



HOUSE OF REPRESENTATIVES

TWENTY-SECOND LEGISLATURE

COMMONWEALTH OF THE NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE

P.O. BOX 500586 SAIPAN, MP 96950

DONALD M. MANGLONA
CHAIRPERSON
WAYS AND MEANS COMMITTEE

Adopted - 4/23/2021
STANDING COMMITTEE REPORT NO. 22-4
DATE: April 07, 2021
RE: House Bill No. 22-08

The Honorable Edmund S. Villagomez
Speaker of the House of Representatives
Twenty-Second Northern Marianas
Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

Dear Mr. Speaker:

Your Committee on Ways and Means to which was referred:

H. B. No. 22-08:

“To establish the level of funding for the Legislature and provide the Legislature with control of the expenditure of funds appropriated for its operations.”

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion, your Committee recommends that H. B. No. 22-08 be passed by the House in its current form.

II. ANALYSIS:

A. Purpose:

HOUSE CLERK'S OFFICE
RECEIVED BY *SM*
DATE *4/19/2021* TIME *3:50pm*

The purpose of House Bill No. 22-08 is to establish the level of funding for the Legislature and provide the Legislature with control of the expenditure of funds appropriated for its operations.

B. Committee Findings:

Your Committee finds that the term “trias politica” or “separation of powers” was coined by Charles-Louis de Secondat, baron de La Brede et de Montesquieu, an 18th century French social and political philosopher. His publication, Spirit of the Laws, is considered one of the great works in the history of political theory and jurisprudence, and it inspired the Declaration of the Rights of Man and the Constitution of the United States. Under his model, the political authority of the state is divided into legislative, executive, and judicial powers. He asserted that to most effectively promote liberty, these powers must be separate and acting independently.

Separation of powers, therefore, refers to the division of government responsibilities into distinct branches to limit any one branch from exercising the core functions of another. The intent is to prevent the concentration of power and provide for checks and balances. The characterization of the powers of the branches of American government are: the legislative branch is responsible for enacting the laws of state and appropriating the money necessary to operate the government, the executive branch is responsible for implementing and administering the public policy enacted and funded by the legislative branch, and the judicial branch is responsible for interpreting the constitution and laws and applying their interpretations to the controversies brought before it.

Your Committee further finds that the Legislature plays an important role in shaping the annual budget and in providing budgetary oversight. The “power of the purse” as its often called is vested in the House of Representative as laid down in the CNMI Constitution, Article II, Section 5 (Enactment of Legislation). It is where an annual budget is compiled and submitted by the Governor (Executive Branch) to the Legislature for appropriating the money necessary to operate the Commonwealth government. The annual budget is a financial plan for a defined period, often one year. It may include planned sales volumes and revenues, resource quantities, costs and expenses, assets, liabilities, and cash flows. An annual budget is the sum of finances allocated for a particular purpose and the summary of intended expenditures along with proposals for how to meet them. It may include a budget surplus, provide money for use at a future time, or a deficit in which expenses exceed income. In the case for the Legislature its annual budget is often determined by the Governor and the expenditure of funds over which the Legislature has expenditure authority is controlled by the Executive Branch. To effectively promote liberty and to prevent the concentration of power and provide for checks and balances, House Bill No. 22-08 intends to give the Legislature control over its annual budget as stated in the Doctrine of Separation of Powers as coined by Montesquieu as well as to be consistent with the requirements of the Constitution. Current practice as to how the Legislature acquires and spends its annual budget is outdated and ineffective in the administering of public services and responsible fiscal management. Therefore, your Committee concurs with the intent and purpose of this Act, and recommends the House pass House Bill No. 22-08 in its current form.

C. Public Comments/Public Hearing:

Comments were received from the following:

- David DLG. Atalig, Secretary, Department of Finance

Comments were also solicited from the Office of the Attorney General. To date, no comments have been received from the Office of the Attorney General.

Comments received have been attached as part of this committee report.

D. Legislative History:

House Bill No. 22-08 was introduced by Representative Joseph Lee Pan T. Guerrero on February 19, 2021 and was subsequently referred to the House Standing Committee on Ways and Means for disposition.

House Bill No. 22-08 was formerly introduced in the 21st Legislature by Representative Joseph Lee Pan T. Guerrero as House Bill No. 21-12 on February 08, 2019 and was subsequently referred to the House Standing Committee on Ways and Means for disposition. On July 18, 2019, the Floor Leader of the 21st House of Representative suspended the rules of the House of Representative and placed the bill on calendar for passage. The House passed House Bill No. 21-12 in the form of House Draft 1 and was transmitted to the Senate on July 22, 2019. House Bill No. 21-12 was then referred to the Senate Standing Committee on Fiscal Affairs where no further action was taken.

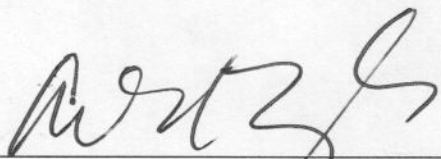
E. Cost Benefit:

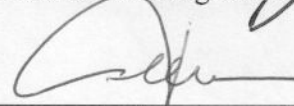
The enactment of House Bill No. 22-08 will result in additional costs to the CNMI Government; either by hiring new employees or assigning additional workload to existing employees, as well as acquiring a financial management software system to implement the Act. However, the CNMI Legislature's ability to control the expenditure of funds appropriated for its operations will result in a smoother and more reliable way of spending its funds appropriated to them.

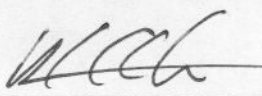
III. CONCLUSION:

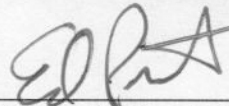
The Committee is in accord with the intent and purpose of H. B. NO. 22-08, and recommends its passage of this Legislation in its current form.

Respectfully submitted,

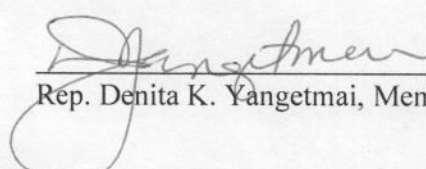

Rep. Donald M. Manglona, Chairperson

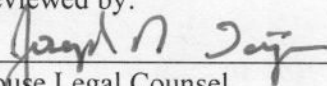

Rep. Celina R. Babauta, Member



Rep. Vicente C. Camacho, Member

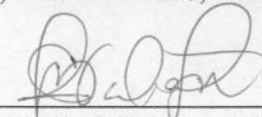

Rep. Edwin K. Propst, Member

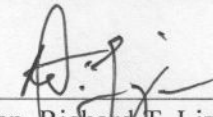
Rep. Patrick H. San Nicolas, Member


Rep. Denita K. Yangetmai, Member

Reviewed by:

House Legal Counsel



Rep., Ivan A. Blanco, Vice Chair


Rep. Sheila J. Babauta, Member


Rep. Richard T. Lizama, Member

Rep. Christina Marie E. Sablan, Member


Rep. Leila C. Staffler, Member


Rep. Ralph N. Yumul, Member

Attachments:

- Letter dated March 25, 2021 from David DLG. Atalig, Secretary, Department of Finance



Office of the Secretary
Department of Finance



P. O. Box 5234 CHRB SAIPAN, MP 96950

TEL.: (670) 664-1100 FAX: (670) 664-1115

March 25, 2021

SFL 2021-092

Hon. Donald Manglona
Chairman
Committee on Ways & Means
22nd Commonwealth Legislature
P.O. Box 500586, Saipan, MP 96950
Tel: 1-(670) 664-8950

Subject: Department of Finance Comments on House Bill 22-8, To establish the level of funding for the Legislature with Control of the Expenditure of Funds Appropriated for its Operations.

Dear Chairman Manglona:

Thank you for the opportunity to provide comments on this legislation. In an effort to provide our comments and recommendation on House Bill 22-8, to establish the level of funding for the Legislature with control of the expenditure of funds appropriated for its operation, the Department of Finance sought to understand the impact of this legislation on the equal distribution of government resources for the administration of public services and responsible fiscal management.

While the Department of Finance support the intent of this legislation for the Legislative Bureau to be independently responsible for its financial management including but not limited to: payroll, travel, account payables, disbursements of funds, fund status for member allocations, and procurement processes (e.g., contracts, inventory, reconciliation, and fixed asset management), we ask that consideration is provided toward the financial management software system presently being developed for the Commonwealth of the Northern Mariana Islands (CNMI) and submission to the annual financial audit intended to secure transparency and accountability of public funds.

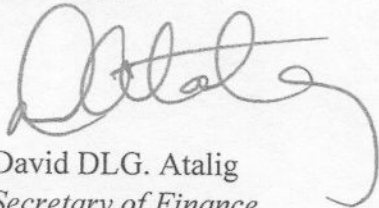
Additionally, we kindly ask the committee to review its intent for and proposed application of Section 1702(g): All appropriations by the Commonwealth shall be allotted and transferred to the Fund's bank account at the beginning of each quarter. As you may know, the Commonwealth's budget is identified through historical based projection and revenue estimates, thus subjecting budget allotments to funding fluctuations. Should the committee decide to move forward with this provision, we advise anticipation of delayed remittances in the event actual revenue is insufficient for the identified budget allotment due date.

Further, the Department of Finance wishes to share with you the concern of potential conflicts with the CNMI Constitution that may arise in the implementation of Section 1702(b), requiring the appropriation of 6% of the funds identified by the Governor for appropriation, but not less than \$8,000,000.00. The fixed floor of appropriation opens conflict with the Governor's Constitutional requirement to submit to the CNMI Legislature an annual balance budget for the following fiscal year. As you are aware, the present governing statutes related to the expenditure of funds and associated earmarks toward net available resources limit flexibility in utilization of public funds to support essential public services. This additional and potentially substantial earmark to the CNMI Legislative Branch during this period of severely contracted government resources has the potential to constitute a considerable percentage of available resources, possibly being far in excess of 6% should available resources be further diminished.

I ask that prior to consideration of a statutory earmark to add to the already limited resources available to support the provision of public services and the protection of the population's health and wellbeing that recognition be provided to the present constraints of the CNMI's finances and the growing obligations it is responsible for addressing. Further, the present financial management arrangement provides for essential financial management oversight through the Office of the Public Auditor and any transference of management responsibility over public funds should include the appropriate mechanisms to provide for regular audits of financial transactions and management practices. This should be a paramount consideration as the transparency and accountability of public resources is of the utmost importance.

On behalf of the Department of Finance, Office of the Secretary, I thank you for the opportunity to provide this comment. If you have any questions or in need of additional information regarding this letter, please feel free to contact me at 1-670-664-1100 or email at david.atalig@dof.gov.mp.

Sincerely,



David DLG. Atalig
Secretary of Finance
Department of Finance

1 The Legislative Bureau is established by the N.M.I. Constitution,
2 Art. II, Sec. 17 to provide all required services to the members of the
3 legislature in connection with their duties and responsibilities and to
4 maintain all records, files, library and other documents of the legislature.

5 Section 1702. Legislature Operations Fund.

6 (a) There is hereby established a fund to be known as the
7 “Legislature Operations Fund” (Fund) which shall be maintained separate
8 and apart from other funds of the Commonwealth government. Independent
9 records and accounts shall be maintained for the Fund by the Legislative
10 Bureau.

11 (b) Each annual appropriation act shall appropriate to the Legislative
12 Branch, 6% of the funds identified by the Governor as available for
13 appropriation, but not less than \$8,000,000.

14 (c) The expenditure authority over the funds in the Legislature
15 Account shall be the Director of the Legislative Bureau.

16 (d) The funds in the Legislative Account shall be expended in
17 accordance with the regulations of the Department of Finance for the
18 Control of Public Funds.

19 (e) The Legislative Bureau shall establish such bank accounts as are
20 necessary for the Legislature Operations Fund in banks qualified to hold
21 government deposits.

1 (f) All moneys received by the Legislature from whatever source
2 shall be deposited in the Fund's bank accounts.

3 (g) All appropriations by the Commonwealth shall be allotted and
4 transferred to the Fund's bank account at the beginning of each quarter.

5 (h) All debts, liabilities, obligations and operational expenses of the
6 Legislature and its members, the Legislative Bureau and the
7 Commonwealth of the Northern Mariana Islands Youth Congress shall be
8 paid from the Fund.

9 Section 1703. Legislature Fund Sub Accounts.

10 The following Sub Accounts are established within the Legislature
11 Fund:

12 (a) House of Representatives Members Personnel Account to fund
13 the salaries and benefits of the members of the House of Representatives.

14 (b) Senate Members Personnel Account to fund the salaries and
15 benefits of the members of the Senate.

16 (c) House Members' Office Accounts. Funds allocated for the
17 operation of the member's office, including, but not limited to, the
18 personnel costs of the member's employees and expenditures as authorized
19 by the adopted rules of the House of Representatives. Each Member may
20 initiate a request for payment of the funds allocated to their account.

1 (d) Senate Members' Office Accounts. Funds allocated for the
2 operation of the member's office, including, but not limited to, the
3 personnel costs of the member's employees and expenditures as authorized
4 by the adopted rules of the Senate. Each Member may initiate a request for
5 payment of the funds allocated to their account.

6 (e) House Leadership Account. The Speaker of the House, may
7 initiate a request for payment of such funds to support the operations and
8 activities of the House of Representatives in accordance with its rules,
9 provided that the Speaker distributes a portion of the total appropriation in
10 equal amounts to each of the standing committees for their operations and
11 activities.

12 (f) Senate Leadership Accounts. The President of the Senate, may
13 initiate a request for payment of such funds to support the operations and
14 activities of the Senate in accordance with its rules, provided that the
15 President distributes a portion of the total appropriation in equal amounts to
16 each of the standing committees for their operations and activities.

17 (g) Legislative Bureau.

18 (h) Northern Marianas Youth Congress. A request for payment may
19 be initiated by the Director of the Legislative Bureau.

20 Section 1704. Expenditure Ceilings.

1 (a) The N.M.I. Constitution, Art. II, places an expenditure ceiling on
2 the following accounts:

3	(1) Members' Office Accounts (each Member)	\$155,000
4	(2) Senate and House Leadership Accounts	\$400,000
5	(3) Legislative Bureau	\$2,000,000

6 (b) The N.M.I. Constitution, Art. II Sec. 16(e) of the Commonwealth
7 Constitution provides: "Beginning the second Monday of January 1998, the
8 amount of the ceiling and all other dollar amounts stated in this section shall
9 be adjusted every two years by the same percentage as the percentage
10 change in the United States Department of Commerce composite price
11 index during the two preceding fiscal years using the beginning of fiscal
12 year 1996 as the base."

13 (c) The annual fiscal year expenditure levels for the sub accounts
14 listed in §1703 shall be determined every two years by the Director of the
15 Legislative Bureau and adopted by joint resolution by both houses of the
16 Legislature."

17 **Section 3. Severability.** If any provisions of this Act or the application of
18 any such provision to any person or circumstance should be held invalid by a court
19 of competent jurisdiction, the remainder of this Act or the application of its
20 provisions to persons or circumstances other than those to which it is held invalid
21 shall not be affected thereby.

1 **Section 4. Savings Clause.** This Act and any repealer contained herein
2 shall not be construed as affecting any existing right acquired under contract or
3 acquired under statutes repealed or under any rule, regulation, or order adopted
4 under the statutes. Repealers contained in this Act shall not affect any proceeding
5 instituted under or pursuant to prior law. The enactment of the Act shall not have
6 the effect of terminating, or in any way modifying, any liability, civil or criminal,
7 which shall already be in existence on the date this Act becomes effective.

8 **Section 5. Effective Date.** This Act shall take effect upon its approval by
9 the Governor, or its becoming law without such approval.

Prefiled: 1/27/2021

Date: 1/27/2021

Introduced by: /s/ Rep. Joseph Leepan T. Guerrero
/s/ Rep. Roy C.A. Ada
/s/ Rep. Blas Jonathan "BJ" T. Attao
/s/ Rep. Ivan A. Blanco
/s/ Rep. Joel C. Camacho
/s/ Rep. Angel A. Demapan
/s/ Rep. Joseph A. Flores
/s/ Rep. John Paul P. Sablan

Reviewed for Legal Sufficiency by:

/s/ John F. Cool
House Legal Counsel