and 16-50.

H. R. NO. 16-47: A HOUSE RESOLUTION TO CONGRATULATE AND TO RECOGNIZE THE ASIA PACIFIC REGIONAL LITTLE LEAGUE (ASPAC) COMMITTEE FOR THEIR OUTSTANDING VOLUNTEER WORK IN ORGANIZING THE 2008 ASIA PACIFIC REGIONAL LITTLE LEAGUE BASEBALL TOURNAMENT THAT WAS HELD ON SAIPAN FROM JUNE 28 – JULY 3, 2008. (REP. EDWARD T. SALAS)

H. R. NO. 16-48: A HOUSE RESOLUTION TO CONGRATULATE THE CNMI JUNIOR LEAGUE TEAM FOR GARNERING SECOND PLACE IN THE 2008 ASIA PACIFIC REGIONAL LITTLE LEAGUE BASEBALL TOURNAMENT THAT WAS HELD ON SAIPAN FROM JUNE 28 – JULY 3, 2008. (REP. EDWARD T. SALAS)

H. R. NO. 16-49: A HOUSE RESOLUTION TO CONGRATULATE THE CNMI SENIOR LEAGUE TEAM FOR GARNERING SECOND PLACE IN THE 2008 ASIA PACIFIC REGIONAL LITTLE LEAGUE BASEBALL TOURNAMENT THAT WAS HELD ON SAIPAN FROM JUNE 28 – JULY 3, 2008. (REP. EDWARD T. SALAS)

H. R. NO. 16-50: A HOUSE RESOLUTION TO CONGRATULATE THE CNMI SENIOR LEAGUE TEAM FOR GARNERING SECOND PLACE IN THE 2008 ASIA PACIFIC REGIONAL LITTLE LEAGUE BASEBALL TOURNAMENT THAT WAS HELD ON SAIPAN FROM JUNE 28 – JULY 3, 2008. (REP. EDWARD T. SALAS)

The motion was seconded and carried by voice vote.

## BILL CALENDAR

Speaker Palacios: Floor Leader.

Floor Leader Camacho: Thank you Mr. Speaker, a motion to pass on first and final House Bill. No. 16-77, HS1, HD6, SD1, in reference to CUC and privatization.

H. B. NO. 16-77, HS1, HD6, SD1: A BILL FOR AN ACT TO ALLOW AND ENCOURAGE THE COMMONWEALTH UTILITIES CORPORATION TO ENGAGE THE PRIVATE SECTOR TO PARTNER WITH THE COMMONWEALTH TO SECURE RELIABLE UTILITY SERVICES AT AFFORDABLE RATES, AND FOR OTHER PURPOSES.

The motion was seconded.

Speaker Palacios: Discussion. Ready. This is the privatization bill, clerk.

The Clerk called the roll on the motion to pass on first and final reading H. B. NO. 16-77, HS1, HD6, SD1:

Representative Edwin P. Aldan	Yes
Representative David M. Apatang	Yes
Representative Diego T. Benavente	Yes
Representative Joseph N. Camacho	Yes

Representative Francisco S. Dela Cruz	No
Representative Joseph P. Deleon Guerrero	Yes
Representative Victor B. Hocog	Yes
Representative Heinz S. Hofschneider	Yes
Representative Raymond D. Palacios	Yes
Representative Justo S. Quitugua	Yes
Representative Joseph C. Reyes	Yes
Representative Christina Marie E. Sablan	No
Representative Edward T. Salas	No
Representative Ramon A. Tebuteb	Yes
Representative Ralph DLG. Torres	Yes
Representative Stanley T. McGinnis Torres	Abstain
Speaker Arnold I. Palacios	Yes

Speaker Palacios: By a vote of thirteen yes H. B. NO. 16-77, HS1, HD6, SD1, hereby passes the House on first and final reading. It is heart lifting that the Senate did pass the House Bill 16-77 despite reservations that perhaps it will not see the light of day and maybe congratulation to Representative Hocog for lobbying the Senate. Floor Leader, next bill please.

Floor Leader Camacho: Thank you Mr. Speaker, a motion to pass first and final reading H. L. I. 16-13, HD1.

H. L. I. 16-13, HD1: A HOUSE LEGISLATIVE INITIATIVE TO AMEND ARTICLE III, SECTION 20 OF THE CONSTITUTION OF THE NORTHERN MARIANA ISLANDS.

The motion was seconded.

Speaker Palacios: Discussion on the motion? Short recess

*The House recessed at 3:45 p.m.*

*RECESS*

*The House reconvened at 3:54 p.m.*

Speaker Palacios: We are back to our session. We were under discussion of H. L. I. 16-13. Vice Speaker Deleon Guerrero.

Representative Deleon Guerrero: Thank you Mr. Speaker. First of all I would like to commend the author for introducing this Initiative, the intent is very noble and is needed. Although, the intent is very clear that no benefits shall be increased by the Legislature until such time that all government obligations to the Retirement system have been satisfied or is fully funded and Mr. Speaker, I am supporting this initiative I too, have introduced a similar initiative that has the same intent and I wanted to offer an oral floor amendment that would kind of further strengthen the intent of this initiative, which is basically that we do not allow anymore laws to be enacted that may create an unfunded liability to the Retirement Fund, it is a very simple, one sentence amendment. It is similar but what this intends to do is that benefit can be increased if you read it but only after such time that the obligations have been satisfied but let say they are satisfied members of any future Legislature can still continue to enact laws that may create again the same problems that got us into this situation that we are in the first place. So this amendment that I am proposing would prevent that occurrence. It is a very simple amendment Mr. Speaker, I would like to offer the amendment.

Speaker Palacios: Proceed.

Representative Deleon Guerrero: After the word “funded” on line 13, page 4, that starts with “Provided further that no law shall be enacted by the Legislature that will create an unfunded liability to the Retirement Fund”. Thank you.

The motion was seconded.

Speaker Palacios: Discussion on the motion offered by the Vice Speaker. Short recess.

*The House recessed at 3:55 p.m.*

*RECESS*

*The House reconvened at 3:58 p.m.*

Speaker Palacios: Are there anymore discussion? Ready.

The motion to adopt oral floor amendment was carried by voice vote.

Speaker Palacios: We are back to the main motion, ready. Representative Quitugua.

Representative Quitugua: Mr. Speaker, thank you. This is just to bring to the attention of the members. I think this morning the Chairperson of the Board of Education mentioned in the papers recommending that this provision on section 2, starting on page 3, reference to teachers being reemployed to double dip in the Public School System. She was recommending that the Legislature amend the Constitution and at least allow them to double dip for five years because of the shortages of teachers and many of our teachers who have retired are really highly qualified teachers, but they cannot be reemployed due to the two year limitation in the Constitution. This is just something for the members to think about whether they want to change the two years to five years or leave it as two years.

Speaker Palacios: Okay, are there any thoughts? Representative Hofschneider.

Representative Hofschneider: I think rather than changing the Constitution to lengthen the double dipping provision we would rather explore the Teacher’s Academy again and bring it back to flourish rather than to extend the double dipping because it takes away the impetus of this community to encourage young graduates to get into the teaching profession and the success in it of itself the Teacher’s Academy has proven way beyond our expectation and I believe that it was during Representative Benavente as a Speaker that we initiated the Teacher’s Academy and now we are seeing the products being employed in the Public School System and in the private school system. So my reservation to this is really it will take away the motivation to encourage our young kids to get into the teaching profession, one, two, it will be another means of allowing nurses, doctors, and whoever that is currently entitled to double dipping under the current provision expanding it I think that we should all take a step back and look at the medical professions the allied health professions, the teaching professions, engineering and those that are qualified in the Constitution provision of the double dipping and promote a program to reinstate Teacher’s Academy or encourage a special scholarship for instance to go into the Medical field or the Nursing field. We

have been trying to push NMC for many years and now they are poised in a position to offer teaching credentials and they are doing so and the Nursing program is lacking what we desire to employ or to produce at least three hundred nurses that currently the Commonwealth is in need. So I would rather explore the alternative and that is to probably revisit the Teacher's Academy and expand it maybe perhaps into the Allied Health Professions and Medical Professions, that will be more fitting because if we extend that to a five year provision this government has proven in the past that the motivation to get off and try to promote our newly graduates from high school is nonexistent and with the changes in fact of the Federal Immigration it will be more fitting and consistent with now the new changes in local control of Immigration and Labor. So refocusing our priorities and trying to put our scarce resources towards rebuilding the teachers pool, rebuilding the nursing pool that will have a more lasting effect in the community rather than to and not to take away anything from well qualified teachers that have retired I think two years the rolling in term of the two years can be done from a managerial stand point at PSS so that we do not inundate the entire pool of teachers that have recently retired and are entitled under the two year provision of double dipping to be employed at the same time all at the same time rather so there is a management failure in terms of looking at that also in Human Resources Management and that is to sort of cycle them so that you attempt to overlap the opportunity of recently retiring individuals in the Public School System and likewise for Health professions.

Speaker Palacios: Representative Torres.

Representative Ralph Torres: I would like to just say a few things. You are right Representative Quitugua for the concerns of PSS. The NMC---(*End of Tape 2 Side A*)---to understand that we are lack of nursing profession here on Saipan and as well as teachers. My take is if we are to grant the or even look into extending to five years when a position is being field by a double dipping and a newly graduate comes in and applies then that position should be relinquish to a just graduate position. So in other words the newly graduate can be told that I am sorry there is no job vacancy while there is a position being filled by a double dipping, that is it.

Speaker Palacios: Thank you. Representative Sablan.

Representative Sablan: Thank you Mr. Speaker. Just a few quick comments, one, is that I understand the rationale for allowing for teachers and other highly qualified professional to double dip for more than two years, but will that be an effect again increasing benefits which is what we are trying to stop, allowing members to double dip for a longer period of time than they are already allowed to, I think we should be very careful about that. Secondly, I just wanted to ask if there is no objection from the members for the sake of consistency a technical amendment to the amendment that we just adopted and refer to the Retirement Fund as the Retirement System just because that is how it is described in that part of the Constitution. Just for the sake of consistency, if there is no objection.

Speaker Palacios: Ian can you insert that and make sure you make it consistent. Thank you.

Representative Sablan: And the third comment actually it is more of a question for the author of this Initiative and that is just to explain why this amendment is phrase so that the Legislature shall not increase benefits until either A) the Government obligations have been satisfied or B) the System is fully funded. Why the either or, and why we will not say and the System is fully funded?

Speaker Palacios: Representative Hofschneider can you answer that?

Representative Hofschneider: That is the way I wrote it. (Laughter) No..The first effective language is until the obligations in the Government is satisfied and then or fully funded. This is a two separate operating on a separate means. You have to go back in history and the early inception of the Retirement Fund, first, the conception of the Retirement Fund is a Social Security approach. That means existing and new employees pay for retired individuals and it is govern and operating on the most important premise and that is time. When you collect money and you invest it does not turn over the maturity period which is, 2017 or 2011 I think it was somewhere around that neighborhood and then the 15<sup>th</sup> Legislature amended it and that is another problem and that is extending to 2045 for purposes of amortization of existing unfunded and funded liability and obligations, no other reason. That is to safeguard the Executive Branch as a payor as an employer. What it does is hurt tremendously the Retirement Fund. So the two are operating separately in the early inception of the Retirement System it was only funded at I think five million dollars initial seed money. At that time those that were given up to May of 1987 I believe, had the option of opting into the System and therefore they were classified as Class II, those have by attrition are beginning to disappear in the System. What does not disappear is the impact of that investment whereby insufficient funding now being experienced as partly the maturity rate of the investment and the return versus the time that those money were not collected and now something more scary and that is the obligation of the Government not being paid on time and in full. So when the Government obligation lets say we pass that Initiative to borrow a pension obligation bond and we drop in the money, we fulfill the obligations of the Government but it is not fully funded. So the operative word there “or” allows the System to continue dealing with the catch up on the Class II portions. Because if you are going to wait things change and one of that is the Composite Price Index is very important and this Commonwealth has not learned how to adjust itself based on US Composite Price Index. Inflationary cost and COLA all are governed under the principals of Composite Price Index. Now, adjustment of a dollar twenty years ago may not be equal to the value of that same dollar today, therefore, you need to allow a flexibility in the language “or” fully funded because now to fully fund this government must wait or employees that may in fact be emeritus of receiving additional benefits even if we have the capacity to pay for those benefits. The fact that if we change the word “or” and to mean “and” fully funded we have to wait until 2045 for any legislation to attempt to grant benefits even if we have the capacity we have a crystal ball and say in five years the economy of the Commonwealth will rebound and therefore having good governance controlling of deficits and everything is clean we have excesses to pay for benefits if we change that word “or” to “and” we lock ourselves until the year 2045, and that is the reason why the “or”. So it gives a flexibility even in the private sector if it is based on mutual agreement of contract of employment. If things our healthy and profitable employees are awarded and likewise a Government as an employer however, there is lack to be desired in terms of the previous practice I sympathize with the rationale of trying to restrict anything and everything and I caution that future Legislators also may in fact have the wisdom to be prudent and responsible in awarding legislations to enrich the employees of the Government.

Speaker Palacios: Thank you. Representative Sablan, is that, okay. Representative Benavente.

Representative Benavente: Thank you Mr. Speaker. Even though the proposed amendment offered by Representative Hofschneider in this legislative initiative is incorporated in this section of the Constitution where the two years is referred to on the double dipping, I caution the members to put the two together because we need to remember that we are presenting this before the people in a referendum and while it is clear that we are going to get a hundred percent support for the proposal offered by Representative Hofschneider I do not think that it is clear that we are ready to support a

five year versus a two year. So if any of the members want to offer that proposal I hope they would do so in a separate legislative initiative and Mr. Speaker at this point I move to end debate.

The motion was seconded.

Speaker Palacios: Thank you. Motion to end debate. If there is no objection I would like to recognize Representative Raymond Palacios.

Representative Raymond Palacios: Public Law 15-3, I am not really familiar with this public law. I am familiar with the double dipping, but in terms of the retirees does the double dipping bill take into consideration the teaching credentials of these retirees because you know times changes, technology advancement and are they really qualified to really cope with today's changes?

Speaker Palacios: That is a very good question and in fact if you are a teacher now requires you that you pass certain tests. Representative Hofschneider, for the last time, do you want to answer him?

Representative Hofschneider: I do not think we are touching anything to the double dipping in this imitative.

Speaker Palacios: Okay. Ready. Clerk please call the roll.

The Clerk called the roll on the motion to pass on first and final reading H. L. I. 16-13, HD2:

Representative Edwin P. Aldan	Yes
Representative David M. Apatang	Absent during voting
Representative Diego T. Benavente	Yes
Representative Joseph N. Camacho	Yes
Representative Francisco S. Dela Cruz	Yes
Representative Joseph P. Deleon Guerrero	Yes
Representative Victor B. Hocog	Yes
Representative Heinz S. Hofschneider	Yes
Representative Raymond D. Palacios	Yes
Representative Justo S. Quitugua	Yes
Representative Joseph C. Reyes	Yes
Representative Christina Marie E. Sablan	Yes
Representative Edward T. Salas	Yes
Representative Ramon A. Tebuteb	Yes
Representative Ralph DLG. Torres	Yes
Representative Stanley T. McGinnis Torres	Yes
Speaker Arnold I. Palacios	Yes

Speaker Palacios: By a vote of sixteen yes, the House hereby passes first and final H. L. I. No. 16-13, HD2. Floor Leader short one minute recess.

*The House recessed at 4:20 p.m.*

*RECESS*

*The House reconvened at 4:27 p.m.*

Speaker Palacios: We are back to our session. Floor Leader.

Floor Leader Camacho: Thank you Mr. Speaker. A motion to pass first and final S. B. No. 16-36, SD2.

S. B. NO. 16-36, SD2: A BILL FOR AN ACT TO AMEND PUBLIC LAW 15-61  
TO ALLOW THE NORTHERN MARIANA ISLAND RETIREMENT FUND TO PAY PENSION  
PROPORTIONATE TO EMPLOYER CONTRIBUTION; AND FOR OTHER PURPOSES.

The motion was seconded.

Speaker Palacios: Discussion on the motion. Representative Deleon Guerrero.

Representative Deleon Guerrero: Mr. Speaker, under discussion, I understand that the Retirement Fund and the Retirement Board is supporting this bill and especially our potentially retirees who are currently waiting to get their pension who have already submitted their application and in general I am supporting the bill Mr. Speaker. I only have one concern and the concern is on page 2, starting on line 17 with the sentence: "Provided further that an applicant shall receive full retirement benefits retroactive to the date the applicant's application for retirement is approved if the applicants employer remits to the Retirement Fund within two years after the approval of the applicant's application to retire all of its deficient employers contribution relative to the applicant plus statutory interest and or penalties". And the time frame here Mr. Speaker, the two years after the approval of the applicant's application is my concern here.

Speaker Palacios: Point of clarification here. Vice do I have a different version? You are talking about SD2, page 2?

Representative Deleon Guerrero: Yes sir. It starts on line 17, but the concern is on line 20.

Speaker Palacios: I have six months.

Representative Deleon Guerrero: I have it struck out six months and two years is inserted, but regardless whether it is six months or two years.

Speaker Palacios: So it is two years? Okay proceed. Short recess.

*The House recessed at 4:35 p.m.*

*RECESS*

*The House reconvened at 4:40 p.m.*

Speaker Palacios: We are back to our session. Before I recognize the Vice Speaker. On Section 2, of the bill on line 3, page 2, that should be Public Law 15-61, okay, instead of Public Law 16-51, okay, it is just a technical typo. And I now recognize the Vice Speaker to continue.

Representative Deleon Guerrero: Thank you Mr. Speaker. I think a lot of discussion was made during our recess but for the record I would like to expand on what I was proposing, which is basically to strike out on line 20, starting with the words "within two years after the approval of the applicant's application" to strike that phrase out. And the purpose of that is again to ensure that the pensioner is not penalized really for no fault of his own. One can read this with the existing

language that the benefits be retroactively paid back to the applicant within this two year window of opportunity and the concern is if payment comes in after that window of two years someone can take the opinion that pensioners is no longer entitled because they did not meet that date requirement. And so really even if you look at we saw that it was initially six months and even the Senate the way I see when they amended it from six months to two years agreed that the time was too short and to protect the pensioner they extended it from six months to two years. Personally I feel that any time line may present a problem to the pensioner because of external issues that are not within the pensioners control if the Administration the economy gets bad if the Legislature does not appropriate funding then that person maybe and I emphasis maybe penalized we are just removing the potential for that to happen. Now it is also clear that there are provisions in here that almost mandates that the Retirement Fund is protected. It requires that first of all that any unpaid government contribution is treated as an obligation of the CNMI Government. It also requires that the Fund report to the Legislature on an annual basis the number of Retirees subject to the proportional pay out so that the Legislature can make funds available or so that funds could be appropriated to the Fund. Third, it requires that FTE's remain unfilled and that the salary from that FTE go towards fulfilling this unpaid or this deficient employer contribution. So there are already safeguards to ensure that moneys would go to pay this out all I am doing is because there are safeguards we just do not want to a loophole if you will that may cause a pensioner to be affected that is a very simple amendment Mr. Speaker I so move.

The motion was seconded.

Speaker Palacios: Okay let me make that clear. On line 20, the Vice Speaker is proposing to delete after the word “fund” the words “within six months or two years after the approval of the applicant’s application”.

Representative Deleon Guerrero: That is it. So it would read:

“Provided further that an applicant shall receive full retirement benefits retroactive to the date the applicant’s application for retirement is approved if the applicant’s employer remits to the Retirement Fund to retire all of its deficient employer’s contribution relative to that applicant...”

Speaker Palacios: Okay, is everybody clear with that amendment motion. Discussion. Representative Reyes.

Representative Reyes: Just for clarification Mr. Speaker, again on line 20, is it now six months or two years.

Speaker Palacios: It is two years. The proposal now deletes that whole sentence up to the word “application”. Discussion on the motion. Ready.

The motion was carried by voice vote.

Speaker Palacios: We are back to the main motion. Representative Sablan.

Representative Sablan: Thank you Mr. Speaker. In the absence of a committee report on this bill I guess I would like either some background information from the members who present in the 15<sup>th</sup> Legislature and now familiar with 15-61. My understanding is that the intent was to prohibit pensions being released that were less than the full amount and so this fundamentally changes that

law. I guess what I would like then is just to clarify here that we are now allowing the Retirement Fund to pay retirees less than what they are entitled to in the event that their employers have not paid the full employee contribution.

Speaker Palacios: Representative Hofschneider, do you want to explain 15-61? We just passed your Initiative and one of the issues that you took up was.

Representative Hofschneider: I would like to Mr. Speaker but I lost the election and I was not present in the 15<sup>th</sup> Legislature. (Laughter)

Speaker Palacios: But you enumerated and you articulated it in your Initiative very well.

Representative Hofschneider: Oh, hang on.

Speaker Palacios: So number 12 page 2. Well let me explain Public Law 15-61 actually prohibits the Retirement Fund from paying less than the full pension to retirees and what this is attempting to do is to allow for proportionate. Okay.

Representative Sablan: It is my understanding that the Retirement Fund is presently allowing members to retire if those agencies have paid their contributions.

Speaker Palacios: Right at full benefit. Those agencies that have not submitted their employer contribution or remitted their employer contribution which is basically the general fund most of us cannot retire at all, not proportionate, nothing. That is a resolution that was set by the Retirement Fund I believe in October of 2007. Representative Hofschneider.

Representative Hofschneider: Are we considered a full time employee here in the Legislature? We are right for all intense and purposes of budgeting each elected member is considered a member a full time employee. Subsection c of the bill proposes to prohibit filling an FTE that has retired. How do we proposed to do that?

Speaker Palacios: We cannot fill that seat. I believe an amendment will be in order in this instance. Legal counsel can you consider this except for the Legislative Branch and members of the Legislature and the Governor? Short recess.

*The House recessed at 4:49 p.m.*

*RECESS*

*The House reconvened at 4:52 p.m.*

*(Beginning of Tape 3, Side A)*

Speaker Palacios: We are back to our session. Are there any further discussion? Vice Speaker.

Representative Deleon Guerrero: Thank you Mr. Speaker. I may stand corrected but here is another potentially problematic part of this bill and that is that the benefits are calculated it is supposed to be proportioned to their actuarially determined employer contribution. The word “actuarially” determine employer contribution is that is adopted by the Retirement Fund Board, how would an

employee who lets say we passed a law that reduced the employer contribution down to 11% the actuarially approved rate should be 36%. It went from 36% down to 24% down to 11% now, right. So in essence if the basis is not what the Legislature approved but on what the Fund the Board determines as the rate. So in effect for even if we start remitting to the Retirement Fund at 11% technically that may not be sufficient to allow these employee to get their pension because that is not based on the actuarially determined rate. I am just tossing this out for thought because it may be something and I do not know are there members here that can enlighten us about this potential conflict. I mean there are some agencies that are still paying the rate at 36% and I think they may not be a problem but for others who are on the 24% and then down to the 11% now I just wonder how Retirement Fund would deal with those employees. Can somebody enlighten me?

Speaker Palacios: I believe it is a significant issue. Representative Hofschneider.

Representative Hofschneider: Yes, Mr. Speaker, I think I fully grasp what Representative Deleon Guerrero is saying. Saying that inspite of the actuarial that we set by law the employer contribution at 11% but we have no control over the real actuarial that is applied or approved by the Board of Retirement Fund. The difference thereabouts can be a contentious nature in which a person retiring may not be allowed to retire because technically does the employer have to fulfill the 36% or since we set under Public Law 16-2 11%, which one of the actuarial number is accurate and correct for a person to be considered fully paid? The 11% set by law or the 36% or the 42%?

Representative Reyes: I think it is only it remains a liability of the government it is just a relief for x number of years at 11% but it does not take away the liability under 16-2. I stand to be corrected.

Representative Hofschneider: No, but I am saying if Eve is going to retire at the end of this Sixteenth Legislature, one, there is a real potential problem that the position cannot be filled readily. Second, is that if we fall under the 11% and Eve is ready to retire and applied and approved the employer which essentially we have no prevue about remittance we have no authority over the remittance issue but the Secretary of Finance is remitting it on our behalf and if the Secretary of Finance under-remits the contribution for Evelyn in this example because their saying we are billing you at 36% your remitting the 11% under Public Law 16-2 the difference thereabouts is the argument. Now, under this act under the language, does that constitute full remittance, the answer is no.

Speaker Palacios: Representative Benavente.

Representative Benavente: Mr. Speaker, I believe that it would have to be the actuarial that is calculated. Because if we think about it every time we decide on what the contribution should be and it is below the actuarial that is being recommended to us we are creating this or increasing the unfunded liability. So I do not think that we should, that if we were to change that language and allow for a consideration of a smaller contribution we are actually creating or increasing the unfunded the liability. Again we just passed this Initiative and I think we should I realize that what this translates what this means is that if it was based on the 37% then the proportion would be much lower than if it was 11% but once again I think it would be fair that it be based on that actuarial. And I move to end debate.

Speaker Palacios: Representative Reyes.

Representative Reyes: Thank you Mr. Speaker. You know it has been for awhile right now since the Government has been paying to the Retirement Fund and the failure to enact something like this would create a bigger liability in the Government in the future because we got people right now that have retired but they cannot draw pension and the minute and lets say or the time and God knows when that would happen but if the employers contribution would have been paid that would be retroactive and that has to be added on to the unfunded liability, that is a liability right there for payout. For as long as you hold that the chances are that pensioner might come back here and say look I am going to have to charge you interest and penalty too. So if he is going to be paid retroactively lets say the guy will retire at \$40,000.00 a year and did not get paid for two years because of the situation went out from the Board. What happens then after that if that contribution is paid then you are going to have to pay the guy retroactively \$80,000.00 and that \$80,000.00 would be booked as a potential liability it is a liability incurred but it would be not yet reported. So before we go further I think it is best that we addressed this and let these guys retire and not further accumulate a bigger deficit because we did not do anything. Another thing about this bill that worries me is Section C, because I do not know how this thing will be handled by the Finance and the Retirement Fund but other than that I support this bill and besides right now we have people in line and what happens if somebody has retired and dies or gets sick and we have not paid them. But that is a liability incurred, but not yet paid. Thank you.

Speaker Palacios: Vice Speaker.

Representative Deleon Guerrero: Thank you Mr. Speaker. Let me present a realistic scenario. First of all the computation is based on actuarially determined employer contribution as adopted by the Board, that is going to be the basis for their computation. Now Finance is going to remit based on Public Law 16-2 at 11%, now if Finance remits based on 16-2, but it does not satisfy the Retirement Fund based on its computation, what happens, who can explain what would happen then, who can explain whether that person still gets less than their full benefit or and at what rate and there is no mechanism to resolve this. The intent is noble and is good and it is very much needed but its little details like this that can actually hurt the pensioner more than help them and this thing needs to be addressed. Now, Representative Reyes just mentioned about that unpaid contributions are treated as an obligation to the Government and it is right there on line 25, but it does say that the difference between the actuarially determined rate and what is remitted shall become an obligation to the Government. That is another thing that is not clear here or is not specified here. I think Mr. Speaker, if the legal counsel can put forth some kind of language that can address this concern then it would be better. Maybe we should refer it to committee Mr. Speaker, the risk of holding things back to the pensioners it almost warns that this concern be addressed. Thank you.

The motion was seconded.

Speaker Palacios: Before we continue let me recognize two honorable members of our Marianas Public Land Trust, Trustee Hocog and Trustee Untalan, welcome to the House. There is a motion that we are entertaining here and has been seconded to refer this to committee. Discussion? Representative Benavente.

Representative Benavente: Mr. Speaker, this legislation is urgently needed. It needs to be addressed and be acted on as quickly as possible. We are doing injustice to those individuals who deserve to retire even a little bit that we can contribute to them because they continue to say its better than nothing at all and that is what we are giving them right now is, nothing. So I ask that which ever committee that you assign it to that they expedite and send this out as quickly as possible. Thank you.

Speaker Palacios: Floor Leader.

Floor Leader Camacho: I understand what the Vice is saying that this has serious ramifications it really does on a very personal level. I got several phone calls from people from Tinian and also from Saipan calling up saying any money they have absolutely no money at all. They have retired and they are not getting any pension at all. Their health insurance their mortgages are becoming delinquent and not to say that they deserve to get less than what they have worked for many years, but at this stage they got nothing they cannot even feed their families they are going out borrowing from family members to try to make ends meet. So I understand where the Vice Speaker is saying that we need to look at this and cross the T's and dot the I's, I am all for that. In the meantime there is people who are worrying how to pay for their power how to pay for their mortgage how to pay their auto loan how to put food on the table. So that is the decision that each of us has to struggle because these people have been there six, seven months and they have exhausted every possible means to try to stretch their income and now they are waiting on us to act on this. I wish I had magic here is all the money and pay off your employer contribution but we do not so this is where we are at.

Speaker Palacios: Representative Aldan.

Representative Aldan: Mr. Speaker, since the Senate is having a session tomorrow can they recall this bill and do the amendment and then send it to our next session.

Speaker Palacios: Well if they agree to do that. Representative Hofschneider on the motion.

Representative Hofschneider: Yes, Mr. Speaker, it is important that we I here the urgency of this but keep in mind that the 15<sup>th</sup> Legislature absolved the Administration from paying two years that is booked as a liability. Public Law 16-2 reduced the actuarial amount from 37% to 11% so inspite of this act what is going to happen is no one who is going to retire will get a full pension until specifically you single out each Agency or Department and you fully fund that or remit it then that person coming from that Agency will be fully retired and computed. There has to be a balanced between absolving the employer obligation and not penalizing the retired individual as a result of non - remittance by the employer. As we speak even at the 11% under 16-2 the Administration has not remitted the full amount required under that act as an employer. So how long would this remedy be for those people that are calling in and saying it is better to have a little than nothing at the moment, I agree, but I think it would be a short relief and it is going to compound the pressure on both the Legislature to come back and revisit it as it is written. More importantly is, this is going to end up that language, that any amount owed to Retirement Fund will be booked as an obligation of the Commonwealth is a dispensation---*Recording ended due to power outage at 5:10 p.m.*

*[Note: Due to power outage, a summary of actions took place, as follows:*

*The motion to refer S.B. 16-36, SD1, HD1 to the committee was defeated by a roll call vote of 7-8.*

Representative Edwin P. Aldan	No
Representative David M. Apatang	Absent during voting
Representative Diego T. Benavente	No
Representative Joseph N. Camacho	No
Representative Francisco S. Dela Cruz	Absent during voting
Representative Joseph P. Deleon Guerrero	Yes
Representative Victor B. Hocog	No
Representative Heinz S. Hofschneider	Yes

Representative Raymond D. Palacios	No
Representative Justo S. Quitugua	Yes
Representative Joseph C. Reyes	No
Representative Christina Marie E. Sablan	Yes
Representative Edward T. Salas	Yes
Representative Ramon A. Tebuteb	No
Representative Ralph DLG. Torres	Yes
Representative Stanley T. McGinnis Torres	No
Speaker Arnold I. Palacios	Yes

*Further discussion of the bill was tabled to the next day, which was by concurrence of the majority. The session adjourned at 5:20 and will reconvene on Thursday, July 31, 2008, at 1:30 p.m., by motion which was carried by voice vote.]*

### **ANNOUNCEMENTS**

None

### **ADJOURNMENT**

The House adjourned at 1:30 p.m.

Respectfully submitted,

/s/  
Evelyn C. Fleming, House Clerk

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### **APPEARANCE OF LOCAL BILLS**

**FIRST APPEARANCE:** 1<sup>st</sup> Legislative appearance of a local bill is on the day it is introduced.

**SECOND APPEARANCE:**

H. L. B. NO. 16-18: To appropriate \$900,000.00 from the Mañagaha Land Fees (P.L. 11-64) for the Marianas Visitors Authority and the Northern Marianas College. (Rep. David M. Apatang +1S)

**THIRD APPEARANCE:** NONE