



House Journal

FOURTH REGULAR SESSION, 2007

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Seventh Day

October 17, 2007

The House of Representatives of the Fifteenth Northern Marianas Commonwealth Legislature convened its Seventh Day, Fourth Regular Session on October 17, 2007, at 9:48 a.m., in the House Chamber on Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands.

The Honorable Oscar M. Babauta, Speaker of the House, presided.

A moment of silence was observed.

The Clerk called the roll and thirteen members were present. Representatives Arnold I. Palacios and Crispin M. Ogo, came in late; Representatives Martin B. Ada, Florencio T. Deleon Guerrero, Candido B. Taman were excused.

Speaker Babauta: Thank you, take note that Representative Ogo is present this morning, Representative Ada, Floor Leader F. Deleon Guerrero, and Representative Taman are duly excused for today's session. The Minority Leader is present today. Without objection, I would like to continue to appoint Representative Lizama as Floor Leader Pro Tem.

There was no objection.

Speaker Babauta: So ordered. Thank you.

ADOPTION OF JOURNALS

None

INTRODUCTION OF BILLS

None

INTRODUCTION OF RESOLUTIONS

None

MESSAGES FROM THE GOVERNOR

Gov. COMM. 15-336: (10/5/07) Informing the House that he disapproved H. B. NO. 15-42 (Require Legislative approval of CIP / Compact Impact Funds). [*Deadline 12/5/07*]

Gov. COMM. 15-338: (10/11/07) Informing the House that he appointed Mr. Clarence Tenorio Jr. to serve as a member of the PUC representing Saipan.

Gov. COMM. 15-339: (10/11/07) Informing the House that he appointed Ms. Viola Alepuyo to serve as a member of the PUC representing Women/Carolinians.

Gov. COMM. 15-340: (10/11/07) Informing the House that he appointed Mr. Kyle Calabrese to serve as a member of the PUC representing Saipan.

Gov. COMM. 15-341: (10/5/07) Certification of vacant positions at the Office of the Attorney General.

Speaker Babauta: Are there any comments on any of the Messages from the Governor? Yesterday, I took the liberty of assigning Gov. COMM. 15-338 thru 15-340, nominating new members for the Public Utilities Commission to the Committee on PUTC and I humbly ask the Chair to expediently work with these individuals. I recognize the Chairman of PUTC, Representative Dela Cruz.

Rep. Dela Cruz: Yes, Mr. Speaker, as soon as we receive their bio-data, we will proceed.

Speaker Babauta: Thank you.

SENATE COMMUNICATIONS

SEN. COMM. 15-283: (10/12/07) Transmitting a certified copy of Senate Commemorative Resolution No. 15-11: "A Senate Resolution to commend and congratulate Mrs. Lourdes T. Manglona for her hard work and dedication in proudly promoting the Chamorro Culture and Heritage on the island of Rota and for up-holding honor and distinction for the people of the CNMI." [For info]

Speaker Babauta: I now recognize the Floor Leader for the acceptance motion on Senate Communications.

Floor Leader Pro Tem Lizama: Thank you, Mr. Speaker, I move to accept SEN. COMM. 15-283.

The motion to accept SEN. COMM. 15-283 was seconded and carried by voice vote.

HOUSE COMMUNICATIONS

Speaker Babauta: I recognize Representative Torres.

Rep. Torres: I would like the Chair to know that I am present today.

Speaker Babauta: Yes, definitely, I have counted you twice. I recognize Representative Tenorio.

Rep. Tenorio: If there is no objection can we go back to Item No. 3 of the Order of Business?

There was no objection from the Floor.

INTRODUCTION OF BILLS

Speaker Babauta: Without objection we are back to Item No. 3, Introduction of Bills, I recognize Representative Tenorio.

Rep. Tenorio: Thank you. Mr. Speaker. I have a bill to introduce at this time.

H. B. NO. 15-314: A Bill for an Act to regulate recruitment agencies; and for other purposes.
Offered by: Representative Manuel A. Tenorio
Referred to: Committee on Judiciary and Governmental Operations

Speaker Babauta: I recognize Representative Kaipat.

Rep. Kaipat: Just a clarification, Mr. Speaker, are we still on Item No. 7?

Speaker Babauta: We are going to go on Item No. 7 now.

Rep. Kaipat: Thank you.

HOUSE COMMUNICATIONS

Speaker Babauta: We will continue with Item No. 7 and I now recognize Representative Kaipat.

Rep. Kaipat: Thank you Mr. Speaker. My office received a fax from Eric Cruz of Basula Produkto, and I understand that this communication is intended to be shared with all the members of this House and so I would like to offer this as part of the House Communications.

The was no objection and the communication submitted by Representative Kaipat was entered and numbered as HSE. COMM. 15-50.

Speaker Babauta: You may continue Representative Kaipat.

Rep. Kaipat: Mr. Speaker and members, yesterday, we had a good discussion about the GAO and I guess Mr. Stayman's allegations that the CNMI is now cooperating with their request of documents. And I have printed out this email message that was sent to the members of the House that is dated, Thursday, October 11, 2007, this is from the PIO of the Administration, Mr. Charles Reyes. And it is a press release concerning the CNMI's cooperation with GAO and I would like to offer this as part as the House Communication and with the members' indulgence I would like to very quickly to go over one brief paragraph which I think is fruitful and it is good to enter it on record. It states, "*The Commonwealth has received 101 separate information request from the GAO during their visit to the CNMI. By October 3, 2007 only a week after their visit the CNMI Government had supplied responses to eighty four to these requests that is eighty three percent. The mean response time for request that had been addressed is 3.87 business days from time of receipt of the request from the time of delivery of their response. The responses to many requests were provided on the same day they were received. The GAO's normal schedule which was reportedly sixty to ninety days for responses, of the seventeen remaining requests as of October 3, 2007, six were addressed to private organizations in the CNMI and the remaining 11 were addressed to the CNMI Government.*" Again members you can either check their emails or also read this which I am happy to enter as part of the official record. But obviously, it demonstrates here that the CNMI is acting on good faith in

complying with the requests. And I just want to go on record as saying that I commend the CNMI for doing its part and to reiterate my support for transparency. I am sure that is what we are all looking for in this Chamber that we want a full and complete report. Obviously if there is any other information that needs to be gotten from the CNMI that there is new allegations information that they are not getting I would like to know about that and do my part to help make sure that the information is provided. But just by the sound from this particular information, it sounds to me that the Administration and the CNMI is cooperating fully. So again, Mr. Speaker, I want to enter this into record, thank you.

The document submitted by Representative Kaipat in the form of a press release from Mr. Charles P. Reyes, Jr. was entered and numbered as HSE. COMM. 15-51.

Speaker Babauta: I recognize the Minority Leader.

Rep. Palacios: On that same note, Mr. Speaker, we certainly appreciate the information being provided by Representative Kaipat. It also shows the need that we proceed with the recommendation of Representative Dela Cruz, that we write to the GAO and have them tell us because what has come out in the media, if it is inaccurate it has done a disservice to the Commonwealth Government, to our Governor, and the people and that we are trying to be transparent. Even with the amount of time that we were given, I think, that if it is indeed accurate that we have done a very good job in responding to the questions that they have asked and providing the information. But let us dispel these allegations that has been out in the media and write directly to GAO in fact write a letter to the Committee in the US Congress I believe it is Senator Domenici and Senator Akaka the author of the legislation regarding this allegation basically sharing our sentiments that we are transparent as far as we know and that if there is anything other than what has been provided and anything that we can do to provide them these information in a reasonably timely manner we will do it ,and let see what their response are going to be so that we could put this to rest. The whole Commonwealth is being raked over the fire again over a particular issue. It is very disturbing because the media is very unclear, but it does leave the impression that we are not forthcoming with the needed information to do this study. Thank you.

Speaker Babauta: Thank you, Minority Leader. Just be mindful that the GAO is an arm of the United States Congress and it does not fall under any other branch other than the US Congress. For that matter I would probably assume that they have their work cut out for them and are probably being engaged only on certain level of exploration as far as the study is concern with respect to those two pending bills. The letter is being on the draft stage now and I think it be also wise to write the same letter to the respective Committee members of the US Senate. I recognize Chairwoman Kaipat.

Rep. Kaipat: Mr. Speaker, let me just offer this information that I gathered looking this matter. From what I understand or from what I have been told the GAO is reluctant to come out publicly and saying that they want to maintain their partiality so I would be surprised that they would even respond but go ahead and write the letter but my understanding is that this information that was I guessed either channeled through Stayman or came from him certainly I just wanted to prepare you that we can request it I do not know if they would come out publicly and even respond to it. But I do want us to dispel this myth the Commonwealth's reputation has been raked over the coals for so long now and many of us are being quiet about it and I for one is sick and tired of it and especially reading what the Administration has put forth in terms of response time and all this. It really

astounds me that the allegation that they would have that the Commonwealth has been less than forthcoming responsive is just ridicules in my opinion. So I just wanted to offer that and again as we said we want transparency but we also do not want this continuing fight for federalization to give people an opportunity to just lave allegations over and have the media to just continue to help them.

Speaker Babauta: I recognize the Minority Leader.

Rep. Palacios: Mr. Speaker, it is for that reason that the recommendation by Representative Dela Cruz is I guess the best approach. We are not going to loose anything in fact we will gain something and that it will show that this body is concern about transparency. And if they do not respond, then that is certainly their prerogative but I think the letter should send a sentiment that listen we are also concern, we are a legislative body of the Commonwealth and that we are concern to make sure that the information that they are getting and as far as we know from the Administration that they are cooperating; but if there is anything else that we can do to make sure that you get the information that you need just let us know. If they do not respond to that then at least it is out there that we are the Commonwealth as a whole and as Representative to the people are offering that we will do what ever that is necessary. Thank you.

Speaker Babauta: Thank you. Before we move on I would like to recognize the presence of the former Speaker of the House and Lt. Governor the Honorable Diego T. Benavente in the Gallery, Welcome. Ready. I recognize Representative Torres.

Rep. Torres: Are we still under House Communications?

Speaker Babauta: Yes we are. Continue.

Rep. Torres: Thank you, Mr. Speaker. With the patience of the members I would like to say a few words. Mr. Speaker and Colleagues, the CNMI has been penetrated by Korean, and Chinese Mafias. First a Korean Mafia is lavishly living and enjoying the harvest ripping off all the would be Korean investors into the CNMI, and that every Korean investor has to go through him before applying for an investor's permit. This Korean mafia is also acting as a coordinator and or brokering other Korean investors to bribe and or paid trips and amenities for off island trips to government officials like a trip to Korea or Japan. This person is identified by the nick name of Moondong, which I will later find out. Moondong has also penetrated the Division of Custom and other departments. And secondly, a Chinese recycling company who he claims to be clean, junk and copper buyer is also the owner of the company that was identified on Guam that purchase the bronze plague that was ripped away from the Veteran's Memorial at the American Memorial Park in Asan, Guam. This Chinese recycling buyer was the loudest mouth of all during the meeting here in the House Chamber that was conducted by the House JGO Committee on the junk recycling who said that he should not be penalized for buying copper from other people that sells him the garbage. This garbage buyer is the Triple Star Recycling. If I made a mistake with my statement I stand corrected. Mr. Speaker and colleagues, we need to put a stop to all copper buyers buying coppers if they are not cleared jointly with DPS or CUC personnel. Mr. Speaker and colleagues we all know that there is no more brass and copper dump it is closed on Saipan. All the *kara' bala and alamlin brass* are gone twenty or thirty years ago. CUC is the only agency and none other that cuts copper in excess of a foot up to five feet because of their extravagant. But the private company that cuts and weighs up to five feet of copper wire do not throw it away, they keep it for other splicing projects and I kid you not. My

colleagues *taya man mamahan, man yuyuti* copper wire so those wires are coming from if they are not stolen wires. Mr. Speaker and colleagues now new kimichi bubble and its mafias are penetrating as I said earlier and in control over the CNMI economy even penetrating the CNMI Government agencies and departments. These individual a national by the name of Moodong as I said earlier has been in the CNMI since 2003 and as a secretary, treasurer, of the Yoo Yun Corporation in San Jose, Tinian. Notwithstanding any rumor that this person is the front or the buyer of all stolen copper wires on Guam, Rota, Tinian, and Saipan, and shipping it out to China. He has been the person coercing all Chinese, and Korean that they have to go through him if anybody wants to obtain a license or permit to do business in the Government or even to see the Governor. This individual has been identified he have been too generous to some of the Government officials and personally paying trips for Government officials or employee to get what he wants to recruit and execute. Thank you.

Speaker Babauta: Thank you for sharing that information. I will ask Representative Yumul to look into your official allegations if that is the case maybe since Chairman Ada is not here in conjunction with the copper wire. Okay, anymore, ready?

Several members voiced ready.

Speaker Babauta: I recognize Chairman Ogo.

Rep. Ogo: If there is no objection Mr. Speaker from the members could we go back to the Introduction of Bills?

There was no objection from the Floor.

INTRODUCTION OF BILLS

Speaker Babauta: Under Item No. 3, Representative Ogo.

H. B. NO. 15-315: A Bill for an Act to amend Section 3(g) of Public Law No. 14-80 to provide funding for the Rota Department of Commerce, Alcohol, Beverage and Tobacco Control Division; and for other purposes.

Offered by: Representative Crispin M. Ogo

Rep. Ogo: Mr. Speaker, if there is no objection this is a simple amendment I would like to place that on today's calendar for today's action.

Rep. Waki: Objection.

Speaker Babauta: What is the amendment?

Rep. Ogo: It is being passed out, Mr. Speaker.

Speaker Babauta: I am afraid that we might be putting something on the calendar that we have not seen the skeleton of it yet. So be patient until we get to the Bill Calendar.

COMMUNICATIONS FROM THE JUDICIAL BRANCH

None

COMMUNICATIONS FROM THE RESIDENT REPRESENTATIVE

None

COMMUNICATIONS FROM DEPARTMENTS & AGENCIES

None

OTHER COMMUNICATIONS

None

REPORTS OF STANDING COMMITTEES

None

REPORTS OF SPECIAL AND CONFERENCE COMMITTEES

None

UNFINISHED BUSINESS

None

RESOLUTION CALENDAR

Floor Leader Pro Tem Lizama: Mr. Speaker, I move for the adoption motion on H. R. NO. 15-153.

Speaker Babauta: Mr. Floor Leader, we need to reconsider the amendment that the House made yesterday. I understand we have a substitute that will be introduced by the author this morning so that we can clean up the resolution. So the motion would be to reconsider the House action.

Floor Leader Pro Tem Lizama: I so move, Mr. Speaker.

The motion to reconsider H. R. NO. 15-153 was seconded and carried by voice vote.

Speaker Babauta: We are now discussing H. R. NO. 15-153 and I now recognize the author Representative Yumul.

Rep. Yumul: Thank you Mr. Speaker. I would like to introduce H. R. NO. 15-153, HS1 as a substitute to H. R. NO. 15-153.

Several members seconded.

H. R. No. 15-153, HS1: A HOUSE RESOLUTION TO REQUEST THAT THE DEPARTMENT OF PUBLIC LANDS CEASE AND SUSPEND ALL NEGOTIATIONS WITH SAIPAN TRIPLE STAR RECYCLING, INC. AND ITS BOARD OF DIRECTORS AND OFFICERS REGARDING SAIPAN TRIPLE STAR'S REQUEST TO LEASE PUBLIC

LANDS SITUATED IN PUERTO RICO AND LOWER BASE, SAIPAN PENDING THE ONGOING INVESTIGATION OF POSSIBLE VIOLATIONS OF PUBLIC LAWS 15-36 AND 15-55, AND OTHER CNMI LAW.

Speaker Babauta: Discussion on the substitute.

Representative Taman voiced ready.

Speaker Babauta: I recognize the Vice Speaker.

Vice Speaker Quitugua: Mr. Speaker, I would to make a minor amendment on the substitute.

Speaker Babauta: Proceed.

Vice Speaker Quitugua: On page three on the transmittal paragraph to include the “Secretary of Finance” since he is in charge with Customs, the “Secretary of Commerce” since Commerce is in charge of issuing corporation license, and the “Commissioner of the Department of Public Safety” since they are in charge with investigation. Thank you.

Several members seconded.

Speaker Babauta: To clarify the motion offered by the Vice Speaker is to include on the transmittal the last resolving clause copies to the Secretary of the Department of Finance; Secretary to the Department of Commerce; and the Commissioner of the Department of Public Safety. Discussion on the oral amendment.

There being no discussion the floor amendment offered by Vice Speaker Quitugua was seconded and adopted by voice vote.

Speaker Babauta: We continue to discuss H. R. No. 15-153, HS1, HD1.

There being no further discussion, H. R. No. 15-153, HS1, HD1 was adopted by voice vote.

BILL CALENDAR

Speaker Babauta: I now recognize the Floor Leader.

Floor Leader Pro Tem Lizama: Thank you Mr. Speaker. Mr. Speaker, I move for the passage motion on First and Final Reading H. B. NO. 15-313.

The motion was seconded.

H. B. No. 15-313: A BILL FOR AN ACT TO ASSIST THE COMMONWEALTH UTILITIES CORPORATION (“CUC”) IN THE PROCUREMENT OF SERVICES IN AN OPEN AND EXPEDITED PROCESS IN ORDER TO ADDRESS THE COMMONWEALTH’S POWER CRISIS AND REDUCE POWER RATES; TO ALLOW AND ENCOURAGE THE CUC TO ENGAGE THE PRIVATE SECTOR TO PARTNER WITH THE COMMONWEALTH TO SECURE RELIABLE UTILITY SERVICES AT AFFORDABLE RATES; TO PROVIDE FOR A ONE STEP REVIEW BY THE PUBLIC UTILITIES COMMISSION (“PUC”); AND FOR OTHER PURPOSES.

Speaker Babauta: Discussion on that motion. I recognize the Minority Leader.

Rep. Palacios: Can we take a few minutes recess, Mr. Speaker?

Speaker Babauta: Short recess.

The House recessed at 10:26 a.m.

RECESS

The House reconvened at 10:26 a.m.

Speaker Babauta: We are back in session. The motion on the floor is for the passage of H. B. NO. 15-313 on First and Final Reading and I recognize the Minority Leader.

Rep. Palacios: Thank you, Mr. Speaker. Mr. Speaker, I just talked with the author and I requested that we put this on First Reading. The reason is this legislation has a very strong implication in terms of procurement processes in our government and it requires a lot more review. I believe we can expedite this review in terms of its implications with our legal counsel. What are the existing procurement regulations both at the Department of Finance and at CUC, and what is this legislation changing specifically? There are a lot of changes even in the way an aggrieved party can protest or request for a review if an aggrieved party wants to appeal. There are a lot of impediments we are putting up. One of which is the 20% on page 7, it states: A jurisdictional prerequisite to the filing of an appeal of a PUC decision approving the CUC PSAA procurement shall be the filing with the Superior Court of a bond in the amount of twenty percent (20%) of the proposed contract award, provided that the Attorney General and the CUC shall be exempt from the requirement of filing a bond. This is a very large obstacle that we are putting in front of an aggrieved party who in good conscience submits a bid to a public tender and if they have a legitimate reason to appeal a decision we are going to require them to put up a bond of 20%. This is a very high threshold and I believe that with the recent review with the RFP that was stricken down by the Public Auditor because of findings of flaws in the process I think we need to be very careful that we are not just going in there and taking out all the different requirements of accountability and transparency in our procurement process for this services. And for that reason, Mr. Speaker, I ask that we place this on First Reading only and to ask the Chairman.

Speaker Babauta: Is there any objection?

Several members voiced “no objection”; Representative Waki raised an objection.

Speaker Babauta: If that is the wish of the House then we will discontinue with discussion on this unless we want to indulge more on the issue. I recognize Chairman Waki.

Rep. Waki: Thank you, Mr. Speaker. The reason I am objecting is because we have delayed the process of privatization that would have probably started work on repairing the much needed deteriorating power system. And we have had a process for privatization where three out of the four bidders had no problem paying the fees. They knew that two or three of them are going to lose, but

they paid it. But one particular bidder decides to throw a monkey wrench in it and we assisted in throwing that monkey wrench in, in this House in this Legislature. We say we want to help the people we want to help save CUC, but we ourselves are constantly delaying the much needed solution to getting this done. OPA had done an opinion, but three out of four people had no problem with the process and these are independent companies that know that we can afford to bid and the \$75,000 was not a problem and then we get an opinion on certain procurement practices so it puts a stop to everything. It is amazing, we say we are suffering and we change laws all the time. We make adjustments to laws all the time and some are not even good adjustments but we pass it into law. And here we are trying to fix a problem that affects us all, not only personally but economically and we are still trying to delay.

Rep. Palacios: Point of clarification, Mr. Speaker.

Speaker Babauta: State your point of clarification, Mr. Minority Leader.

Rep. Palacios: I wonder if Representative Waki can explain how this Legislature has delayed privatization. I wonder if he can elaborate that statement. Because as far as everyone and I know, this Legislature did not review any RFP, did not even have any information as to how this past privatization got shot down because of illegalities and irregularities, and that is exactly what we are trying to do here. We need to avoid irregularities, okay. An aggrieved bidder has the right to submit an appeal of a decision that was made and they did, one of the four bidders did. And that is exactly what happened to these delays because we are short cutting these processes. The point is I want him to clarify how this Legislature has delayed the privatization process. We went through a privatization process, an aggrieved party submitted an appeal to the OPA by law with no legislative interference, and now he sits there and accuses this Legislature of delaying the privatization process.

Speaker Babauta: Probably I will just shorten that point of clarification, Mr. Minority Leader. For one, it was the Public Auditor that have cancelled and delayed the process when there is an aggrieved party and not this House that is clarified for the record. Other than whatever had transpired on legislative process, we have no control over who is going to get it until such time that the Legislature has been well informed on the details on the potential RFP's in the future then we will indulge with the Administration and CUC. You may continue, Representative Waki.

Rep. Waki: To answer the question of what this Legislature did, one of the four bidders was a company when we changed the law to allow this company to be able to bid that is what we did. And they were the only ones who have complained about the bidding process, it was not the other three that is what I am trying to say. We kind of threw a monkey wrench in to processes maybe having a so called best intention in mind.

Rep. Palacios: Point of clarification, Mr. Speaker.

Speaker Babauta: State your point.

Rep. Palacios: Mr. Speaker, if you review the Public Auditor's report on why they called off the bid it had nothing to do with the issue that Representative Waki has brought up. For your information the RFP was defective from the very beginning and that and that came from the CUC Director himself. The RFP that the consultant that they hired put together was defective in fact they had to get

one of the attorney's our own Attorney General... *(End of Tape 1, side A – continuation of side B)* ... that was the problem.

Speaker Babauta: Well stated point. You may continue Representative Waki, let me just remind you this is First Reading only.

Rep. Waki: If anything, Mr. Speaker, like we said it is just the constant delays its an all encompass process. Now if we are here to help fix something that is right now a problem behind the eight ball, why are we not discussing it more? If it is so important why we are just doing first reading why not discuss it to find out certain flaws and then if there is certain flaws, okay, then we will look into it. And if anything, grievances will have to be dealt with in court, there is nothing wrong with that. Okay, we are going to look at different procurement processes, alright, we have Department of Finance and we have Procurement and Supply Office, alright, the Executive Branch who runs both departments are looking at to try to make sure that they can work something so we can move forward. I am just saying that why is it when we want to say we want to move forward we take two steps forward one step back, that is all what I am trying to say. And hopefully we can get all the information and on a timely basis get something done to relieve CUC and find a way to help and relieve the people from just what we are dealing with in the last year and a half, that is all I really want to do, we got to stop making monkey wrenches lets all sit down and fix the problem. Thank you, Mr. Speaker.

Speaker Babauta: Representative Joseph Deleon Guerrero.

Rep. J. Deleon Guerrero: Thank you. Mr. Speaker, I am not in support of putting this in First Reading, I prefer that it be referred to Committee and let the PUTC Committee look at it. Representative Waki is basically summarizing the gist of this bill and that is to stop the delays. Well in fact if you look at, what it does is it removes the redundancy of reviews from removing the Public Auditor from the process, from changing the administrative procedure from the standard procurement process of review, now shifts that review over to the courts and now there are thresholds here that are imposed that may make it harder for those by imposing a cost a bond in the amount of 20% it may preclude other interested parties from participating in this process. It looks like it is intended to do exactly what you are saying and that is to expedite this process. Now, why?-- I ask why, why should the process not be redundant so that there are safeguards, so there can be transparencies, so that there is no room to preclude parties from protesting or appealing? I do agree with some sections of the bill, especially the intention to go through a PMC (Performance Management Contract). I am not sure about the BOT yet, but I am asking the author if we can at least refer it to your committee, let your committee review the details here. There are a lot of notwithstanding clauses in here and I have not had the opportunity to compare this proposed process with what is currently in statute and we just want to make sure that it would not short change any party, any interested persons. Give us a week to review it.

Speaker Babauta: The motion is for First Reading only, so I will recognize and just put it on the calendar for a week unless we want to continue to debate.

Rep. Palacios: I think it requires that we discuss it today why we are putting this on First Reading and the concerns that needs to be raised so that if the committee gets together and look at this issue and address those issues.

Speaker Babauta: Thank you. I recognize Representative Kaipat.

Rep. Kaipat: Thank you, Mr. Speaker. Just a point of clarification here I am a bit confused about what is going on in here. I thought when we had a joint meeting with the Senate that our understanding is that we would review this piece of legislation and invite the folks up on Guam and continue to work together on this bill. At least that was my understanding the last time we met. And I am quite surprised that we are talking about passage when we have not even done that yet. I understand the need to be expeditious and I for one do not want redundancy, I want efficiency. But I do not think we have done our homework yet. We have barely begun to scratch the surface of trying to educate ourselves on this. I do appreciate and understand the time pressure that we are under but I really think it is our responsibility to make sure that we get all the facts before us and make sure that the bill that we eventually pass is a bill that will not come back and bite us in the end. So I just think that it is not unreasonable for us to proceed with a plan that we agreed to with our Senate colleagues, CUC, and members of the Administration to meet again with those individuals from Guam and look at this bill. I know this bill came from them but we still have not finished what we set out to do. Let us follow through on that as soon as possible. The idea was to wait until the DOI conference finish on Guam so that those folks can come up here and I have not heard anything from CUC as to whether they have confirmed their attendance or not. So Chairman of PUTC, I guess pose this question to you, have you heard anything at all from the folks from CUC as to when our next joint meeting will be together with the Senate? I hope that meeting will be pushed rather than push this back to committee. We need to all meet be at the same table, the Senate and House members, and get everything out, and also bring the same people from the Administration so that we can address our concerns once and for all and expedite this review. Thank you.

Speaker Babauta: Thank you. I recognize the author, Chairman Dela Cruz.

Rep. Dela Cruz: Thank you, Mr. Speaker. As I understand that we all agreed to place this on First Reading only, there are a couple of issues and I am also mindful of those issues, such as the 20% bonding that has to be submitted to the courts before any appeal is considered. To answer the question from Representative Kaipat, no have not heard from CUC and as far as the Guam representatives coming over to discuss the performance management contract scheme, but I will give CUC a call and find out what the schedule is for this team to come in and meet with us. I do agree that time is of the essence right now and as far as trying to assist, this is basically the act that we have in front of us, H. B. NO. 15-313 is to assist CUC in moving forward whether performance management contract scheme or build operate transfer scheme or privatization. I do not believe it would hurt anyone in this body to give it a few more days or a week to all sit down and look at all the plus and minuses of the legislation. I, as the author also must say that there are languages in here that I would like to clarify and I would agree in holding this off until a future date, Mr. Speaker. Thank you.

Speaker Babauta: Thank you. Before I recognize the motion for First Reading let me recognize Representative Torres.

Rep. Torres: Thank you, Mr. Speaker. I would like to request Representative Waki if he would be willing to identify the name of the three companies that have submitted for the privatization bid since you have mentioned three out of four agreed to pay for the fees. Are you willing to? You must

have known the names because you have mentioned three of them, could you share with us? It is a dead issue now, why is it confidential to name them?

Speaker Babauta: That is the prerogative of the distinguished Representative. You might probably get that after the session. I recognize the Minority Leader.

Rep. Palacios: Thank you Mr. Speaker. It was not to delay but if you really look at I have perused this twice and I have seen things that are of concern and the good Chairman has elaborated some of them too. But let me bring you back in time and just mention a few words and I think that we all understand what we need to do and why we are going through this deliberation process. Enron, does anybody remember the process we have gone through with Enron? The reverse osmosis, Mr. Speaker, remember the reverse osmosis that the desalinization plant that was supposed to go on in Precinct III? And the latest one is this privatization act of CUC. All these projects were shot down because of the violation of procurement process. In the end who ended up paying for this? We have paid millions of dollars that CUC squandered in the process, which is why we need to be careful. We need to be careful that we are not too expedient and violate our own procurement regulations. In the end instead of saving, we wasted close to three million dollars on the Enron issue, and that is the whole deliberation here. It is not to hold or delay any privatization. God knows we need help with somebody that can really run CUC.

There was no further discussion and the motion to pass H. B. NO. 15-313 on First Reading was carried by voice vote.

Speaker Babauta: I now recognize the Floor Leader.

Floor Leader Pro Tem Lizama: Thank you, Mr. Speaker. I move for the passage on First and Final Reading S. B. NO. 15-100.

Speaker Babauta: The motion on the floor is for the passage on First and Final Reading S. B. NO. 15-100 and I recognize Representative Kaipat.

Rep. Kaipat: Thank you Mr. Speaker. I would like to offer a House Substitute which now reads S. B. NO. 15-100, HS1.

Several members seconded the motion.

The following amendment was offered by Representative Kaipat.

A BILL FOR AN ACT

TO AMEND THE COMMONWEALTH CODE TO CRIMINALIZE THE TAKING OF RAYS FROM CNMI WATERS; TO AUTHORIZE THE DIVISION OF FISH AND WILDLIFE TO REGULATE THE TAKING AND INTERACTION OF SAID RAYS; TO CRIMINALIZE THE FEEDING OF SHARKS WITHOUT A PERMIT WITHIN THE NEAR SHORE WATERS OF THE COMMONWEALTH; AND FOR OTHER PURPOSES.

**BE IT ENACTED BY THE FIFTEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

Section 1. Findings and Purpose. The Legislature finds that a SCUBA diving location commonly called “Eagle Ray City” is a popular dive destination in the waters off Saipan due to the regular gathering of Spotted Eagle Rays. The Legislature finds that this dive site is popular with tourists because it is rare to find naturally occurring gatherings on a regular basis. The congregation of Spotted Eagle Rays is easily photographed; each photo taken home with the tourist is free advertising showing the great beauty and grand scale of aquatic life in the CNMI. The Legislature further finds that Eagle Ray City is popular with local residents and good for the economy in that it is accessible only by boat; divers (tourist and resident alike) need to hire local guides and secure the services of local boats and captains to reach this spot. This type of ecotourism is beneficial to the CNMI’s economy, fits within the advertising campaigns offered by the Marianas Visitors Authority and should be nurtured, protected and grown.

The Legislature finds that evidence suggests the Eagle Rays have been recently hunted to such an extent as to threaten their population levels and as to instill an unnatural fear of divers, thereby threatening one aspect of the Commonwealth's revenues. The Legislature finds that Spotted Eagle Rays specifically, and rays generally, are not traditional food fishes in the CNMI. Fishing specifically for such rays is not a tradition in the CNMI; the recent practice of doing so is detrimental to the welfare of the Commonwealth and should be prohibited.

The Legislature finds that, recently, it was reported to the government that some tour operators were un-thoughtfully engaging in the practice of shark feeding in areas traditionally used by children to swim, notably Saipan’s Grotto, one of our premier dive attractions. That this practice is dangerous and should be discouraged is self-evident. The Legislature finds that feeding sharks in the near shore waters of the CNMI without a permit should be made a crime to ensure that any feeding of sharks is done in a responsible fashion, if at all.

The Legislature finds and declares that this Act is necessary for the protection of the welfare of the residents of the Commonwealth and is a proper use of the Legislative power granted by Section 1 of Article II of the Commonwealth Constitution. It is the purpose of this act to criminalize the taking of rays and to empower the Director of the Division of Fish and Wildlife to promulgate regulations necessary to regulate the taking of said fishes. It is further the intent of this act to criminalize the feeding of sharks within the near-shore waters of the Commonwealth without obtaining a permit from the Director of the Division of Fish and Wildlife. It is not the intent of this act to affect in any way the statutes concerning fishing for sharks by utilizing baited hooks.

Section 2. Amendment. Chapter 6 of Division 5 of Title 2 of the Commonwealth Code is hereby amended by the addition of a new article as follows:

“Article 4. Miscellaneous Prohibitions and Protections.

§5641. Protection of Rays.

(a) **Prohibited acts.** It shall be unlawful for any person, within the CNMI or any place subject to the jurisdiction thereof, to knowingly, or with wanton disregard for the consequences of his act, feed, take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner any RAY, alive or dead, or any part thereof, without being permitted to do so as provided in this section, or to violate any permit or regulation issued pursuant to this section.

(b) **Criminal penalties.** A person convicted under this section shall be punishable as follows:

(1) **First Offense.** A person may be punished by imprisonment of not more than six (6) months, or a fine of not more than \$1,000, or both.

(2) **Second or Subsequent Offense.** A person convicted of a second or subsequent offense may be punished by imprisonment of not more than one (1) year, or a fine of not more than \$3,000, or both.

(3) The commission of each taking or other act prohibited by this section with respect to a ray shall constitute a separate violation of this section.

(c) **Civil Penalties.** It shall be unlawful for any person, within the Commonwealth or any place subject to the jurisdiction thereof, to take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner, any RAY, alive or dead, or any part thereof, without being permitted to do so as provided in this section, or violates any permit or regulation issued pursuant to this section, may be assessed a civil penalty by the Director of not more than \$5,000 for each such violation. Each violation shall be a separate offense. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Upon any failure to pay the penalty assessed under this subsection, the Director shall request the Attorney General to institute a civil action in a court of the Commonwealth to collect the penalty

and such court shall have jurisdiction to hear and decide any such action. In hearing any such action, the court must sustain the Director's action if supported by substantial evidence.

(d) Application. Nothing herein shall be construed to apply to any employee of the governments of the United States or the Commonwealth acting within the scope of their employment.

(e) Taking and using for scientific or exhibition purposes.

(1) Whenever, after investigation, the Director of the Division of Fish and Wildlife shall determine that it is compatible with the preservation of rays to permit the taking, possession, and transportation of specimens thereof for scientific investigations or the educational purposes of museums, aquaria, scientific societies, or zoological parks, or that it is necessary to permit the taking of such fishes for the protection of aquacultural or other interests in any particular locality, he may authorize the taking of such fishes pursuant to regulations which he is hereby authorized to prescribe: Provided, that said fishes may not be taken for any purpose unless, prior to such taking, a permit to do so is procured from the Director.

(2) The regulations promulgated pursuant to subsection (e)(1) above shall include provisions regulating the interaction with including feeding of rays by commercial tour operators, and the interaction of SCUBA divers and snorkelers with said fishes. The Division of Fish and Wildlife shall promulgate the said regulations within 120 days of the effective date of this Act.

(f) Definitions. As used in this section, the following terms have the following definitions:

(1) "Person" includes natural persons, associations, partnerships, corporations and any legal entity whatsoever.

(2) "Ray" means animals in the Order Myliobatiformes, including but not limited to: Eagle Rays (*Aetobatus narinari*); Manta Rays (*Manta birostris*); and Blue-spotted Rays (*Taeniura lymma*).

(3) "Take" means to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest. The accidental catching of a ray by a person fishing with hook and line does not amount to a taking if the ray is immediately returned to the water.

§5642. Feeding of sharks.

(a) Prohibited acts. It is unlawful for any person, within the near shore waters of the CNMI to knowingly, or with wanton disregard for the consequences of his act feed in any manner any SHARK, without first obtaining a permit from the Director of the Division of Fish and Wildlife, or violates any permit or regulation issued pursuant to this section.

(b) Criminal penalties. A person convicted under this section shall be punishable as follows:

(1) First Offense. A person may be punished by imprisonment of not more than six (6) months, or a fine of not more than \$1,000, or both.

(2) Second or Subsequent Offense. A person convicted of a second or subsequent offense may be punished by imprisonment of not more than one (1) year, or a fine of not more than \$3,000, or both.

(3) The commission of each act prohibited by this section with respect to a shark shall constitute a separate violation of this section.

(c) Civil Penalties. It shall be unlawful for any person, within the Commonwealth or any place subject to the jurisdiction thereof, to take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner, any SHARK, alive or dead, or any part thereof, without being permitted to do so as provided in this section, or violates any permit or regulation issued pursuant to this section, may be assessed a civil penalty by the Director of not more than \$5,000 for each such violation. Each violation shall be a separate offense. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Upon any failure to pay the penalty assessed under this subsection, the Director shall request the Attorney General to institute a civil action in a court of the Commonwealth to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In hearing any such action, the court must sustain the Director's action if supported by substantial evidence.

(d) Application. Nothing herein shall be construed to apply to any employee of the governments of the United States or the Commonwealth acting within the scope of their employment.

(e) Feeding Permits. Whenever, after investigation, the Director of the Division of Fish and Wildlife shall determine that it is compatible with the safety of the people of the Commonwealth to permit the feeding of sharks ~~within~~ outside of the near shore waters of the CNMI, he may authorize the feeding of such fishes pursuant to regulations which he is hereby authorized to prescribe; provided, that said fishes may not be fed unless, prior to such taking, a permit to do so is procured from the Director.

(f) **Definitions.** As used in this section only, the following terms have the following definitions:

(1) “Feed” means (A) to place within or near the mouth of a shark anything edible by a shark, including but not limited to fish or meat of any kind, whether alive or dead, whole, chopped or ground; (B) to intentionally put into the ocean blood of any kind with the intent of attracting a shark or sharks; (C) to chum in any manner whatsoever when using SCUBA equipment with the knowledge that a shark is in the vicinity or with the intent of attracting a shark or sharks. It does not include fishing with a line and baited hook if the fisherperson is on land or in a boat.

(2) “Near shore waters of the CNMI” means: the waters extending 1000 feet seaward from the high tide line of any point of land within the Commonwealth; the waters 1000 feet from any portion of exposed reef within the jurisdiction of the Commonwealth; and the area commonly known as the Saipan Lagoon, encompassing the area from the reef crest to the shore, from Coral Ocean Point to the northern end of Wing Beach including, but not limited to: Lagunan Chalan Kanoa, Lagunan Garapan and Lagunan Tanapag.

(3) “Person” includes natural persons, associations, partnerships, corporations and any legal entity whatsoever.

(4) “Shark” means an animal commonly known as a shark and includes all animals in the Orders Hexanchiformes, Pristiophoriformes, Squatiniformes, Heterodontiformes, Orectolobiformes, Lamniformes, and Carcharhiniformes.

Section 3. Fish and Game Revolving Fund. All fees and fines collected pursuant to the provisions of this Act shall be deposited into the Fish and Game Revolving Fund Account No. 6045 and allocated to the Division of Fish and Wildlife for the purpose of enforcing the provisions of this Act. The said funds shall be used only for enforcement purposes including, but not limited to, hiring enforcement personnel and purchasing collateral equipment and may not be reprogrammed or expended for any other purpose. These funds shall not be reprogrammed or subject to fiscal year limitation. The expenditure authority shall be the Secretary of the Department of Natural Lands and Resources with the concurrence of the Director of the Division of Fish and Wildlife.

Section 4. Regulations and Enforcement. The Division of Fish and Wildlife shall promulgate rules and regulations necessary to implement the provisions of this Act. The Division of Fish and Wildlife shall enforce the provisions of this Act with the assistance of the Department of Public Safety, the Coastal Resources Management, and the Division of Environmental Equality.

Section 5. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

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

Section 7. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

Speaker Babauta: The motion on floor as offered by Representative Kaipat is to substitute S. B. NO. 15-100 in a form of HS1 and has been seconded. Discussion on the substitute, I recognize Representative J. Deleon Guerrero.

Rep. J. Deleon Guerrero: May I just kindly ask the author to give us an overview synopsis of the difference between this substitute and the original bill.

Speaker Babauta: Chairwoman Kaipat to respond.

Rep. Kaipat: Thank you, Mr. Speaker, I will be glad to. There are really not a whole lot of changes that we made basically if you go to page 6, Section 3, on line 21, we added this section, Section 3. Fish and Game Revolving Fund, which we did not have this on the original bill, and another thing that we did if you go to page 7, Section 4, on line 1 we added Section 4. Regulations and Enforcement. Basically what we did was we added all these other agencies to help in the enforcement of this act. I want to point out that we had no problem with the first part of this bill which is to protect the Eagle Ray City by prohibiting the hunting or taking of the Spotted Eagle Rays, the second part of this bill which some of us had some concerns about is the actual part where it allowed the feeding of sharks within the CNMI's territorial waters. The committee had some discussions about this, we had invited in members from the Division of Fish and Wildlife as well as the President of the newly form Saipan Divers Association and the committee was satisfied that this ought to be left up to the Fish and Wildlife Division to make a determination after conducting a study as to whether to allow the feeding of sharks and if so, to designate the appropriate areas to do this and therefore any kind of permits that would issued will be taken care of Division of Fish and Wildlife.

Speaker Babauta: I assume that Representative Joe Deleon Guerrero is satisfied with your overview. Representative J Deleon Guerrero.

Rep. J. Deleon Guerrero: Just to further strengthen it the bill, I want to propose an oral floor amendment on page 6, line 26, after the word "reprogram" to include the words "or expended", so it shall read: "The said funds shall be used only for enforcement purposes including, but not limited to, hiring enforcement personnel and purchasing collateral equipment and may not be reprogrammed or expended for any other purpose."

The motion to amend S. B. NO. 15-100, HS1 as offered by Representative Joseph Deleon Guerrero was seconded, the there being no discussion, it was carried by voice vote.

Speaker Babauta: We will continue to discuss S. B. NO. 15-100, HS1, HD1. Ready. I recognize Representative Yumul.

Rep. Yumul: Thank you, Mr. Speaker. I do not have any real concerns with regards to the bill with the first part the Spotted Eagle Rays; however, the shark feeding is a very big concern because once we start the feeding of sharks -- I see the section that allows the Director of the Division of Fish and Wildlife to develop it if there is enough data -- but sharks are similar to most others animals that once you start feeding them they tend to congregate in the same area waiting for the handouts day after day and when perhaps sometime later when a dive group does not come by to feed them what do you think they are going to do. They probably might make their way down to Managaha, to the reef lines, who knows, it may or may not happen. A thousand feet may seem a long enough distance but when it comes to these types of aquatic life they travel thousands of miles to seek food not to mention the fish that fishermen normally would catch. I have been out fishing many times even up north in Marpi Banks and once there is a congregation of sharks, it is very difficult to land fish. Even tuna schools, sharks are there ready to chomp on them. So I just want to register my concern that shark feeding is a very dangerous activity and the consequences for both the operator and the tour activity swimming with the sharks getting into a cage and feeding them...when you start chumming and bating sharks to come the blood itself is not going to go away it is going to spread in all directions and it will remain there. You would be surprised what types of sharks would be attracted

by this type of activity. I am not an expert in the field but you have not seen a ten or fifteen foot shark come up to the boat which are huge.

Speaker Babauta: Would you like to offer a criminal penalty for the sharks.

Rep. Yumul: Well like I said, Mr. Speaker, the section on sharks I do not see any real information that talks about serious research, it just says that the Director of the Division of Fish and Wildlife whenever after an investigation -- I do not know what type of investigation.

Speaker Babauta: Let me recognize the Chairwoman, she probably would have something to add on to your concern.

Rep. Kaipat: Thank you, Mr. Speaker. Representative Yumul, I agree with you 100%. I share those same concerns and as one of the people that requested that this bill be referred to committee. I brought those same concerns up and we had a good debate in the committee about good discussion with the Division of Fish and Wildlife. We went back and forth and I think Representative Palacios and I were really the most passionate people who argued or debated about this issue. We came to a conclusion and agreement that since the Division of Fish and Wildlife is not wild about this idea of encouraging this activity this because they do share the same concerns that you and I have about shark feeding. In fact they even mentioned that in Hawaii outlawed it but it had to do with the particular location. That is why I was satisfied that we had this provision in here that says "whenever after investigation" and they have agreed that they will conduct a thorough investigation into it. What gave me the satisfaction is knowing that the officials who came from the Division of Fish and Wildlife were not wild about this. And so that gave me the assurance that at least that they would take this seriously and really look into it and if they decide that this is just not a feasible option for us because I do not believe that we should ever risk our safety I am satisfied that they will have the good common sense not to allow it. They after all are the ones will issue the permits for this type of activity. Until such time that they deem it to be in their expert opinion a relatively safe activity, I am satisfied, I am giving them the due respect to have them conduct their own due diligence in their own specific expertise to be able to make that determination. So right now it does not say anyone can go out and feed the sharks, it says if they do they need to have a permit. And right now the Division of Fish and Wildlife does not even have regulations, and they are not issuing out any permits. So anyone that is caught out there doing that this bill will actually criminalize it, make it illegal. So that is why I am in support of it because we need this in order to give them the enforcement tool that they need to go out and stop anyone from doing this. Thank you.

Speaker Babauta: They should also post a sign of "Feed At your Own Risk".

Rep. Ogo: I think I should pose this question to the legal counsel and if the Chair would like to comment on it. On page 6, line 9, which says: "(2) "Near shore waters of the CNMI". I am just considering because we have a lot of dive shops that operate not only of feeding of sharks but fish in the island of Rota. And I realized that the dive spots there are about probably if you look at this portion of this section it is saying a thousand feet from sea ward from the high tide line of any point of the land. I realized on Rota there are a lot of feeding areas that are really close to the reefs and if you travel down you know that the reef is pretty close to the shoreline. So a thousand feet probably for Rota is not applicable so can we look at that Chair and whether to extend the feet instead of a thousand make it a thousand five hundred feet, because we have not measured Rota's and I do not

know if the committee considered that but to be honest with you a lot of dive spots on Rota are pretty close to the reefs and I am concerned about the distance.

Speaker Babauta: Well the definition says on the first line it says “near shore waters of the CNMI” then it gives you if you go to line 15. It does not explicitly say Rota.

Legal Counsel Villagomez: In the meeting I did ask Fish and Wildlife if the thousand feet was enough and Ms. Conception from Division of Fish and Wildlife---

Speaker Babauta: I guess his question is does this provision include Rota.

Legal Counsel Villagomez: Well it is near shore waters of the CNMI so it would include Rota, yes.

Rep. Ogo: Counsel, this provision I am looking at this and a thousand feet is too short because a lot of our dive spots are closed to the reef line and we need to go down there to get the exact length.

Legal Counsel Villagomez: Like I said I have asked Ms. Conception if that is enough distance - is it a safe distance- and she said that one thousand feet is the normal range or is an acceptable range of feet away from the shorelines for it to be safe. But if you are concern and you would like it to be more than a thousand feet for Rota, I think you can amend that section and say two thousand for Rota.

Rep. Ogo: Probably we can put a language in exception of Rota we can increase it to 1,500 or two 2,000 feet away. When I look at the dive spots and I see a lot of boats that anchor out there and is pretty close to the reef just for my estimation a thousand feet is pretty close.

Speaker Babauta: State your point Representative J. Deleon Guerrero.

Rep. J. Deleon Guerrero: Are you concern that the feeding activity should not fall within a thousand feet, is that your concern that this activity is allowed too close to the reef? Because what it means here as I read it is that it allows for this activity within an area from the high water mark up to a thousand feet. Correct me if I am wrong.

Rep. Palacios: Let me try and clarify that. From a thousand feet inward, it is prohibited by statute. Outside of that area it is still prohibited unless with due diligence and research the Division of Fish and Wildlife may allow but for all practical purposes this is a prohibited act just as the Chairwoman stated. It is prohibited from a thousand in. The Division of Fish and Wildlife cannot even touch a thousand feet in, that is in statute, that is completely prohibited. Outside of that area is still prohibited if we pass this unless the Fish and Wildlife decides in certain areas and they still have to go through the regulation publishing therefore Representative Yumul and interested parties can come and say no Fish and Wildlife Division you are not going to promulgate that regulation we are against that so that still has the process. But let me tell you Hawaii has banned shark feeding and also in most US jurisdiction waters that is under the Fisheries Council. We are very confident that our Fish and Wildlife Division have access to all the necessary studies and scientific research to make a decision on this. I am also against this particular issue but it leaves the flexibility in case there is a special case that they find maybe in its market in a diving industry maybe under certain very restrictive circumstances.

Speaker Babauta: Representative J. Deleon Guerrero, you still have the floor.

Rep. J. Deleon Guerrero: You guys said no, I do not know whether I am reading this wrong but page 5 states: “(e) Feeding Permits. Whenever, after investigation, the Director of the Division of Fish and Wildlife shall determine that it is compatible with the safety of the people of the Commonwealth to permit the feeding of sharks within the near shore waters of the CNMI, he may authorize the feeding of such fishes pursuant to regulations which he is hereby authorized to prescribe; provided, that said fishes may not be fed unless, prior to such taking, a permit to do so is procured from the Director.” And the definition of near shore waters is water extending from seaward from the high tide of any point of land within the Commonwealth. So I read that to mean that granted that there is a permit that you can feed sharks up to a thousand feet from the high water mark. And you guys are saying no. Am I wrong here?

Rep. Palacios: Yes, you are correct.

Speaker Babauta: Representative J. Deleon Guerrero, are you finished?

Rep. J Deleon Guerrero: Well I am trying to clarify Representative Ogo’s concerns.

Speaker Babauta: Okay, thank you. Legal Counsel your legal interpretation of that provision. Representative Ogo, please repeat your question.

Rep. Ogo: Okay, as I read page 6, line 9, Number 2, my question there and I am glad that Representative Deleon Guerrero restated it, that the near shore waters on the CNMI means that the water is extended one thousand feet seaward from the high tide line of any point of land within the CNMI. I question that because a lot of dive shop operators when I pass by and see where they anchor their boats, it is pretty close to the reef line which is pretty close to the shoreline and I feel that it is there within that thousand feet mark. So if that what I am reading here then I think it is fine, counsel can you please.

Speaker Babauta: Is there a distinction between reef line and shoreline?

Rep. Ogo: *Un li’e ha Luta na puruha mama’ti pues guaha distinction Luta* unlike Saipan and Tinian. *I tano mami chechetun ha yan mama’ti.*

Speaker Babauta: Short recess.

The House recessed at 11:13 a.m.

RECESS

The House reconvened at 11:14 a.m.

Speaker Babauta: We are back to our session and, counselor, proceed.

Legal Counsel Villagomez: As to the question whether it will apply to Rota, yes, it says waters within the CNMI so that would include Rota. Yes, I agree on page 4, line 20, it says: “It is unlawful for any person, within the near shore waters of the CNMI...” And then you go back to page 6, and it defines

what is near shore waters in the CNMI and it says: "Near shore waters of the CNMI" means: the waters extending 1000 feet seaward from the high tide line of any point of land..." So it is within the one thousand feet. The way it is written now, the Division Fish and Wildlife can issue a permit to feed sharks within that one thousand feet because it says within that is the way I am reading. But again it is not something we discussed in the committee. If you wanted to be within or outside then we need to make that amendment.

Rep. Ogo: But then again on the same page I think it is on line 11, its says, the waters 1000 feet from any portion of exposed reef, imagine that in Rota -- there is exposed reef really closed to the shoreline, so is that one thousand feet again after that exposed reef one thousand...

Speaker Babauta: Short recess.

The House recessed at 11:15 a.m.

RECESS

The House reconvened at 11:16 a.m.

Speaker Babauta: We are back to our plenary session and I recognize Minority Leader.

Rep. Palacios: I would like to offer a floor amendment. On page 5, line 24, which will now read: "(e) Feeding Permits. Whenever, after investigation, the Director of the Division of Fish and Wildlife shall determine that it is compatible with the safety of the people of the Commonwealth to permit the feeding of sharks ~~within~~ outside of the near shore waters of the CNMI, he may authorize the feeding of such fishes pursuant to regulations which he is hereby authorized to prescribe; provided, that said fishes may not be fed unless, prior to such taking, a permit to do so is procured from the Director."

The motion to amend S. B. NO. 15-100, HS1, HD1 as offered by Representative Palacios was seconded.

Speaker Babauta: Discussion on the floor amendment, Representative Kaipat.

Rep. Kaipat: Mr. Speaker, I just want to make sure that this particular amendment that was just offered that this be offered as a global amendment so wherever it needs to be change that it will reflected in this bill.

Speaker Babauta: So that it is understood, wherever it appears. I recognize Representative Ogo.

Rep. Ogo: Thank you, Mr. Speaker. I just want to give the members an overview that currently, and I am speaking on behalf of Rota, a lot of dive shops have already established and even Saipan and Tinian probably have established the sharking feeding or feeding of fish in certain areas. For Rota for example they have established their spot of feeding for so many years. And if we are going to go ahead with this amendment that Representative Palacios has brought up, I feel that it will infringe to the Rota dive shops already operational daily activity of feeding fish or sharks for that purpose. I do not know if there is any record for Saipan or Tinian if this amendment will infringe their operation. I totally disagree with this amendment, Mr. Speaker, on behalf of the dive shops of Rota. Thank you.

Speaker Babauta: Any more discussions on the amendment. I recognize Chairman Dela Cruz.

Rep. Dela Cruz: I want to put a reply to Representative Ogo and that is if the Rota Dive operators are feeding sharks within the thousand feet area they can still and maybe able to do that by procuring a permit with DFW. So there really is no question as to that and it does not matter how many dive shops are there if they are issued a permit then they can continue with the feeding of the sharks. That is all, Mr. Speaker.

Speaker Babauta: Are we ready for the amendment.

There was no further discussion and the floor amendment offered by Representative Palacios was adopted by voice vote.

Speaker Babauta: We continue to discuss S. B. NO. 15-100, HS1, HD2. Ready for the question? Clerk, call the roll.

The Clerk called the roll for the passage on First and Final Reading S. B. NO. 15-100, HS1, HD2:

Rep. Martin B. Ada	absent (excused)
Rep. Edwin P. Aldan	yes
Rep. Francisco S. Dela Cruz	yes
Rep. Florencio T. Deleon Guerrero	absent (excused)
Rep. Joseph P. Deleon Guerrero	yes
Rep. Jacinta M. Kaipat	yes
Rep. Jesus SN Lizama	yes
Rep. Crispin Ogo	no
Rep. Arnold I. Palacios	yes
Rep. Justo S. Quitugua	yes
Rep. Benjamin B. Seman	absent (during voting)
Rep. Candido B. Taman	absent (excused)
Rep. Ramon A. Tebuteb	absent (during voting)
Rep. Manuel A. Tenorio	yes
Rep. Stanley T. Torres	yes
Rep. Absalon Waki, Jr.	yes
Rep. Ray N. Yumul	abstain
Rep. Oscar M. Babauta	yes

Speaker Babauta: By a vote of eleven yes S. B. NO. 15-100, HS1, HD2 passes the House on First and Final Reading. Representative Ogo.

Rep. Ogo: Mr. Speaker, if there is no objection from the members I kindly ask that I offer an amendment to H. B. NO. 15-315 to place on today's calendar. Thank you.

Speaker Babauta: Floor Leader, the proper motion for placement and passage.

Floor Leader Pro Tem Lizama: Thank you, Mr. Speaker, I move to suspend pertinent Rules to place H. B. NO. 15-315 on today's bill calendar for action.

Representative Ogo seconded the motion, which was carried by voice vote.

Speaker Babauta: Floor Leader, for the passage motion.

Floor Leader Pro Tem Lizama: Thank you, Mr. Speaker, I move for the passage on First and Final Reading H. B. NO. 15-315.

The motion was seconded.

H. B. No. 15-315: A BILL FOR AN ACT TO AMEND SECTION 3(G) OF PUBLIC LAW NO. 14-80 TO PROVIDE FUNDING FOR THE ROTA DEPARTMENT OF COMMERCE, ALCOHOL, BEVERAGE AND TOBACCO CONTROL DIVISION; AND FOR OTHER PURPOSES.

Speaker Babauta: Discussion. I recognize Representative Ogo -- you have seven minutes.

Rep. Ogo: Thank you. Mr. Speaker. Let me just highlight the reason for this amendment, Mr. Speaker the funding has been committed for the past 2 ½ years and I believe that the procurement of those equipment necessary for the continuance for this Patient Data Management has been procured and I know that the program has been continuous for the past year and a half and that is why due to the request for the Rota Department of Commerce, Tobacco Control Division request for funding and that is why Mr. Speaker I am making this amendment. So just to share with the members that the program has been ongoing for the past year and a half so why continue purchase extra equipment because it has already been procured. And the program is operational and I ask the members of this body to...this is an important division in the Department of Commerce the Tobacco Control Division for prevention. Thank you.

Speaker Babauta: Thank you, any more discussion, Representative Waki.

Rep. Waki: Thank you Mr. Speaker. I understand that he wants to move the moneys for \$35,000.00... (*End of tape 1, side B...Beginning of Tape 2, side A*) ...salaries, you cannot just reprogram funds just for any particular program. You have to have specific purposes and this is going to an actual department of the Executive Branch under the Mayor's office. So we need to know what is the intent or the breakdown for the utilization of these funds.

Speaker Babauta: To respond to Representative Waki, I recognize Chairman Ogo.

Rep. Ogo: Mr. Speaker, I have a letter directed to me by the Director of Commerce, Mr. Speaker. Basically this is not for personnel, the request for Commerce for their monitoring of businesses in the island of Rota in regards to tobacco and also to provide a prevention program. It is basically for enforcement. Thank you. I have the letter and I will provide copies to the members.

Speaker Babauta: Ready. Minority Leader, we have five minutes.

Rep. Palacios: Mr. Speaker, the Tobacco Control Fund and P.L. 14-80 this legislation completely goes -- we have an appropriation here which I am pretty sure Representative Ogo was the one who probably inserted during the Fourteenth Legislature and now he wants to fund a operation in an existing ABTC. We do not give our Department of Commerce here and neither has Tinian because

they are funded. What are we doing here? It is really showing that this is becoming slush fund for the First Senatorial District.

Speaker Babauta: Chairman Ogo.

Rep. Ogo: Mr. Speaker, I just want to share on the first sentence here, notwithstanding any provision of the law, Mr. Speaker -- and I do not want to bring up a very good bill that was just recently passed for LIHEAP for \$300,000.00 and for the Community Guidance Center, I do not want to bring all those issues, Mr. Speaker. It is not a matter of slush funds, and in fact I was happy during a few sessions ago, when Representative Deleon Guerrero was concerned that this would probably become a slush fund for any pilot project for all of us. I do not want to remind the members of that. Mr. Speaker for the Tobacco Control Division in Commerce, Saipan can also asked for that, in fact, Tinian came to me and asked if I could include them but I said wait I have to talk to the Representative from Tinian and earlier I spoke to Representative Aldan that he should do the same. I just want to remind everybody we are not doing this as a slush funds and everybody has done it before. Thank you.

Speaker Babauta: I recognize the Vice Speaker.

Vice Speaker Quitugua: Mr. Speaker this is a legal issue that probably the Legal Counsel can look into because this is going to help us strengthen our efforts in abiding to the Budget Act. In the Fourteenth Legislature a legal issue was brought that if a department is appropriated funds, let us say \$45,000.00, it might be prohibited by the Budget Act to get an additional funding other than what it was appropriated by the general appropriation because it will be exceeding the general appropriation. So this is an legal issue and probably we can take a look at and once and for all answer this question whether we can give a department funding for operations when the Budgeting Act sets the expenditure limit for that particular department or activity.

Speaker Babauta: Counselor?

Vice Speaker Quitugua: It does not have to be right now, Mr. Speaker, for future reference.

Speaker Babauta: We need to rectify this issue because these are legal ramifications probably in a form of appropriation provisions of pertinent laws. I recognize Representative Torres.

Rep. Torres: Just a curiosity as the most senior member. Mr. Speaker, would the Representative from Rota be able to share with us how much revenue does ABTC is collecting annually? If it is not enough then why are we letting them spend more than what is collected?

Speaker Babauta: Representative Ogo.

Rep. Ogo: Representative Torres, I cannot provide you right away with the exact number, but I can provide it to you, Right now for the exact number...

Speaker Babauta: The Chair has one minute left. Are we ready for the question?

Several members voiced *ready*.

Speaker Babauta: Clerk, call the roll.

The Clerk called the roll for the passage on First and Final Reading H. B. NO. 15-315:

Rep. Martin B. Ada	absent (excused)
Rep. Edwin P. Aldan	yes
Rep. Francisco S. Dela Cruz	no
Rep. Florencio T. Deleon Guerrero	absent (excused)
Rep. Joseph P. Deleon Guerrero	abstained
Rep. Jacinta M. Kaipat	abstained
Rep. Jesus SN Lizama	yes
Rep. Crispin Ogo	yes
Rep. Arnold I. Palacios	no
Rep. Justo S. Quitugua	abstained
Rep. Benjamin B. Seman	absent (during voting)
Rep. Candido B. Taman	absent (excused)
Rep. Ramon A. Tebuteb	absent (during voting)
Rep. Manuel A. Tenorio	abstained
Rep. Stanley T. Torres	yes
Rep. Absalon Waki, Jr.	no
Rep. Ray N. Yumul	abstained
Rep. Oscar M. Babauta	yes

Speaker Babauta: By a vote of 5 yes and 5 abstentions, the bill still remains on the Bill Calendar. So at this point in time, the Chair will recess subject to the call. Thank you.

MISCELLANEOUS BUSINESS

None

ADJOURNMENT

The House adjourned at 11:35 a.m., subject to the Call of the Chair

Respectfully submitted,

Evelyn C. Fleming
House of Representatives

APPEARANCE OF LOCAL BILLS

None