

HOUSE OF REPRESENTATIVES
TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FIRST REGULAR SESSION, 2000

THIRTY-FIRST DAY

March 22, 2000

The House of Representatives of the Twelfth Northern Marianas Commonwealth Legislature convened in its Thirty-First Day, First Regular Session, on Wednesday, March 22, 2000, at 2:12 p.m. in the House Chamber, Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Benigno R. Fitial, Speaker of the House, presided.

A moment of silence was observed.

In accordance with Rule XIII, § 2(a), seventeen members were present and Representative Hofschneider was excused.

Speaker Fitial: A quorum is duly constituted for the Thirty-First Day of our First Regular Session. I see that we do not have any journals for adoption, let us move down to Reports of Standing Committees.

ADOPTION OF JOURNALS

None

REPORTS OF STANDING COMMITTEES

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Floor Leader?

Floor Leader Babauta: I yield to Representative Apatang.

Speaker Fitial: Representative Apatang?

Rep. Apatang: Mr. Speaker, can we go ahead and do the introduction of Bills?

There was no objection raised.

Speaker Fitial: There being no objection. We are back to Item 3, Introduction of Bills.

INTRODUCTION OF BILLS

H. B. NO. 12-153: A Bill for an Act to re-appropriate Three Hundred Ten Thousand Dollars (\$310,00) from Public Law No. 11-43 for various construction projects; and for other purposes.

Offered by: Rep. David M. Apatang and five others
Referred to: Committee on Ways and Means

INTRODUCTION OF RESOLUTIONS

H. R. NO. 12-42: A House Resolution requesting the Board of Public Lands to designate the government land directly north of Pacific Islands Club and south of the Villanueva residence as public access for San Antonio Elementary School.

Offered by: Rep. David M. Apatang and four others
Referred to: Committee on Natural Resources

MESSAGES FROM THE GOVERNOR

None

SENATE COMMUNICATIONS

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 STANDING COMMITTEES

Floor Leader Babauta: Mr. Speaker, earlier I asked the members to include Standing Committee Report No. 12-80, relative to House Bill No. 12-150 in the Order of Business on Item 12. With that, Mr. Speaker, I move for the adoption of Standing Committee Report No. 12-80.

The motion was seconded.

S. C. R. NO. 12-80: Reporting on House Bill No. 12-150, entitled, “A Bill for an Act to amend 4 CMC § 8151; and for other purposes.” *Your Committee on Judiciary and Governmental Operations recommends passage of the Bill on First and Final Reading.*

There was no discussion raised. The motion to adopt Standing Committee Report No. 12-80 was carried by voice vote.

Speaker Fitial: Standing Committee Report No. 12-80 is adopted.

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

None

BILL CALENDAR

The Chair recognized the Floor Leader.

Floor Leader Babauta: Thank you, Mr. Speaker. Mr. Speaker, I move for the suspension of Rule IX, Sections 9 and 10 for the passage of House Bill No. 12-150 on First and Final Reading.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. Floor Leader?

Floor Leader Babauta: Thank you, Mr. Speaker. Mr. Speaker, I now move for the passage on First and Final Reading House Bill No. 12-150.

The motion was seconded.

H. B. NO. 12-150: A BILL FOR AN ACT TO AMEND 4 CMC § 8151; AND FOR OTHER PURPOSES.

Speaker Fitial: Discussion? Representative Attao?

Rep. Attao: Mr. Speaker, on the Purpose and Findings, on the last paragraph, “This Act does not permit an attorney from the Attorney General’s Office to work for CUC.” This is under the Findings, Mr. Speaker, Section 2, amendment, 4 CMC § 8151, specified that the Board may retain or engage private legal counsel. What will happen if there is no private legal counsel available, still the Attorney General’s Office is not permitted to work for CUC?

Speaker Fitial: Representative Apatang, since you are the author of this Bill, will you care to respond?

Rep. Apatang: Thank you, Mr. Speaker. I am sure that with all the private attorneys available on island, I am sure that we can find somebody out there that can accommodate the needs of CUC. Thank you.

Rep. A. Camacho: Mr. Speaker?

Speaker Fitial: Representative Tony Camacho?

Rep. A. Camacho: Mr. Speaker, may I be enlighten as to the relationship between the legal counsel, if we so decide to have a legal counsel at CUC, in regards to the Attorney General’s power to represent all legal cases for the government?

Speaker Fitial: Representative Apatang?

Rep. Apatang: Thank you, Mr. Speaker. The issue here is that sometimes the Office of the Attorney General cannot represent the autonomous agency like CUC for instance, if there is an issue like a protest is involved. At the present time, I believe CUC had been assisted by a legal counsel from the Attorney General’s Office, but when the issue came out on the 80 megawatts, the legal counsel had to recuse himself, CUC had to hire somebody else from private attorney to represent them. So, this is where the legal conflict is involved. That is why since CUC is an autonomous agency, we need to give them the opportunity to hire their own legal counsel as a retainer basis or on as needed basis. Thank you.

Speaker Fitial: Proceed.

Rep. A. Camacho: Thank you, Mr. Speaker. In the event that there is a conflict in representation, I think the Constitution provides that the Attorney General should do the representation within the agency or the department. And doing so, I would like to be further enlighten as to what the consequences will be?

Speaker Fitial: Representative Apatang, do wish to yield?

Rep. Apatang: I would like to yield. If we can yield to the legal counsel, maybe the legal counsel can elaborate.

Speaker Fitial: Representative Benavente, do you want to address the issue raised by Representative Tony Camacho?

Rep. Benavente: What I would like to say maybe proposes some respond, but not entirely, but if I may speak before we recess for the counsel to respond, Mr. Speaker?

Speaker Fitial: Proceed.

Rep. Benavente: I tend to agree with Representative Camacho, that there is still some responsibility that the Office of the Attorney General has in every government agency, and I think you speak about defending, which I believe it is true. But looking at the Bill, it proposes to amend the existing law, which already have that provision. I believe the way it is written, unless I am mistaken, but the Bill just proposes to strike out the provision that allows the Attorney General to serve as legal counsel. But in fact, the first part about the existing law already grants the board the authority to retain private legal counsel. I don't think that it is necessary then to remove the provision that allows the Attorney General to represent CUC in this case. If the intent of the Bill is to allow the board to hire a private counsel, it is there, in the existing law. I guess maybe at this point, we should recess and have the counsel respond to that question then, Mr. Speaker.

Speaker Fitial: Very, very short recess. One minute respond.

The House recessed at 2:20 p.m.

RECESS

The House reconvened at 2:30 p.m.

Speaker Fitial: The House shall reconvene.

Rep. Benavente: I still have the floor.

Speaker Fitial: You still have the floor.

Rep. Benavente: Thank you. Mr. Speaker, I was just told by the Acting Attorney General that just yesterday, the board came and requested the Attorney General to represent them because of the resignation of the present legal counsel. If we take this provision out, we would remove that opportunity, the authority for the Attorney General to represent them. Again, I go back looking at the existing statute and that the intent is to have CUC or grant CUC the authority to hire its own private legal counsel and I believe that the present law allows them. I believe that the provision in the existing law that says, "The Attorney General shall serve as legal counsel to the corporation is upon the request from the board." So, it does not necessarily require the Attorney General to represent CUC, that CUC is given the authority to either request the Attorney General to represent them or to hire its own attorney, and therefore, this deletion is not necessary. And

again, we go back to the idea of protecting the authority of the Attorney General over government agencies. I think because this Bill proposes to restrict the Attorney General all together from being able to represent CUC in this case. So, again, I don't believe that it is necessary to amend this law and I think if the intent is to grant CUC to hire their own legal counsel, the existing law allows that.

Speaker Fitial: That is where the conflict is. They (CUC Boards) are being advised that they cannot go out and hire private attorneys because the AG shall serve as their legal counsel.

Rep. Benavente: Mr. Speaker, if I may respond for the last time?

Speaker Fitial: Proceed.

Rep. Benavente: Again, during our recess, my question to the legal counsel says that that is true, it is not necessarily true that the Attorney General has to represent CUC, that the only time the Attorney General represents CUC is upon the request, request of the board, which this law requires the Attorney General's Office to represent them because, "it shall serve as legal counsel to the corporation upon the request of the board." Again, Tony may correct me if I'm wrong, but it is my impression during recess, and my question to him is that this Bill does not necessarily restricts CUC from hiring its own legal counsel.

Speaker Fitial: I think we have enough discussion.

Rep. Apatang: Thank you, Mr. Speaker. Just looking back at the 80 megawatts issue, the fiasco, originally we have an assistant AG working with CUC on the reviewing proposals. At the later date, this individual recuses himself from advising CUC. They cannot represent CUC through out the decision of the 80 megawatts, so what happen? They have to go out and hire a private legal counsel to represent them. We need somebody there that can do continuation legal advise to CUC, not to start at the beginning and then in the middle he stops because he have to recuse himself. We need someone there that can continuously advise the board what to do legally that is why there is a delay on the 80 megawatts.

Floor Leader Babauta: Mr. Speaker?

Speaker Fitial: Who wants to continue debating?

Floor Leader Babauta: No more. Move to end debate.

The motion was seconded and carried by voice vote.

Speaker Fitial: The motion carries. We are now voting on the motion to pass House Bill No. 12-150 on First and Final Reading. Roll call.

The Clerk called the roll on the motion to pass House Bill No. 12-150 on First and Final Reading as follows:

Rep. Martin B. Ada

yes

Rep. David M. Apatang	yes
Rep. Jesus T. Attao	yes
Rep. Oscar M. Babauta	yes
Rep. Diego T. Benavente	no
Rep. Antonio M. Camacho	yes
Rep. Rosiky F. Camacho	yes
Rep. Florencio T. DLGuerrero	yes
Rep. Heinz S. Hofschneider	excused
Rep. Brigida DLG. Ichihara	yes
Rep. Dino M. Jones	yes
Rep. Alejo M. Mendiola, Jr.	yes
Rep. Norman S. Palacios	yes
Rep. Thomas B. Pangelinan	abstain
Rep. Maria “Malua” T. Peter	yes
Rep. Stanley T. Torres	yes
Rep. William S. Torres	yes w/reservation
Speaker Benigno R. Fitial	yes

perce

Speaker Fitial: House Bill No. 12-150 passes the House on First and Final Reading.

MISCELLANEOUS BUSINESS

Rep. S. Torres: Mr. Speaker?

Speaker Fitial: Representative Stanley Torres?

Rep. S. Torres: With the indulgence of the members, may I ask that we go back to Item 10 on the Calendar?

There was no objection raised.

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

Rep. S. Torres: I don't know if you receive a letter from the Northern Marianas Housing Corporation dated March 21st, asking both houses here to take action on their draft resolution. This is in regards to the CDBG, and Home loan, they have a dead line to turn in on June 1st since we are going into recess. It is not an urgent matter, but since we are going on recess for long time, I think we should look at this.

Speaker Fitial: Does anybody have a copy of that communication?

Rep. S. Torres: It is addressed to you and the President of the Senate, dated March 21st, and they just passed this out this morning. They even provide a draft House Joint Resolution calling for action.

Speaker Fitial: We can recess until Monday, at 1:30 p.m. so we can tackle that so we don't have to be worry about it.

ANNOUNCEMENTS

Speaker Fitial: Announcement?

Chairman Jones: Public Hearing immediately after the session.

Speaker Fitial: Don't forget tomorrow at 8:30 a.m., Representative Hofschneider is not here, but he has called for the Saipan and Northern Islands Legislative Delegation Session. Floor Leader?

Floor Leader Babauta: Move to recess until Monday at 1:30 p.m.

The motion was seconded carried by voice vote.

The House recessed at 2:37 p.m.

Respectfully submitted,

Joan P. Kaipat, Journal Clerk
House of Representatives