


October 24, 2017

Speaker Benjamin J.F. Cruz

Honorable Benjamin J.F. Cruz
Speaker, 34th Guam Legislature
163 Chalan Santo Papa
Hagatna, GU 96910

OCT 23 2017
Time: 4:00 [] AM [] PM File No. _____
Received By: 

Re: Requesting Ethics Investigation into the Official Misconduct of Senators voting for Bill 122-34 in Violation of PL 24-222

Mr. Speaker

I am requesting the Ethics Committee investigate the actions of the senators who voted to pass Bill 122-34 increasing the Fuel Tax in direct violation of PL 24-222 and the Oath of Office the Senators swore to the people, before assuming office. Bill 122 was approved by eight senators and signed into law on October 12, 2017, and when it takes effect on January 1, 2018 it will place an illegal tax on the entire population of Guam.

On numerous occasions during the 33rd and so far in the 34th legislatures, senators have been reminded about the requirements of Public Law 24-222, and they routinely ignore the law as proven by the passage of Bill 122-34.

With regular use of the “notwithstanding clause,” in borrowing and tax increase bills, senators have routinely and regularly deprived the taxpayers of Guam their rightful say over the level of debt and taxes to be borne on their backs.

As just one of many examples: In July 2016, the legislature passed Bill 340-33 over the objections of many taxpayers in the community and borrowed \$45 Million dollars to pay \$20 Million dollars of payments owed to vendors of GMH. Repayment of that debt will require the diversion of more than \$80 million dollars (with fees and interest added) from the General Fund, further reducing the amount of tax revenue available for the government to provide services to taxpayers.


As a result of the legislature’s routine habit to ignore the law, the public has suffered financial harm. According to the latest report from the Government Accounting Office (GAO), Guam’s per capita debt has doubled over the past seven years. Taxpayers have been, and are being harmed by these “unapproved actions” as an increasing percentage of tax collections are diverted from providing services to taxpayers, to paying debt service, destabilizing the financial stability of the people’s Government.

Time is of the essence as taxpayers are at risk of greater future harm if this violation of law and breach of ethics is not promptly addressed and enforced. By my calculations; the number of bills pending actions in the 34th Legislature and in litigation in the Supreme Court of Guam could add

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another \$752 Million dollars to the total public debt burden. There also several bills pending that if passed, will add a 20% to 40% increase to the total public Tax Burden.

Increasing public debt and taxes will have massive negative financial impact on Guam's working families. All these bills are proposing increases without voter approval as required by law, with the sole of exception of Bill 199 which calls for a voter referendum to raise tobacco product taxes.

P.L. 24-222 was meant to give taxpayers a voice before the government incurs debts or raises taxes that will be borne by taxpayers. Prior to passing Bill 122-34, I reminded senators about the requirements of P.L. 24-222 several times in public testimony, phone conversations, OP-ED pieces published in both local newspapers, posts on the social media, and an email (attachment 2) sent prior to the floor vote on the Bill to no avail.

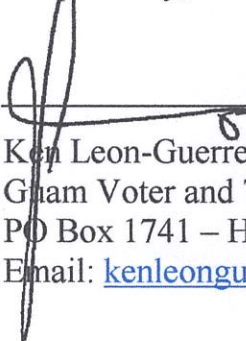
Inserting a single word; "notwithstanding" to bypass a law the senators find inconvenient, does not eliminate the moral obligation lawmakers swore in their "Oath of Office" to lead by the public by example and follow the laws they write. Especially those laws passed to protect taxpayers against being forced to assume debts and pay taxes without their advice and consent.

It is interesting to note that public opposition to taxes inflicted without representation started a string of events that led to the formation of the United States, and a government that empowered the citizens of the new country to take an active role in the affairs of Government.

In asserting our rights as citizens, we are requesting the Ethics Committee of the 34th Guam Legislature to take action against the senators who violated their Oath of Office and Public Law 24-222 under 9 GCA 49.90 - Official Misconduct, and take actions to suspend the new public law raising taxes from going into effect until it is approved or disapproved in the next General Election as provided for in P.L. 24-222.

I am requesting a written response on how the 34th legislature plans to address these concerns.

Respectfully,



Ken Leon-Guerrero
Guam Voter and Taxpayer
PO Box 1741 – Hagatna, GU 96932
Email: kenleonguerrero@yahoo.com

Attachments: Public Law 24-222 & Oath of Office
Email to Senators

CC: Media

PART A

RULES GOVERNING PROCEDURES

RULE I

CONVENING AND SESSION

Section 1.01. The Opening Session. Preamble: *I Mina Trentai Knitro Na Lheslataran Guahan* shall first convene in Regular Session in *Hagñña*, Guam at the hour of 10:00 a.m. on the first Monday in January of 2017. In accordance with, and pursuant to, the provisions of Chapter 1 of Title 2 of the Guam Code Annotated and these Standing Rules, the Order of Business of the First Regular Session of *I Mina Trentai Knitro Na Lheslataran Guahan* shall be as follows:

(a) Organization of *I Lheslataran Guahan*. The Temporary Presiding Officer, who shall be the Chief Justice of the Guam Supreme Court, or in such Chief Justice's absence or inability to act, a designated Associate Justice of the Guam Supreme Court, shall:

- (1) First, call the Senators-elect to order;
- (2) Second, call in alphabetical order the roll of the Senators-elect who shall present their Certificates of Election and assume their seats as their names are called; and
- (3) Third, administer the following Oath-of-Office to the Senators-elect:

"I SOLEMNLY SWEAR (OR AFFIRM) IN THE PRESENCE OF ALMIGHTY GOD THAT I WILL WELL AND FAITHFULLY SUPPORT THE CONSTITUTION OF THE UNITED STATES, THE LAWS OF THE UNITED STATES APPLICABLE TO GUAM, AND THE LAWS OF GUAM, AND THAT I WILL CONSCIENTIOUSLY AND IMPARTIALLY DISCHARGE MY DUTIES AS A MEMBER OF *I LHESLATURAN GUAHAN*."

(4) Election of Speaker. After the administration of the oath provided for in Section 1.01(a)(3), *supra*, the Temporary Presiding Officer shall conduct an election among the Senators for the Office of the Speaker of *I Lheslataran Guahan*, and upon the election of such Speaker, the Temporary Presiding Officer shall thereupon relinquish the Chair to the Member so elected.

Public Law 24-222

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Section 17320 is hereby added to Article 3, Chapter 17 of Title 3 of the Guam Code Annotated to read as follows:

"Section 17320. Referendum on Tax Increases Required.

Notwithstanding any other provision of law, no increase in real property tax, liquid fuel tax, gross receipts tax or any locally enacted and administered tax on Guam shall go into effect without the approval of the voters of Guam in a referendum held during a General Election. The manner in which a proposed tax increase shall be placed in referendum before the voters of Guam pursuant to this Section shall be as follows:

1. *I Lheslataran Guahan* must pass, in bill form, a proposed tax increase, the effective date to be thirty (30) days after ratification by the voters of Guam in a referendum, such ratification to be certified by the Guam Election Commission. The bill must detail the amount and nature of the proposed increase and the purpose to which such proposed increase shall be applied.
2. No more than ten (10) days after the bill is enacted into law, the full text of the law shall be transmitted to the Guam Election Commission by the Legislative Secretary of *I Lheslataran Guahan*. The Guam Election Commission shall place before the voters of Guam the question of whether the voters approve or disapprove of the proposed tax increase at the next General Election, provided that the date of transmittal of the proposed tax

Email Sent to Senators Prior to Voting on Bill 122

From: Ken Leon-Guerrero <kenleonguerrero@yahoo.com>

To: Tom Ada <tom@senatorada.org>; "Frank Aguon, Jr." <aguon4guam@gmail.com>; Regine Biscoe Lee <senatorbiscoelee@guamlegislature.org>; Wil Castro <wilcastro671@gmail.com>; Benjamin Cruz <senadotbjcruz@gmail.com>; James Espaldon <jespaldonesq@gmail.com>; James Espaldon <senator@espaldon.com>; Fernando Esteves <senatoresteves@gmail.com>; Louise Muna <senatorlouise@gmail.com>; Telena Nelson <Senatortnelson@gmail.com>; "Dennis Rodriguez, Jr." <senator@toduguam.com>; Joe San Agustin <senatorjoessanagustin@gmail.com>; Michael San Nicolas <senatorsannicolas@gmail.com>; Theresa Terlaje <tterlaje@guam.net>; Mary Torres <marycamachotorres@gmail.com>; Senator Tommy Morrison <tommy@senatormorrison.com>

Cc: John O'Connor <john@postguam.com>; Shawn Raymundo <sraymundo@guam.gannett.com>; Phill Leon Guerrero <phill@spbg Guam.com>

Sent: Friday, September 29, 2017 2:32 PM

Subject: Voter Approval Required

I have been trying to get a copy of the final bill 122 to explain to the people what you will be voting on today with no luck. So as you get ready to vote on Bill 122 we will be watching your actions very closely as far as respecting PL 24-222 (attached for your convenience) and respecting the will of the voters who have been very clear this year about increasing debt and fees.

Respectfully,

Ken Leon-Guerrero, Spokesperson
Guam Citizens for Public Accountability
689-3000

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
2017 (FIRST) Regular Session
LEGISLATIVE SESSION VOTING RECORD

Bill No. 122-34 (COR)

As substituted by the Committee on Education,
 Finance, and Taxation; and amended on the Floor.

Speaker Antonio R. Unpingco Legislative Session Hall

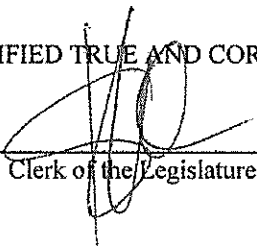
September 29, 2017

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Thomas C. ADA		✓				
Senator FRANK B. AGUON, JR.		✓				
Senator William M. CASTRO	✓					
Speaker B. J.F. CRUZ		✓				
Senator James V. ESPALDON	✓	II				
Senator Fernando Barcinas ESTEVES	✓					
Senator Régine Biscoe LEE		I ✓				
Senator Tommy MORRISON	✓					
Senator Louise B. MUÑA	✓	I				
Senator Telen Cruz NELSON		✓				
Senator Dennis G. RODRIGUEZ, Jr.	✓					
Senator Joe S. SAN AGUSTIN	✓	II				
Senator Michael F.Q. SAN NICOLAS		III ✓				
Vice Speaker Therese M. TERLAJE	✓	II				
Senator Mary Camacho TORRES		✓				

TOTAL: **8** **7**

	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
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CERTIFIED TRUE AND CORRECT:


 Clerk of the Legislature

I = Pass