



# House Journal

## EIGHTH SPECIAL SESSION, 2008

**Second Day**

**July 31, 2008**

The House of Representatives of the Sixteenth Northern Marianas Commonwealth Legislature convened its Second Day, Eighth Special Session on Thursday, July 31, 2008, at 2:57 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 fifteen members were present. Representative Hocog, Representative Dela Cruz, Representative Apatang, Representative Raymond Palacios, and Representative Yumul were excused.

### **ADOPTION OF JOURNALS**

NONE

### **INTRODUCTION OF BILLS**

Speaker Arnold Palacios: Floor Leader.

Floor Leader Camacho: I have two prefiled bills numbered as:

H. B. NO. 16-136: A BILL FOR AN ACT TO PROVIDE FOR SPEEDY TRIALS FOR DEFENDANTS IN CRIMINAL CASES BY AMENDING CHAPTER 7 OF DIVISION 6 OF TITLE 6 OF THE COMMONWEALTH CODE; AND FOR OTHER PURPOSES

H. B. NO. 16-137: A BILL FOR AN ACT TO MANDATE THAT A PERSON BE ACCORDED THE RIGHT TO A PRELIMINARY EXAMINATION BEFORE THE ATTORNEY GENERAL FILES AN INFORMATION CHARGING A PERSON WITH COMMITTING A FELONY BY REPEALING AND REENACTING 6 CMC § 6303; AND FOR OTHER PURPOSES.

Thank you.

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

## INTRODUCTION OF RESOLUTIONS

Representative Hofschneider: Thank you, Mr. Speaker. I have an unnumbered House Joint Resolution. A House Joint Resolution to request the assistance of the United States Department of the Interior in consolidating and directing federal grants for the CNMI to the Commonwealth Utilities Corporation for the purposes of rehabilitating Power Plants in the Commonwealth under the oversight of the US Army Corps of Engineers. Introduced by myself and many others and I welcome more. Thank you.

H. J. R. NO. 16-12: A HOUSE JOINT RESOLUTION TO REQUEST THE ASSISTANCE OF THE UNITED STATES DEPARTMENT OF THE INTERIOR IN CONSOLIDATING AND DIRECTING FEDERAL GRANTS FOR THE CNMI TO THE COMMONWEALTH UTILITIES CORPORATION FOR THE PURPOSE OF REHABILITATING POWER PLANTS IN THE COMMONWEALTH UNDER THE OVERSIGHT OF THE U.S. ARMY CORPS OF ENGINEERS. (Rep. Heinz S. Hofschneider)

Speaker Arnold Palacios: Thank you.

Representative Hofschneider: With the indulgence of the members, Mr. Speaker, may I request that we place this on today's calendar.

There was no objection.

Speaker Arnold Palacios: Are there any more resolutions? What is the pleasure of the members? I know that we will probably have a lengthy deliberation that we are going to be facing on where we left off, yesterday. So, with the indulgence of the members, I would like to proceed on to the Resolution Calendar so we can take action on the resolutions.

There was "no objection" on the floor.

Speaker Arnold Palacios: Short recess.

*The House recessed at 3:00 p.m.*

*RECESS*

*The House reconvened at 3:12 p.m.*

## MESSAGES FROM THE GOVERNOR

None

## HOUSE COMMUNICATIONS

None

## COMMUNICATIONS FROM THE JUDICIAL BRANCH

None

**COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE**

None

**COMMUNICATIONS FROM DEPARTMENTS & AGENCIES**

None

**OTHER COMMUNICATIONS**

None

**REPORTS OF SPECIAL AND CONFERENCE COMMITTEES**

None

**UNFINISHED BUSINESS**

None

**RESOLUTION CALENDAR**

Speaker Arnold Palacios: Representative Torres, you were asking about a copy of a letter. I do not have the Mobile letter, I have the response from Mr. Muna. Before we went to recess we were on Resolution Calendar I believe, Floor Leader.

Floor Leader Camacho: Thank you Mr. Speaker. A motion to adopt H. J. R. No. 16-12 consolidating federal grants and for purposes.

The motion was seconded.

**H. J. R. No. 16-12**: A HOUSE JOINT RESOLUTION TO REQUEST THE ASSISTANCE OF THE UNITED STATES DEPARTMENT OF THE INTERIOR IN CONSOLIDATING AND DIRECTING FEDERAL GRANTS FOR THE CNMI TO THE COMMONWEALTH UTILITIES CORPORATION FOR THE PURPOSE OF REHABILITATING POWER PLANTS IN THE COMMONWEALTH UNDER THE OVERSIGHT OF THE U.S. ARMY CORPS OF ENGINEERS.

Speaker Arnold Palacios: Discussion. Ready.

There being no discussion the motion to adopt H. J. R. No. 16-12 was carried by voice vote.

Speaker Arnold Palacios: I think the author wants to elaborate more on the content of the resolution. I will allow it I know that we adopted it but I will allow him a few minutes.

Representative Hofschneider: That is why it is bad to have four Speakers on the floor. (LAUGHTER) Mr. Speaker, and members, thank you. The logic behind this is no one can argue that the extension of cooperation between the Legislature and the Executive Branch is now history. And cooperation in many ways, in fact, the public has raised the level of cooperation to be somewhat of an ambivalent feeling, and often question whether the cooperation is merit to itself, the act itself. But when it comes to CUC, they have close to three years now that no interference from the Legislature. In fact it is all history. Now that the cooperation is by ways of laws, and cooperation in trying to find ideas and means and ways to remedy the problems that we are facing. I think that, to rest not only the Federal Agency, that is doling out the revenues or the resources for the

Commonwealth either by way of 702 funds or other grants not included in 702 funds. I think that the Federal Government would be more receptive in terms of looking at the gravity of what it takes to repair the engines, and that is this piecemeal approach that we have ongoing has proven itself feudal to say the least, that it is, in fact, contributing more problems relating to power outages. I think now we are experiencing not only two hours of power outages but now five hours per day. So, we are not moving ahead or forward in that respect. And I think that we have to put all our marbles in and the only way that the Office of Insular Affairs may look favorably and more receptive is, there is an contentious of the Legislative body appealing to both the Governor of the Commonwealth and appealing to the agency themselves OIA, to consolidate what we have. And in future perhaps, a year or two in terms of grants and putting all the marbles so to speak, and dealing with the total rehabilitation and not a piecemeal rehabilitation it has proven itself not worthy of the total expenditure so far. And I think that the recent visit by Mr. Pula, I do not want to second guess what his report was, but I think, that the lack of any real assistance coming out of OIA may be viewed as a disappointment in the last visit, and I do not want to inject that as being the case I am only assuming. But Mr. Speaker, in anticipation of your trip to appeal to the Federal Agencies, the OIA through this resolution would be more receptive in engaging the US Army Corps of Engineers, which have the expertise to look or oversee the entire overhauling and contract management. That is the most critical component when you award a contract, is an expert entity or individual looking over and making sure that timely schedules are followed and accomplished. We are shooting in the dark here in the Commonwealth and the US Corp of Engineer have always assisted us in the past. It is only our willingness and through House Joint Resolution 16-12, expresses the willingness and receptivity of the people of the Commonwealth, by way of us expressing that need. I appeal to your group Mr. Speaker, and I appeal to OIA, and by way of OIA perhaps a change of language by the US Congress and maybe in addition to what we have it is not significantly enough to undertake the total overhauling of the Power Plant in Saipan, let alone to deal with the cost of fuel. But the change of language has to occur in the US Congress for certain grants coming by way of 702 to the Commonwealth and with that Mr. Speaker, I hope that the members of both Houses agree that this is perhaps the most appropriate alternative that we have and have not tried. The seriousness, the integrity into the system of undertaking procurement undertaking the entire overhauling and perhaps also help us map out the final solution to power generation in the Commonwealth. Whether, it would be renewable energy, privatization, or a combination of the two. Be it as it may I think that the technical expertise is what we are lacking and we continue to argue and we have concluded here many times in this floor, and everyone agrees, that perhaps one of the malady that we are confronted and we are not willing to accept is, that maybe non-existing in the Commonwealth, a truly qualified individual to run the power plant and oversee the entire overhauling of antiquated power generation plant here in Saipan. And with that I urge and appeal to you, Mr. Speaker, and your group that will be meeting in Washington, to impress upon the importance of engaging the US Army Corps of Engineers and have the seriousness in it to consolidate our grants and perhaps a change in language permitting the Commonwealth to achieve a greater pool of money to accomplish once and for all the power rehabilitation. Thank you.

Speaker Arnold Palacios: Thank you. Before, I recognize Representative Torres, let me point out the last visit by Mr. Pula, I was able to get a few minutes of his time with him and Mr. Domenici, the Deputy Secretary of Interior. Our discussion basically, was on the need for OIA to look towards different alternative for assistance to the Commonwealth for our power generation issues. At that time, Mr. Pula was very receptive and so was Mr. Domenici, though not necessarily with any finality it was my understanding that they were thinking of developing alternatives on how they can help the Commonwealth. Certainly one of which under that very brief twenty to thirty minute discussion with him this was one of the alternatives that was brought up and he did offer his assistance and

commitment to improving the livelihood of this community in regards to the power crisis that we are facing. That is going to be the message that we are going to basically bring to him. I understand also that through our local media that our Representative Ralph Torres was in Washington. I thought you were going to New York? He was able to discuss this issue with Mr. Pula as well as some Congressional staffers. And with that I am going to ask that Representative Ralph Torres to give us a briefing of his trip. As Speaker and as the Chair, I am going to ask you that you do that now.

Representative Ralph Torres: Thank you very much Mr. Speaker. Well, first of, my trip to Washington, D.C. was a learning experience and as well as education purposes as well. While, I went for Education, Health, and Welfare purposes of meeting some of the committees and addressing some of the issues that we have. Along the way I realized that CUC has always come in as an issue to all the Departments that are facing here. So I got the privilege to meet with Al Stayman, who is the Senate Senior professional staff for Energy. We met with Doug Domenici, Nick Pula, Rich Staten, and Joshua Johnson and some of the other Insular Affairs subcommittee, Tony Babauta and also Brian Modesty and a couple of others that we met and addressed the issue of CUC. It is really rewarding to hear that they are willing to help us bring in the Army Corps of Engineers and we have talked about that very much in lengthily discussion. What they recommended us in doing and now that our Speaker and the Senate President is heading over there to be meeting with these guys and I know they would do an excellent job in presenting the issue that I tried to bring in. But at any rate they are willing to give us the resources both the Army Corp of Engineers and also try to bring in some sort of a master plan on how to bring about either rehabilitate the engine that we have today and or give us alternative energy. At the same time, perhaps give us the proper resource to look at if a new power plant is something that we can afford. So with my trip to Washington, DC and addressing the issue of CUC, I wholeheartedly support this resolution and I strongly believe that with this joint resolution I think it is an excellent step to show the Federal Government that we are in dire need of their assistance and they are not coming in because they want to but rather we are begging or even asking them to come in and assist us with our situation. Because the bottom line every Department here in the CNMI is suffering because of CUC issues as well as the businesses and residential community. So with that I support this resolution and we move forward. Thank you.

Speaker Arnold Palacios: Thank you. Okay. Are there anymore discussions on the resolution that we have adopted? Representative Sablan.

Representative Sablan: I would also like to ask that the Delegation that consist of yourself and the members of the Senate Leadership, come prepared to answer some hard questions that I think we can reasonably anticipate the Federal representatives asking of us. And two questions that come to mind that I think we would be hard press to answer would be one, why do we not have a plan at this time to address our power crisis and second, why has our Governor not asked for this? I think that we can expect that they will ask that and we should come prepared with answers. Thank you.

Speaker Arnold Palacios: Thank you. I will certainly try to anticipate that question and see if I can craft, an adequate, reasonable and appropriate response. Representative Babauta.

Representative Babauta: Thank you, Mr. Speaker. Mr. Speaker, I think this is a very well initiated practice. To vote first then discuss later.

(LAUGHTER)

Speaker Arnold Palacios: Very good. Thank you.

Representative Babauta: We anticipate a positive vote on issues. Thank you very much.

Speaker Arnold Palacios: Representative Reyes.

Representative Reyes: Mr. Speaker, just a question I support the Joint Resolution, but this is for all federal grants?

Speaker Arnold Palacios: Representative Hofschneider, recognized.

Representative Hofschneider: I think it leaves without saying that OIA knows what CIP we are talking about.

Speaker Arnold Palacios: Is there any more discussions? Read? Thank you. Let me ask whether the members would like to go straight to our discussions on Senate Bill No. 16-36, because we were having a very long deliberation. Are there any objections?

There was “no objection” raised on the floor.

Speaker Arnold Palacios: Representative Benavente, you looked sort of quizzical.

Representative Benavente: For clarification, Mr. Speaker, the motion was made to table the discussion so just for the purpose staying in order here, does that mean we go right into discussion?

Speaker Arnold Palacios: Yes, we will go right into discussion. Many significant issues were being raised by the members of the House regarding certain operative or eventualities and results of this legislation. And we were under discussion when the power went out. So with that we will continue our discussions and deliberation on this. We are now on S. B. No. 16-36, SD2, HD1, Representative Hofschneider, recognized.

Representative Hofschneider: Thank you Mr. Speaker. In my fifteen years I do not know about Representative Benavente, but in my fifteen years here I have never had to go to bed and awake at three in the morning with sweats and nightmares about a bill, but I did. Before, I slept, Mr. Speaker, I ran the bill four times over and over looking from multiple angles what can happen, and with the premise that legislating is not for a handful, but legislating for all intent and purposes, should be considered to benefit a greater majority and not a handful. So I kept pondering the languages being proposed and a couple of things concluded before I went to sleep. One, it is appalling that we penalize employees. This is penalizing employees, not the employer. The employer has the obligation to do two things. One, garnish the statutory requirement of being a member of the Retirement Fund from the employee called, employer employee contribution. So if you are a Class I you have a six and a half percent contribution. If you are a Class II you have a nine percent contribution. Two, as an employer by statute the employer is required to set aside its contribution to the Retirement Fund for purposes of hiring this person. Over the years we have taken the worse attitude towards our obligation as an employer and by way of that because there is case precedence already set that employee contribution cannot be withheld and used. Employee contributions should be remitted on a timely manner after garnishing it from the employee so those are been invested. But the unanswered area is the employer contribution that comes with the benefits of both the

employee and employer in the Commonwealth. The Government has taken responsibility and accountability at a higher level or maybe the opposite way at a much lower level. Heeding to the fact that the total resource of the Commonwealth is continually dwindling, inspite of that, we have taken the action under Public Law 16-2. To turn our backs on the fact that the actuarial is actually 37%, and in place it by law, at 11% to safeguard the Commonwealth existence not rifting people, not austerity Fridays, and so forth. So we took it to a level where there is a compromise in the continued existence of the Commonwealth Government and short changing the contribution of these employees. What I concluded, Mr. Speaker is, I have always had the philosophy that any bill can be massage or worked to make it workable or better. But honestly, I woke up with a nightmare, and I could not find a single way to make this bill workable because everything is about penalizing the employee. An employee who has decided to retire has vested and is ready to retire, or has retired and accepted to retire, is being penalized because the Government itself refuses to take responsibility in meeting the contribution to the Retirement Fund because of “competing priorities to continue existing at this level that we cannot afford” that is the reality. These people have worked twenty years and now because of bad employer, CNMI Government refuses to contribute appropriately so that that person under the law can retire at twenty years of service if---(*End of Tape I, Side A*) but because this is “Government” this sense of immunity that if we pass a law which comes to mind the most glaring and most obvious problem with this bill, this is a legal permission not to remit to the Retirement Fund, it is an excuse to further add on to the obligation of the Commonwealth, so long as you book it as owing Retirement Fund, its quite okay because it is legislated by law. When are we going to learn that if we have a dollar it is prudent to spend .ninety nine cents and keep a penny for rainy days. But to have a dollar anticipating having a dollar and your spending two dollars that is bad practice you are leading towards bankruptcy court. Mr. Speaker, I honestly concluded that this legislation is for all intent and purposes for a handful of concern individuals not for the greater majority of people who are retiring and retired. The responsibility of the Government to pay for the contribution is clear. We should not turn the table on employees who have vested and worked hard. And under the law are entitled to retire with a prescribe pension. We are subjecting them to a prolong enjoyment of what they have labored for twenty years. This morning in the paper, the Retirement Fund Board is going against the bill, so where did this bill come from? I know it is a Senate Bill, but this is very serious. The 15<sup>th</sup> Legislature passed a bill increasing the withdrawal from ten year service to fifteen years service. That creates a wider gap of bleeding cash outflow. Because now instead of limiting it to ten years that you can withdraw your contribution the 15<sup>th</sup> Legislature passed increasing it to fifteen years allowing a greater pool of members to withdraw their money adding on to the bleeding. And this is totally contrary to what we just voted yesterday, a legislative initiative to prevent or prohibit the future Legislature from passing benefit plans that are not paid for, the employer is part of that obligation. Mr. Speaker, I know that I have taken the floor longer than what the Floor Leader can tolerate, but Mr. Speaker, and members, honestly it is the responsibility of the Executive Branch and the Legislature partly, to pass a budget that sets aside the appropriate amount to fulfill those contributions on a timely basis so that people anticipating to get off active status and enjoy retirement having worked twenty years should not be penalized like this bill is trying to do. This is appalling that we penalize retiring individuals. I have never seen a bill in my fifteen year time here that penalizing employees for having worked twenty years and ready to cash in their time deposits. It is like walking into a bank after twenty years in your time deposit the bank said, well because there is a lot of bankruptcy and bad loans we can only allow you to withdraw whatever proportionate recovery of those bankrupt or bad loans that is your money, these employees that is your money. We should not be standing in the way. Thank you Mr. Speaker and I apologize to the Floor Leader.

Speaker Arnold Palacios: Thank you. He is a good man he does not take offense to that. Okay. Representative Benavente.

Representative Benavente: Mr. Speaker, I beg to differ with regards to the legislation for a handful. There may be a handful, that have opted to retire and they were lead to believe that they would be able to get their pension or at least some kind of a pension and their not. So, for the past several months there is a handful of people that are not being given their rightful pension and this action is not just for these individuals. It is going to be available for anyone else who would rather retire to receive at least a little bit of what they can get from the retirement system and work for the private sector so that they improve their income so they can afford to live. The situation is real I mean this is you know we are not guessing, that is what is happening right now, this is real. It is about individuals who are not getting anything at all. And that it is all our faults. But what do we do now? The Retirement System is telling us already and has decided and is doing it so that they are not giving anything to these individuals who are eligible to retire who should be receiving their pension. So no matter how much we say or point at people it is not going to happen. This legislation works out an arrangement if you will, and possibly because I did not realize that the Chairman is opposing this legislation as well and I think it is misunderstood I think there are provision that he objected to that is no longer in this proposal but even if it is so, here we are and this is our responsibility to assist our people here in our community by providing some opportunities to save some of these individuals. I asked earlier for the clarification on what the status is, Mr. Speaker. There were a lot of discussions yesterday I do not think we need to repeat ourselves. As a matter of fact when we left of it was on the issue on whether the calculation should be the actuarial amount that is calculated by the Retirement Fund, or is it the amount that we enacted by law, which is either 18% or removing the two years or considering the two years that was suspended and then eventually now the 11%. That was where we are at. And I hope that we can settle that and move on and vote on this legislation. Thank you.

Speaker Arnold Palacios: Representative Reyes.

Representative Reyes: Thank you Mr. Speaker. This is the kind of bill that is “damn if we do and damn if we don’t”. Perhaps we should look at it in another way and put up a resolution to have the courts address the lawsuit that was filed by the Retirement Fund because it has been too long. Everybody has had a good argument about it reasons for it Representative Hofschneider and so does Representative Benavente and again coming from the Fund. We would not be addressing this situation if only the Government would pay or if only the Government has plans to pay. But on the other hand I look at it also that yes, why penalize the people that it is not at their fault they can retire but cannot draw pension and the more you look at it really if you do not pay those guys that are already eligible to retire, that would accumulate and that would add on further to the unfunded liability and that should be factored in and that would balloon the liability even much higher. The question is, how soon or when is the Government going to be able to address this and remit money to the Retirement Fund? Although I am inclined to support the bill it scares me also that on page 3, from Item 3, I know that we discussed this yesterday that certification by joint resolution from the Legislature but, who is going to do this, who is going to be taking accounting of this entire thing? There were times in the past where even the Department of Finance has made mistakes where a Class I employee is getting deducted Class II, and a Class II employee is getting deducted for Class I. This is not going to be a simple matter to do and it just worries and troubles me. I do not know but again as I said I am inclined to support the bill only so that the folks otherwise if the Board would never been which is really just by the Board resolution that prohibits these people from drawing pension we can do it by legislation but at the same time when is this going to happen and

how many more people do we want to retire and will not draw pension and how much longer are they going to hold this back? At the same time on the other flip of the coin you looking at it also and that these people may not retire and we are depriving our younger generation that job. So as I said this is a “damn if we do and damn if we don’t” kind of bill and the Retirement Fund at one time does support this bill except with the amendment made and now we have amended it further and maybe I should take a five minute recess to think.

Speaker Arnold Palacios: I will allow you to take some quiet time. Let me recognize, the Vice Speaker.

Representative Deleon Guerrero: Thank you, Mr. Speaker. I guess I have to apologize for stirring up the bees nest yesterday, but there were some relevant concerns that do affect an employee that is about to retire regarding their pension. But after further looking at the bill, Mr. Speaker, and after talking with some members who I guess represent the Retirement Board, and after hearing the pleas regarding pensioners’ application for retirement that are really in dire straights right now. Mr. Speaker, those pensioners’ will be afforded the opportunity to get their full retirement if and when whatever deficient employer contribution is remitted to the Retirement Fund, the bill does provide for that. The bill further provides mechanisms to provide funding to retire those deficient contributions. So after weighing both sides Mr. Speaker, I am going to vote to support this bill. I just wanted to state that for the record. I just want to state also for the record that I hope that the 16<sup>th</sup> Legislature would look at this after its passage, perhaps when the first batch of retirees are being allowed to receive their partial pensions or proportionate pensions and we do see the potential problematic areas in terms of the actuarially determined employer contribution and what would actually be remitted. That we may return and perhaps offer an amendment that can resolve that potential problematic area and with that Mr. Speaker, I move to end debate.

Speaker Arnold Palacios: Are there anymore? Before I recognize, Representative Sablan, and Representative Torres and before we continue on with discussions and not forget and lose my thought here. One of the significant questions that we need to ask ourselves is and was pointed out, to determine and clarify for everybody’s confidence in the bill. What is the rate? Is it 11% or 36% or 37%? I believe it is 37% it is not going to be 11%. Second question, I keep asking myself since yesterday regarding the legislation is, I believe it was October of last year 2007. The Board effectuated a resolution that they had passed earlier, which states “that hereto forth the Retirement Fund will not approve anymore retirees if your employer contribution is not complete. My question that perhaps some of us might ponder or even answer is, is the employer contribution that is short changed would be beginning after the day the resolution took affect, that means for one year that part of 2007 and 2008, or is it for the whole time and all the short remittance of the employer contribution, because if that is the case then what this legislation would do is probably basically legitimize and allow for those people that retired before October 1, of 2007 to get full pension, but if anyone missing that cut would not. That raises a legal question and because there are individuals that were indeed qualified to retire and could have retire had they applied, but they did not, so now they that cannot retire. Those who have opted to retire prior to the effective date of the resolution although their employer did not remit the full employer contribution are able to retire. So there is a sense of injustice in terms of the time given to these individuals. It is something that I have been pondering about and with that, I recognize Representative Ralph Torres.

Representative Ralph Torres: I would like to say just a couple of things. I have met with employees from Rota, Tinian, and Saipan who have come to my office and you know they just want to retire after twenty five years. There was one individual that worked over thirty years and it comes to a

point that some of them do not really care about the Government's contribution. Give me what I contributed and if we are going to continue holding back on their rights to retire we got to think more than twice and more than five minutes, but I just want to say for the record that it is about time that we give something for all qualified retirees that are eligible some compensation, whether it is full compensation or half or a quarter, but something that they can sleep at night and wake up and pay a quarter of their CUC bill, because I would hate to see more eligible retirees not being retired and they end up leaving this earth for whatever reason. So a little compensation is by far better than none and I think we all agree on that. Thank you.

Vice Speaker Deleon Guerrero: Thank you, Representative Torres. Is there anybody else? Representative Babauta.

Representative Babauta: Thank you Mr. Speaker. First of all Mr. Speaker, Senate Bill 16-36, has merit in a sense. What it alludes to do is, apply certain percentage to those applicants who have, the Speaker mentioned earlier applied since October of last year. But sure enough, Mr. Speaker, what guarantee do we have if this legislation is passed? In fact, today the Board of Trustees continue to defy pertinent statute that this Legislature enacted, not only statute that authorizes them, mandates them to grant these applicants their rightful investment. Mr. Speaker, several years ago, a similar thing happened. I recall then former Governor Pete "Teno" Tenorio, I am pretty sure our Representative Benavente remembers this. We sat down and figured out the percentage of what the Government can contribute on a monthly basis. An MOU (Memorandum of Understanding) was executed and potential retirees back then continue to apply and they continue to be accepted. The mere fact Mr. Speaker, is the Constitution in itself provides that no one employee who has invested shall diminish its investment. And to short change individuals by having this kind of legislation, this is a noble intent, at least to have something as what Representative Ralph Torres had mentioned, but I do not think this is fair Mr. Speaker, for one to invest himself or herself in Government service for twenty years, twenty-three years, twenty five years, discounting the credits, receiving \$18,000.00 per anum and retiring at that level. And to issue a 50% or maybe below 50% of pension, that is totally unfair. During the closing of the 15<sup>th</sup> Legislature, Mr. Speaker, every one of us supported the initiative we passed and adopted a resolution, engaging our legal counsel to certify these issues in the court. I must address this issue Mr. Speaker before all of us, let us revive that resolution and see what we can do. So that once and for all we do not put these potential retirees in despair, let us give them what they rightfully own. This is a as we normally call it in the Chamber a quick fix thing, but I am not too happy with this kind of bill. I would rather see that the employees be given their rightful share of the pension plan. Thank you, Mr. Speaker.

Representative Benavente: Point of clarification.

Speaker Arnold Palacios: State your point, Representative Benavente.

Representative Benavente: Mr. Speaker, you know, a couple of times the members refer to the Chairman's comment on today's paper in the Variety. If you read the comments in the interview he actually talked about the legislation on Public Law 15-70, and he was also referring to a proposed amendment that had been included in this bill at one time, that is no longer in here, so the statement that the Retirement opposes this legislation when in fact, the Retirement supported it as it passed the Senate. It does not jive with the front page of today's paper. Thank you.

Representative Sablan: Point of clarification.

Speaker Arnold Palacios: Proceed, Representative Sablan.

Representative Sablan: Thank you. I did actually get a chance to speak to the Retirement Board Chair today and it is true, as Representative Benavente has said, that they not opposed to idea of doling out proportionate pensions and it is true that they opposed a particular section of the bill that is no longer there. But the other major issue that they had that remains a concern for them is, the lack of a time limit for the Fund's liabilities to make retroactive payments for pensioners. So the six month time limit was already a significant compromise for them, and then it was extended to two years which, they opposed and then it was removed completely which and now they say if we are going to do that they withdraw their support completely for this bill.

Representative Babauta: Clarification on the Bill, Mr. Speaker.

Speaker Arnold Palacios: Thank you. Proceed, Representative Babauta.

Representative Babauta: Thank you. Mr. Speaker, if the section here says “until such time that the Government have fully repaid the employer's share”, so if it takes this Central Government to pay the Retirement Fund fifteen years, are these individuals going to wait fifteen years to get their full pension? They are already down at the Mt. Carmel cemetery, Mr. Speaker, this is wrong. We need to force this issue once and for all. We all know, we accept responsibility that our government is in deep arrears as far as its obligation, employer contribution. So let us correct this once and for all and consider these people as having to invest 100%, instead of one fifth. Thank you, Mr. Speaker.

Speaker Arnold Palacios: Floor Leader.

Floor Leader Camacho: Thank you, Mr. Speaker. Just to add to some of the discussion here. Actually there are two members, myself, and Chairman Joseph Reyes who are signatories to the lawsuit to the Central Government in regards to the nonpayment of the employer contribution. That lawsuit was filed it is going on three years now. Mr. Speaker, and it does not look like anywhere close of being resolved and I know that we struggle to find solutions to all of this problems. Presently on our calendar you have a bill that I introduced, House Bill 16-36, to give authorization to the Retirement to file for bankruptcy in front of a Federal Court because apparently the local court moves at lightning speed and you know we just cannot catch up to them. So if we are to authorize them to file bankruptcy perhaps things can be resolve. In Guam they did exactly that and the Retirement Board went into the respective Agencies and Departments and basically took control of those assets in order to make right what is being lacking, those are extreme measures. If I can ask the indulgence of the Speaker if we can just take a short recess, Representative Reyes and I need to put our five minutes together, Mr. Speaker.

Speaker Arnold Palacios: Is that why you were raising your hand, Representative Reyes. I will give you seven minute recess.

*The House recessed at 4:07 p.m.*

*RECESS*

*The House reconvened at 4:25 p.m.*

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

Floor Leader Camacho: Thank you, Mr. Speaker. During our recess there were various inputs from the members and I make a motion to refer to this to the special committee you just created in order to handle S. B. No. 16-36.

The motion was seconded.

Speaker Arnold Palacios: The motion has been moved and seconded that S. B. 16-36, SD2, HD1 be referred to a Special Committee created by the Chair, for the record let me reiterate the names of the members who are going to be on this Committee. Vice Speaker Deleon Guerrero would be the Chair for the Special Committee, Representative Babauta, Representative Quitugua, Representative Torres, and Representative Hofschneider will be on this committee and the legal counsel to staff the committee will be Mrs. Villagomez. Discussion. Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. I would like to express my support for the creation of this Special Committee. And if I could request that the Committee to look at in particular my concerns besides the points that have already been raised about the fundamental and fairness, and about the legitimizing this Government's failure to remit contributions to the fund. I would like to also ask that the special panel look at the ramifications of creating essentially cast within the Retirement System where some people are getting 100% others are getting 50%, 70%, and we run the risk of creating basically a very highly politicized program because who would be deciding who gets to retire and at what percentage and I think that as a matter of public policy whether or not the Fund Trustees support proportionate pensions we should examine whether or not that is really the wisest course for a pension program. Thank you.

Speaker Arnold Palacios: Are there any further discussions? May I ask that the Committee Chair, Vice Speaker Deleon Guerrero, also ensure that they engage with the Retirement Fund and to extend the Secretary of Finance on this issue for the record Vice Speaker you will have two weeks until we finalize our report on this I know the timeline is a little bit tight but I trust that you would meet that. Representative Hofschneider.

Representative Hofschneider: I gladly accept your nomination provided that we vote now subpoena power being granted to this Special Committee.

Speaker Arnold Palacios: That is a condition that is being recommended so we will vote that we will grant subpoena power to this special committee. That is part of the creation of this committee, and that is part of the creation of this committee, and that is going to be part of what we are voting on. Am I clear? Ready.

The motion that was offered by Representative Hofschneider granting subpoena power to the special committee was carried by voice vote.

Speaker Arnold Palacios: Vice Speaker, thank you very much. Representative Torres.

Representative Torres: Also for the record, I gladly accept your nomination.

Speaker Arnold Palacios: Thank you. Floor Leader.

**BILL CALENDAR**

Floor Leader Camacho: I know that it is about 4:30 p.m. Mr. Speaker, but if we can at least dispose of one, maybe a smaller bill.

Speaker Arnold Palacios: Yes sir, I will entertain.

Floor Leader Camacho: The last session when we acted on this bill we made a motion to table it. If I can make a motion to take it from the table and continue our discussions on H. B. 16-56, referencing to the LIHEAP Program at CUC.

Speaker Arnold Palacios: Do you want to continue discussion?

Floor Leader Camacho: I believe so. We were in the middle of discussion when we made that motion to table it. I make the motion to take it from the table to continue our discussion.

The motion was seconded.

Speaker Arnold Palacios: The motion was made and seconded to bring to the table H. B. 16-56 for further deliberation and potential disposition. Discussion? Representative Sablan.

Representative Sablan: Thank you, Mr. Speaker. I would like to just respectfully request that we leave it on the table for at least a couple of more days. I am just waiting for a response from the Executive Director. I know that he gave us a communication about the LIHEAP Program, but he did not describe the actual cost of disconnecting and reconnecting, which I think would be very germane to our discussion on this bill. So if we can just get the indulgence of the members and the Floor Leader for some additional time.

Speaker Arnold Palacios: Executive Director of CUC? Representative Torres.

Representative Torres: Mr. Speaker, I totally disagree. This has been on the calendar since February. I also requested documents that have been over five months now and so any information that Representative Sablan should have been done five months ago. So it was pushed back for another two weeks, if I am not mistaken. And now to hold it back for another day I totally disagree with that. So if Representative Sablan requested the document and you do not receive it I think it is about time we move on.

Representative Sablan: Point of clarification.

Speaker Arnold Palacios: Representative Sablan, state your point.

Representative Sablan: Thank you. I just requested this document from the Executive Director yesterday, and he did respond to members request for information about the program itself. Perhaps it was the particular questions that were asked but I did specifically ask for the actual cost of disconnecting and reconnecting customers and that is the issue that will be entertaining today if we take up this bill.

Speaker Arnold Palacios: Okay. Representative Sablan objects, one is recommending, the motion is to actually just to bring it up for discussion on the floor. Representative Sablan, it is just to put it up

on the floor. If you noticed it was tabled, and it has been deferred. The motion is just to bring it up for further discussion, if at the end of our discussion that is where we go then. Okay. Ready.

The motion was carried by voice vote.

Speaker Arnold Palacios: We are now discussing H. B. No. 16-56, HD3.

Representative Babauta: Point of clarification.

Speaker Arnold Palacios: State your point, Representative Babauta.

Representative Babauta: Thank you. Has H. B. No. 16-56 HD 3, been officially introduced or not yet?

Speaker Arnold Palacios: Floor Leader, do you want to answer that?

Floor Leader Camacho: I believe it was passed out whatever months ago, five months ago.

Representative Hofschneider: Point of clarification.

Speaker Arnold Palacios: Representative Hofschneider, state your point.

Representative Hofschneider: H. B. No. 16-56 HD3, is the result of the amendments, so it is okay.

Speaker Arnold Palacios: A motion has been made to...short recess.

*The House recessed at 4:34 p.m.*

*RECESS*

*The House reconvened at 4:44 p.m.*

Speaker Arnold Palacios: We are back to our session. Before we went on recess the motion was for the previous question, it has been seconded. We are under discussion and I have noticed that it was getting a little bit heated. We went on recess and I took the liberty to walk the hallways, I hope things have been resolved, Representative Babauta.

Representative Babauta: You know, Mr. Speaker, when a mover offers a motion for the previous question it is undebatable and therefore you are the man.

Speaker Arnold Palacios: Thank you. That is why we went on recess, Clerk call the roll.

The Clerk called the roll on the motion to pass H. B. NO. 16-56, HD3 on First and Final Reading.

Representative Edwin P. Aldan	Yes
Representative Oscar M. Babauta	Yes
Representative Diego T. Benavente	Yes
Representative Joseph N. Camacho	Yes

Representative Joseph P. Deleon Guerrero:	Yes
Representative Heinz S. Hofschneider	Yes
Representative Justo S. Quitugua	Yes
Representative Joseph Reyes	Yes
Representative Christina Marie E. Sablan	No
Representative Edward T. Salas	Yes
Representative Rosemond B. Santos	Yes
Representative Ramon A. Tebuteb	Yes
Representative Ralph DLG. Torres	Yes
Representative Stanley T. Torres	Yes
Speaker Arnold I. Palacios	Yes

Speaker Arnold Palacios: By a vote of fourteen “yes” H. B. No. 16-56 as amended hereby passes the House on First and Final Reading. Floor Leader, if there is no objection can we go back to the Standing Committee Reports and see if we could adopt some of those.

### REPORTS OF STANDING COMMITTEES

Floor Leader Camacho: Thank you Mr. Speaker. A motion to adopt S. C. R. No. 16-32 reporting on H. B. No. 16-40; H. B. No. 16-62; H. B. No. 16-64; and H. B. No. 16-101.

The motion was seconded.

**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.*

Speaker Arnold Palacios: Discussion on the motion. Ready.

There being no discussion the motion to adopt **S. C. R. No. 16-32** was carried by voice vote.

Speaker Arnold Palacios: Representative Sablan.

Representative Sablan: I thought this was S. C. R. No. 16-32?

Speaker Arnold Palacios: Yes.

Representative Sablan: That was the one we just adopted?

Speaker Arnold Palacios: Yes.

Representative Sablan: Okay. Sorry.

Speaker Arnold Palacios: Floor Leader.

Floor Leader Camacho: Thank you again Mr. Speaker. A motion to adopt S. C. R. No. 16-33 reporting on H. B. No. 16-8.

The motion was seconded.

**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.*

Speaker Arnold Palacios: Discussion on the motion. Ready.

There being no discussion the motion to adopt **S. C. R. NO. 16-33** was carried by voice vote.

Speaker Arnold Palacios: Floor Leader.

Floor Leader Camacho: Thank you again Mr. Speaker. A motion to adopt S. C. R. No. 16-34 reporting on H. B. No. 16-125.

The motion was seconded.

**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.*”

Speaker Arnold Palacios: Discussion on the motion. Representative Babauta.

Representative Babauta: This is not germane to the motion but I have two order of business Mr. Speaker same time 1:30 p.m., one contains the committee report the other one does not so.

Speaker Arnold Palacios: One must be a draft.

Representative Babauta: Yes, I think so may I ask for...

Speaker Arnold Palacios: Okay. You are hereby excuse. Are there any further discussion?

Representative Babauta: Seriously, there are two. It is all the same 1:30 p.m., so I do not know which is which.

Speaker Arnold Palacios: Do you have the copy of the one that everybody has? The Floor Leader will.

Representative Babauta: Thank you, Mr. Speaker proceed.

Speaker Arnold Palacios: Thank you. Are there any further discussions? Ready for the question?

The motion to adopt **S. C. R. NO. 16-34** was carried by voice vote.

Speaker Arnold Palacios: Floor Leader.

Floor Leader Camacho: Thank you again, Mr. Speaker. A motion to adopt S. R. C. No. 16-35 reporting on, H. B. No. 16-47.

The motion was seconded.

**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.*

Speaker Arnold Palacios: This the smoking ban. Discussion.

There being no discussion the motion to adopt **S. C. R. NO. 16-35** was carried by voice vote.

Speaker Arnold Palacios: Just for the members information H. B. No. 16-8, H. B. No. 16-125, and H. B. No. 16-47, will now appear on the Bill Calendar. We are waiting for a urgent piece of legislation ----so I ask for your indulgence. This is a critical legislation. We will go into recess.

*The House recessed at 4:50 p.m.*

**RECESS**

*The House reconvened at 5:10 p.m.*

Speaker Arnold Palacios: We are back to our session. Let me give the members an update on the issue that we are about to take up. Before I do that I believe that the Sen. Comm. 16-16, needs to be put onto the calendar, so with that I recognize the Floor Leader.

Floor Leader Camacho: Thank you Mr. Speaker. A motion to place Sen. Comm. 16-60, referencing S. B. No. 16-38, SD1, on the Calendar.

The motion was seconded.

**S. B. NO. 16-38, SD1**: A BILL FOR AN ACT. (SEE SEN. COMM. 16-60)

Speaker Arnold Palacios: Discussion on the motion. Ready.

There being no discussion the motion to place S. B. No. 16-38, SD1 on the Calendar was carried by voice vote.

## **SENATE COMMUNICATIONS**

Speaker Arnold Palacios: Floor Leader.

Floor Leader Camacho: Thank you again, Mr. Speaker. If there is no objection we will move to Senate Communications on our Calendar.

There was “no objection” on the floor to place S. B. 16-38, SD1 (Sen. Comm. 16-60).

Floor Leader Camacho: Mr. Speaker, a motion to place S. B. No. 16-38, SD1, on the Bill Calendar.

The motion was seconded.

**S. B. No. 16-38, SD1:** A Bill for an Act TO AMEND THE COMMONWEALTH PUBLIC UTILITIES COMMISSION ACT OF 2006 TO PERMIT THE COMMONWEALTH UTILITIES CORPORATION TO PROCURE EMERGENCY POWER WITHOUT APPROVAL OF THE PUBLIC UTILITIES COMMISSION, AND FOR OTHER PURPOSES.

Speaker Arnold Palacios: Discussion on the motion. Representative Sablan.

Representative Sablan: Mr. Speaker, having not had a chance to read this bill at all. Could you please give us some background for the record as you indicated you would during this discussion period?

Speaker Arnold Palacios: Thank you. We are just placing it and I will explain the content of the legislation and we will deliberate when we place it because this is just for placement, we are getting there.

Representative Sablan: I understand that. This is right off the Xerox machine, so some background for the record would be nice before we place it.

Speaker Arnold Palacios: Right, I will provide that after we place it. Okay. So it is just a placement motion. Ready?

The motion was carried by voice vote.

## **BILL CALENDAR**

Speaker Arnold Palacios: Senate Bill No. 16-38, SD1, is hereby placed on the Bill Calendar. Floor Leader.

Floor Leader Camacho: Thank you Mr. Speaker. A motion for passage First and Final Reading S. B. No. 16-38, SD1.

The motion was seconded.

**S. B. No. 16-38, SD1:** A Bill for an Act TO AMEND THE COMMONWEALTH PUBLIC UTILITIES COMMISSION ACT OF 2006 TO PERMIT THE COMMONWEALTH UTILITIES CORPORATION TO PROCURE EMERGENCY POWER WITHOUT APPROVAL OF THE PUBLIC UTILITIES COMMISSION, AND FOR OTHER PURPOSES.

Speaker Arnold Palacios: Discussion on the motion. Does anyone need a few minutes to read? Let us take a short recess.

*The House recessed at 5:15 p.m.*

*RECESS*

*The House reconvened at 5:23 p.m.*

Speaker Arnold Palacios: We are back to our session. We are under discussion for the passage of S. B. No. 16-38, SD1. This afternoon the Governor asked the Senate President, myself, and the members of the Public Utilities Corporation to meet with him together with the Executive Director of Commonwealth Utilities Corporation (CUC) regarding their letter to the Executive Director of CUC, which appraised them of the need for Aggreko I guess apply for a Certificate of Public Convenience and Necessity and the citation that they used is the PUC statute under the definition of Public Utilities Agency. And because of that and the urgency for providing a temporary power it was asked of the Legislature the most expedient way to resolve this issue or different alternative were presented in the meeting. One of which is, the proposal before you the other was for a potential litigation in court, or have Aggreko and CUC go through the process of getting that certificate. The process normally takes time beyond the immediacy of the emergency. So the options that is before the legislation is to amend the existing statute to exempt the contracts for emergency power generation IE, in this case the Aggreko contract. That is in a nutshell what this legislation is about. Okay. Your thoughts and comments, Representative Hofschneider.

Representative Hofschneider: You know the people have suffered enough. And to be perfectly honest you walk into a crowd and the power goes off, I feel daggers behind my back because everybody would be looking at and says, you know, what are you guys doing, what's up, and it feels almost closing into becoming cluster phobic. But in the end if you really sit down with the public the people out there it comes down to just one thing that they aspire us to do, and that is, to adhere to good ethics. You create an entity to oversee the business of another agency and whether they are perfectly within the scope of the law that they should be. This means that PUC was created to regulate the selling of and operations of utilities entrusted to CUC, under Public Law 4-47. We had a lengthy debate whether the procurement of emergency power was in line with the law, was it legal, having done an RFP for over two years and then now, I think, June was the month that they signed the contract into engaging Aggreko. Now, the responsibility under the law was for PUC to do due diligence and that constitute looking at the whole contract and whether Aggreko is the appropriate contractor for procuring emergency power. It is interesting that the entity entrusted under the law to do due diligence, is holding steadfast of the charges empowered them by law and forcing the prescription on CUC and Aggreko. It is interesting that this body would consider the unethical business of removing due diligence because of time. Time is the only thing that governs the decision process. It is lengthy. It is cumbersome, but nobody is asking the question, what if this bill becomes law and something happens with Aggreko or whoever the company is contracted to produce emergency power. There is a wide latitude of "what ifs" or "ifs", from rates that must go up in solvency of the company, unanticipated mishaps of the generators. You remove PUC from due diligence, this body has taken it away it rises to a level of ethical question. You are forking out \$6 million for that contract over the time period of that contract and nobody knows for certain whether it is a twelve month contract or eighteen month contract, when does and emergency become a static producer. Two years? Five years? Eight years? When a company that is not licensed here in the Commonwealth and wants to do business such as engineering or others or lawyers they must piggy back with a locally licensed company. There is a reason for that, not only protectionist, but the

liability attached to it and there is the ethical obligation of that individual or company they attach themselves to, this is about ethics. We were equally divided. Nobody contest the fact that there is a need for an emergency power and it is not today or tomorrow it is yesterday, everybody agrees on that. But I think the logic of this allowing PUC by way of this bill to do its due diligence for the sake of the people, not for themselves, not for Aggreko, not for CUC, it is for the sake of the people. PUC is an added layer of protection and if we do not trust PUC no longer, might as well insert another language and delete or repeal in its entirety, that body. I do not know...

Representative Stanley Torres: Mr. Speaker, point of order, there is an interruption in the House while Representative Hofschneider is...

Speaker Arnold Palacios: That is just document being submitted. Continue.

Representative Hofschneider: I do know, Mr. Speaker, and members (*End of Tape 2, Side A*) but to insulate potential impropriety. If the RFP was properly done and they have submitted their qualifications and have been awarded a contract under the terms of the RFP then due diligence would not be such a real issue. CUC is poised in a position to impress upon PUC that the urgency of this matter relating to the emergency power contract is of outmost importance, of the people and I do not think any member in PUC lives outside the Commonwealth and comes in or fly's in only when a meeting is called. They also share the same hardships that we all are experiencing. But it really jars your conscience because this has nothing to do with anything, but ethics. Is it the right thing to shield or to take away due diligence from PUC all for the sake of "time", "time is of the essence"? I am not sold on the idea, Mr. Speaker, I am sorry. I am really not sold on the idea that I should rise to abandon my ethics and do this for the sake of emergency power. I mean it is like nobody saw you fall into a cesspool and try to wipe off, you walk around smiling as if nothing happened to you, but everybody can smell it, it is wrong. Thank you.

Speaker Arnold Palacios: Thank you. Vice Speaker.

Vice Speaker Deleon Guerrero: Thank you, Mr. Speaker. Representative Hofschneider has some valid points and to understand the points that he is making you have to understand the history of this PUC law and it came about, if I may Mr. Speaker, just to talk a little bit about the history of this bill.

Speaker Arnold Palacios: Proceed.

Vice Speaker Deleon Guerrero: This law was initially enacted as the Commonwealth Telecommunications Act, the CTC. Which create this body to oversee telecommunications, the sale, the purchase and the license to operate which is where that Certificate of Public Convince and Necessity came about. And at the time it was very important. During that time Verizon was about to be sold at the time that was a monopoly of our telecommunication in the Commonwealth. So you know, they did have to go through this lengthy process to ensure that he public's interest were protected. And subsequently the CTC law was repealed and reenacted as the PUC, Public Utilities Commission, which included not only telecommunications but also cable and utilities. It brought that in under the umbrella under the oversight of this PUC. Now one could perhaps state that this bill removes that oversight for this very specific purpose. We have to also be mindful Representative Hofschneider, raised some issue about "what if". What if Aggreko was insolvent? I think a lot of discussion was made about Aggreko. We all understand that this company is an international company who does nothing but provide temporary power. If they can provide power for the 2008 Olympics in Beijing I think they will still be solvent when they provide us power for a

year six months at the most. So insolvency is not really a big issue. What about the possibility that there is problems with the engines? I looked at that when we all had the chance to look at the contract and there are provisions there to safeguard our interest in the Aggreko contract. This is temporary and this is badly needed and I think one of the reasons I voted in favor of it was the issue about that it is rate neutral and we have the CUC Executive Director who came in and stated on record and said that this would not be passed onto consumers. Again there is that assurance so yes, perhaps, we may be giving up some level of review and protection by the PUC, but I think a lot of the concerns that were raised are addressed to the contract. This is very temporary. When I looked at this bill one thing I was looking at is that it would be temporary, that it applied only to a temporary contract emergency contract. The second, there is a sunset provision in here in which this law if enacted would expire two years from September 30. So again it is not intended to be permanent, it is not intended to go beyond the scope of providing this relief to our people. And really if relief to the people is a priority then unless somebody else has some other proposal to provide that relief. I cannot stress how important that is to our people and I really urge everyone to consider voting for this bill. Thank you.

Speaker Arnold Palacios: Representative Ralph Torres.

Representative Ralph Torres: Thank you, Mr. Speaker. Vice Speaker, thank you for that history of the PUC. I believe we have given the Commission the authority to make this decision and they also know how critical it is for them to act on it. So for us to go ahead and bypass it and do this amendment to do a waiver so to speak, what kind of precedent are we setting out for them for the Commission itself, that is my take. I think that they also need to act on it and leave it to them. Thank you.

Speaker Arnold Palacios: Representative Santos, you are recognized.

Representative Santos: Thank you, Mr. Speaker. After reviewing this bill I just have a few comments and a question. I read page 2, Section 3, the sentence, I am going to have to disagree with that particular sentence only because I believe that when a company comes in whether or not you are temporary or permanent or whatever, but once you contract with CUC you then espouse the function of providing a government service. In this case, it is power. And although that source of that power may be temporary the service is, in it of itself an infinite need and a basic need. I just have this exception to PUC review on line 10, on the same page. So I understand the intent for procurement purposes only. Now my question is, will then they be CUC or this emergency wholesale power generation contract person is then open to raise rates because now PUC is out of the picture and that is a real concern in my view. And if someone can clarify that for me I would appreciate that.

Speaker Arnold Palacios: Vice Speaker.

Vice Speaker Deleon Guerrero: Well, Mr. Speaker, if the concern is the raising of rates this contract is not people purchasing power from Aggreko, it is CUC purchasing power from Aggreko. We pay CUC, CUC pays Aggreko it does not go straight line from us to Aggreko. Now, if the question is whether that through this contract rates would be raised? One could say that without the PUC, CUC may raise the rates, CUC could raise the rates. I did not support the Aggreko deal because CUC could raise the rates. I supported the Aggreko deal because it was made very clear to me that this would be rate neutral to our consumers, and I will hold CUC to that statement. I think that is about the most I can say about this. I am not CUC but that was the deal.

Speaker Arnold Palacios: Representative Sablan you are recognized.

Representative Sablan: Thank you, Mr. Speaker. If we could just get clarification from our legal counsel to answer Representative Santos' question in the event that and I realized we have a verbal assurance from CUC and maybe a written assurance as well that this will be a rate neutral contract, but in the event that Aggreko or any other emergency power generation contract requires an increase in rates, does PUC have the authority to review and or disapprove those contracts or at least the rate increase that would be proposed?

Speaker Arnold Palacios: I will allow the legal counsel.

Antonette Villagomez: Thank you, Mr. Speaker. I do not believe the PUC would have the power to review any rate increase related to an emergency wholesale power generation contract. On page two, line 5, 4 CMC Section 8409 (d) is amended. Section 8409, that refers to the duties and powers of the Commission. And one of the powers of the Commission has right now is to review and disapprove any divestiture of capitol or contractual agreement which may increase rates and charges to the consumer. So by amending it to add the except for an emergency wholesale power generation contract as defined then we are saying that the Commission may review and approve or disapprove any divestiture capitol or a contractual agreement which may increase rates and charges to the consumer except for an emergency wholesale power generation contract as defined in 4 CMC 84 (c). So if you put the "except for" clause at the end of the sentence it will be clear that PUC the Commission would not have the power the authority to review any rate increase or charges that are related to any wholesale power generation contract. That is my understanding of this provision.

Speaker Arnold Palacios: Okay. Proceed Representative Sablan.

Representative Sablan: Thank you. So in the event then that this Aggreko contract or any future emergency power generation contracts between now and 2010 require a rate increase. We would be essentially being, in passing this bill removing the power of the PUC to approve or disapprove the rate increases. And I am concern in particular about page 2, Section 2, the definition of an emergency wholesale power generation contract and I read that to mean and I stand to be corrected here, a contract any contract between CUC and anyone else for a term of two years or less provided that the Governor calls any emergency and Mr. Speaker, our memory should not be so short that we forget that there were many sole-source contracts issued under a state of emergency declaration that are now being investigated by federal authorities, are very questionable contracts. And all that it would take then is a declaration from the Governor that this would be an emergency wholesale power generation contract and PUC would not have the power to do their due diligence and safeguard the interest of our people. I think that this is a very dangerous bill. Whether if it is a special interest bill designed specifically for Aggreko, it is wrong. And then the implication for the powers of PUC we are crippling them. They lose their powers and my understanding was that PUC was created in response to these sole-source contracts and these exercises of power that were questioned by this Legislature, by the Governor, and by CUC. And so what are we doing now in removing that very fundamental responsibility of our Public Utilities Commission. That is all I have to say for now and I would like to hear the sentiments of our members.

Speaker Arnold Palacios: Thank you. Are there anymore comments? Let me just say this, I went into that meeting and when I listened to what PUC had to say what the legal counsel for CUC had to say, conveniently and coincidently the CUC legal counsel was also the previous CTC, and now PUC, was also involved as a counsel for CTC. The situation at hand is not just because time is of

the essence, because if PUC can assure us that they can do due diligence within and in a reasonably time to address the emergency. I do not have any problem with having them do their due diligence. But even they realize the emergency situation. I mean this is bad we are really in a bad situation that even they suggested that if we want to proceed with this to address the emergency situation, this legislation S. B. No. 16-38, SD1, has to proceed. Otherwise, it is going to take time for a temporary power to be hooked up to resolve this issue. We are not resolving the issue. We are chasing a crisis on Saipan. Last night was a five hour power outage. At one point there was only one engine running. We can do all our due diligence and I believe the Vice Speaker had said that this company is, a reputable company. I asked the procurement person of CUC that was there when they evaluated the RFP at that time about Aggreko and Alstone and I believe another company leader. And he assured me that this is a very reputable company. So, where are we going to go with this? Emergency power generation is not sole-sourcing for an RFP to do a study on how to privatize CUC. It is not sole-sourcing for repairs and maintenance like DCM. This is for a company to come in with its own equipment, puts its facility together and generate power that CUC can no longer generate. We can talk about the on-going investigation on CUC and we can all talk about the mismanagements of CUC over the past fifteen years or even from the time that CUC became autonomous and we pumped in hundreds of millions of dollars. But that is not going to solve today, the immediacy of tonight's power. We can put all the past Executive Director and the past Procurement Officer's and past individuals who mismanaged and misprocured and unethically did everything to contribute to the chaos that is CUC now, but that is not going to solve our problem that we are faced with today. Some of those individuals will face criminal charges and I am hoping that is going to be where it is headed to. But I was a little bit pissed off in that meeting and I keep telling the attorney of CUC that I continue as the Speaker of the 16<sup>th</sup> Legislature and it seems like I continue to run the gauntlet of legislations that they had a hand in drafting. Now, they are washing their hands and I have to face my own members to try to explain this and justify this to you. But I am willing to do it. The House Joint Resolution that we passed, which I will take with me to Washington, D.C. when I sit down with OIA (Office of Interior Affairs) is something I want to push and hopefully, that would begin resolve some of the issues of mismanagement and unethical conduct in procurement what have we, in the past. But I, just like every one of you, must put aside some of these inklings in ourselves and look at the real crisis before us. Because even if we talk about ethics and talk about mismanagement and everything else, believe me, when the whole Power Plant No. 1 collapses, we are going to be in deep trouble. Representative Reyes, before I recognize Representative Hofschneider.

Representative Reyes: Thank you, Mr. Speaker. You know, from day one that I got sworn into office it appears that CUC has been a subject of conversation everytime. Not just in the hallways, in the chamber, but everywhere you go. It is true, millions of dollars has been spent but somebody is looking after those guys that might have mismanaged. We just had passed H. B. No. 16-130, and this is pretty much in my view, pretty consistent with such. Six million dollars was mentioned for the Aggreko contract, Mr. Speaker, and members of this body, it is a lot of money. But if you look at the other side of it, it is very minimal compared to the losses that we all go through everyday. I did mention in my delivery during the last session about the economic impact that this is creating and that the \$160 million perhaps proposed budget by the administration we probably reduced already by \$15 million, because everytime and every day that the power shuts down not only that the government is costing money by paying employees' salary that they are nonproductive for two hours or four hours. Look at the business community that hurts and as a result of that they cannot and they will not have enough or pay the same BGR (Business Gross Revenue) as usual it is going to be reduced and the anticipated revenues that we are anticipating will not be generated. So take that budget down another \$15 million. In addition to that, Mr. Speaker, and members, and I did say this also before, I took the time to visit the people that lives in my precinct and they said they want

reliable power. The collateral damaged that is costing the community is substantial. Together with the high rates, if you think forty cents to a kilowatt is expensive. I know what the damage is, which I personally have incurred, tens of thousand of dollars. That will cost me more money. But those guys that are sick go see them. They need electricity and I do not want to feel responsible if anyone of them dies because of no electricity and I failed to do something about it. Do I like what is happening, no, but it is the best that I have seen right now that we have on hand and I personally feel that it is most immediate, most urgent. I did mention that should a typhoon strike, now it is chaos. Should one of those generators blows up we have no backups. It could cost us millions of dollars in total darkness. Look at the crime. The crime rate which I had made an inquiry on has increased tremendously, not just during power outages, but even when the streetlights are off. I have received reports in Koblerville Estate of rapes, and burglaries. So look at all this overall, and Mr. Speaker, enough is enough, I want power because it will help the community, the business, the government, everybody. And that necessity was needed yesterday, the day before, not tomorrow. Thank you, and I hope you support this bill.

Speaker Arnold Palacios: Representative Hofschneider.

Representative Hofschneider: Just one question under the PUC Act, which I am not familiar. There is such a thing in other regulatory body, that they have conditional permitting. Do they have the power to issue conditional permitting without necessitating to this legislation?

Speaker Arnold Palacios: Legal Counsel. I am sorry. Can you repeat your query?

Representative Hofschneider: In other regulatory body's there is such a thing as conditional permitting while the actual work of due diligence is being done. Because if it is what have been stated is so, that this is a legitimate company, it is a renowned company and solvent. Then it should not be a concern, really, to submit while being permitted a conditional permit without having to go with this legislation. Does the PUC have that authority?

LC Villagomez: I am looking at the PUC Act right now trying to see if there is any provision that would authorize them.

Representative Hofschneider: Or prohibits them.

LC Villagomez: Or prohibits them. Just give me a second. (*End of tape 2 Side B*)

Speaker Arnold Palacios: Short recess.

(*Beginning Tape 3 Side A*)

*The House recessed at 6:04 p.m.*

*RECESS*

*The House reconvened at 6:14 p.m.*

Speaker Arnold Palacios: We are back to our session. Before we went on recess, Representative Hofschneider had the floor.

Representative Hofschneider: Yes, Mr. Speaker, it seems very obvious and clear that nothing in the statute on PUC prohibits them from granting conditional permitting while the due diligence is ongoing. Nothing also states that they could in fact issue conditional permit to CUC for Aggreko contract. So, a neutral intent is a lot better in terms of the affirmative, than for the affirmative on this legislation in my personal feeling. And with that Mr. Speaker, I think that we all concluded what to do with it. I move to end debate.

The motion was seconded.

Speaker Arnold Palacios: A motion to end debate was seconded. Thank you for making that motion. Ready? Clerk, please call the roll.

The Clerk called the roll on the motion to pass S. B. NO. 16-38, SD1 on First and Final Reading.

Representative Edwin P. Aldan	yes
Representative David M. Apatang	absent (excused)
Representative Oscar M. Babauta	yes
Representative Diego T. Benavente	yes
Representative Joseph N. Camacho	no
Representative Francisco S. Dela Cruz	absent (excused)
Representative Joseph P. Deleon Guerrero	yes
Representative Victor B. Hocog	absent (excused)
Representative Heinz S. Hofschneider	no
Representative Raymond D. Palacios	absent (excused)
Representative Justo S. Quitugua	yes
Representative Joseph C. Reyes	yes
Representative Christina M. Sablan	no
Representative Edward T. Salas	no
Representative Rosemond B. Santos	yes
Representative Ramon A. Tebuteb	yes
Representative Ralph DLG. Torres	no
Representative Stanley T. McGinnis Torres	no
Representative Ray N. Yumul	absent (excused)
Speaker Arnold I. Palacios	yes

Speaker Arnold Palacios: By a vote of nine “yes” S. B. No. 16-38, SD1 hereby passes the House. Representative Hofschneider.

Representative Hofschneider: Have nice trip, Mr. Speaker.

(LAUGHTER)

## ANNOUNCEMENT

NONE

## ADJOURNMENT

Speaker Arnold Palacios: Thank you. I have not really prepared for this trip, thank you very much. Floor Leader, a motion to adjourn subject to the call of the Chair.

Floor Leader Camacho: Thank you, Mr. Speaker. A motion to adjourn subject to your call.

The motion was seconded and was carried by voice vote.

The House adjourned at 6:17 p.m., subject to the Call of the Chair

Respectfully submitted,

Linda B. Muna,  
Assistant Clerk  
House of Representatives

---

### 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. 16-19: To amend the Saipan Zoning Law by repealing Saipan Local Laws 15-29 and 15-22 and enacting the Saipan Zoning Law of 2008. (Representative Ramon A. Tebuteb)

**THIRD 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. (Representative David M. Apatang +1)