

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

_____ Session, 2021

H. B. 22- 102

A BILL FOR AN ACT

To exempt public corporations and autonomous agencies from paying the one percent (1%) Public Auditor Fee.

**BE IT ENACTED BY THE 22ND NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and Purpose.** The Legislature finds that
2 autonomous and public corporations need exemption from paying the
3 Public Auditor Fee. The exemption provides relief of the financial burden
4 on the autonomous agencies and public corporations. The Legislature also
5 finds that certain autonomous agencies and public corporations do not
6 utilize the audit service of the Office of the Public Auditor. For example,
7 the Commonwealth Ports Authority (CPA) is required by its bond
8 indentures to file its complete financial statements, together with an audit
9 report and opinion of an independent certified public account nationally
10 recognized in the United States, and a certificate that CPA is in compliance
11 with its bond payments. An additional concern for CPA is that the Public
12 Auditor Fee, as a general charge upon CPA imposed annually, constitutes

1 revenue diversion from CPA which would violate federal entitlement or
2 discretionary grant conditions or jeopardize such grants for airport or
3 seaport improvements. Similarly, the Commonwealth Utilities Corporation
4 also engages its own independent auditor for its annual audit.

5 Accordingly, the purpose of this Act is to exempt the public
6 corporations and autonomous agencies from paying the public auditor fee.
7 However, the Legislature does authorize the Office of the Public Auditor to
8 charge, and for such autonomous agencies to pay, for any subsequent
9 enforcement, investigation or other review work and to charge a reasonable
10 rate or fee for such services.

11 **Section 2. Amendment.** 1 CMC § 7813(a) is hereby amended to
12 read as follows:

13 “(a) “Agency” means any entity established or funded by law of the
14 Commonwealth government or a local government. Agency includes the
15 following entities and their officers, directors, employees, and independent
16 contracts: any authority, board, branch, bureau, commission, cooperative,
17 council, department, division, fund, group, institution, political division,
18 office, or ~~public corporation, including any autonomous or semiautonomous~~
19 governmental entity.”

20 **Section 3. Amendment.** 1 CMC § 7831 is hereby amended to read
21 as follows:

1 “§ 7831. Authorization for Funding by Commonwealth Agencies.

2 (a) The ~~Director~~ Secretary of Finance shall withhold one percent of
3 all locally generated funds appropriated by Commonwealth law for all
4 Commonwealth government agencies’ operations and activities as well as
5 for all capital improvement projects and, in any event, no less than
6 \$1,000,000 for the office of the Public Auditor. The term “appropriated by
7 law” includes appropriations pursuant to the continuing spending authority
8 provided for in N.M.I. Const. art. III, § 9(a). The withheld amounts shall be
9 deposited in a special account established by the ~~Director~~ Secretary of
10 Finance, separate from the General Fund, to be administered in accordance
11 with 1 CMC § 7206 and, therefore, may be expended without further
12 appropriation. The office of the Public Auditor shall report no later than
13 three months after the closing of each fiscal year to the Governor and the
14 legislature in detail on the use of the funds.

15 ~~(b) The executive directors of all public corporations or other~~
16 ~~autonomous agencies of the Commonwealth which are not funded primarily~~
17 ~~by legislative appropriations shall pay to the Public Auditor an amount not~~
18 ~~less than the one percent of its total operations budget from sources other~~
19 ~~than legislative appropriations or pursuant to any other formula upon which~~
20 ~~the Public Auditor and the agency may agree. The funds shall be~~
21 ~~administered pursuant to subsection (a) of this section.~~

1 (e ~~b~~) No funds paid into the account of the office of the Public
2 Auditor shall be reprogrammed for any other purpose to any other agency.

3 (~~d~~ c) The legislature shall be exempt from the requirement of one
4 percent contribution of legislative funds to the office of the Public Auditor.

5 (e d) The Public School System (PSS) shall be exempt from the
6 withholding and payment requirements of subsections (a) ~~and (b)~~ of this
7 section; provided that one percent of the budget appropriated to PSS shall
8 be used exclusively for the purchase of textbooks and shall not be
9 reprogrammed for any other purpose. The Commission of Education shall
10 establish a Textbook Account into which funds realized by operation of this
11 subsections shall be deposited. These funds shall not be commingled with
12 other PSS accounts and shall be used solely for the purposes of this
13 subsection. The Commissioner of Education shall be the expenditure
14 authority for funds deposited in to the Textbook Account.

15 (e) The public corporations and autonomous agencies are exempt
16 from the withholding and payment requirements of subsection (a) of this
17 section. Any and all past unpaid amounts accrued under this section by
18 public corporations and autonomous agencies shall either be waived by the
19 Commonwealth, including the Public Auditor, or otherwise be considered
20 appropriated to the respective public corporation or autonomous agency.
21 Notwithstanding the foregoing, the Office of the Public Auditor may charge

1 a fee for the reasonable value of its services to such public corporations or
2 agencies for enforcement or review. The Office of the Public Auditor shall
3 publish for notice and comment a proposed fee or rate schedule through
4 regulations, pursuant to this provision, in the Commonwealth Register and
5 which shall take effect upon final promulgation. The Office of the Public
6 shall be reimbursed the reasonable value of any service requested and
7 directly provided to a public corporation or autonomous agency no later
8 than the end of the subsequent fiscal year following the year in which such
9 service, investigation or other review was requested or performed relating
10 to that public corporation or autonomous agency.”

11 **Section 4. Severability.** If any provision of this Act or the
12 application of any such provision to any person or circumstance should be
13 held invalid by a court of competent jurisdiction, the remainder of this Act
14 or the application of its provisions to persons or circumstances other than
15 those to which it is held invalid shall not be affected thereby.

16 **Section 5. Savings Clause.** This Act and any repealer contained
17 herein shall not be construed as affecting any existing right acquired under
18 contract or acquired under statutes repealed or under any rule, regulation or
19 order adopted under the statutes. Any repealer contained in this Act shall
20 not affect any proceeding instituted under or pursuant to prior law. The
21 enactment of this Act shall not have the effect of terminating, or in any way

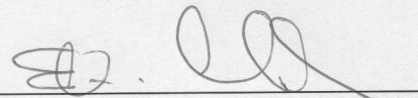
1 modifying, any liability civil or criminal, which shall already be in existence
2 at the date this Act becomes effective.

3 **Section 6. Effective Date.** This Act shall take effect upon its approval by
4 the Governor or upon its becoming law without such approval.

Prefiled: 5/12/2022

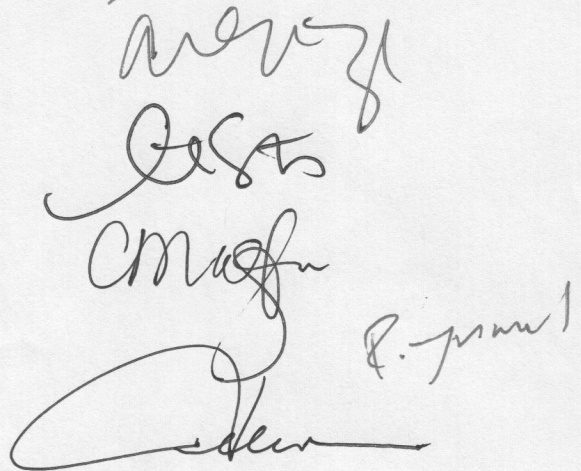
Date: 5/11/22

Introduced by:


Rep. Edmund S. Villagomez

Reviewed for Legal Sufficiency by:


House Legal Counsel


A collection of handwritten signatures and initials, including a large signature that appears to be 'Avery', 'JCS', 'CMA', and a signature that looks like 'P. J. ...'.