



Supreme Court – THE JUDICIARY • COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
Guma' Hustisia / Iimwal Aweewe / House of Justice • P.O. Box 502165 • Saipan, MP 96950
Telephone: (670) 236-9800 Fax: (670) 236-9702 E-mail: accastro@justice.gov.mp

Alexandro C. Castro
CHIEF JUSTICE

April 8, 2015

The Honorable Jude U. Hofschneider
Chairman, Fiscal Affairs
19th Commonwealth Legislature
THE SENATE
P.O. Box 500129
Saipan, MP 96950

Dear Chairman Hofschneider:

Thank you for seeking the Judiciary's comments on Senate Bill 19-16:

To establish a Department of Public Safety Operating Fund by allocating fifty percent (50%) of all criminal and civil fines and all revenues collected by the courts of the Commonwealth pursuant to 1 CMC § 3403 or fines or fees collected pursuant to any other law and remitted or paid to the Commonwealth Treasury pursuant to 7 CMC § 3206 and 7 CMC § 3251 to the Department of Public Safety Operating Fund; and for other purposes.

As a matter of public policy, the Judiciary declines to comment on pending legislation unless the subject matter of the legislation affects matters of judicial administration. Senate Bill 19-16 proposes to partially re-allocate the fines and fees the Judiciary collects. Under the proposed legislation, fifty percent of the monies the Judiciary collects will be allocated to the Judicial Building Fund, and the other fifty percent to a newly created Department of Public Safety Operating Fund. Currently, one hundred percent of the fines and fees collected by the Judiciary go to the Judicial Building Fund. As this Bill concerns judicial administration, it is proper for the Judiciary to provide its input.

The Judiciary is strenuously opposed to the passage of Senate Bill 19-16 as presently written because it will negatively affect the central government's ability to repay the Judicial Building Fund Loan to the Retirement Settlement Fund. The Guma Hustisia on Saipan was constructed

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because the central government obtained a loan from the NMI Retirement Fund¹ for \$15,000,000. The approximate annual payment of \$1,250,000 was to be paid monthly. The Judicial Building Fund was then set up to allocate specific court collected fines and fees for the repayment of the loan. At the time the loan was entered into, it was projected that the Judiciary would collect between \$700,000 and \$800,000 annually, and as a result, the central government became liable on the mortgage for the difference between what the Judiciary collected and what was owed pursuant to the mortgage. The central government is also responsible to remitting the fines and fees collected by the Judiciary to the Retirement Settlement Fund. For calendar year 2013, the Judiciary collected approximately \$700,000.

Over the years, the government was not able to make all of the required payments. The loan recently matured in February 2015. Based on Judiciary records, however, the outstanding balance on the loan is approximately \$4,900,000. The Judiciary now finds itself in the untenable position of occupying a mortgaged building of which the underlying loan has become due and payable, but with a multimillion sum is still owed. To remove a critical funding source dedicated for the repayment of the loan will definitely be detrimental to the Judiciary.

The Judiciary recognizes the critical function of the Department of Public Safety. The Judiciary also recognizes that additional funding for the Department of Public Safety will allow it to better perform its mandate of protecting the Commonwealth's residents. Taking these funds, however, will ultimately undermine the bill's purported goals of strengthening public safety because without a courthouse, the criminal justice system will come to a screeching halt.

Furthermore, passage of the Bill will negatively affect retirees because less money will be available to pay for their benefits. The Retirement Settlement Fund holds the loan for the Guma Hustisia, and the money collected by the Judiciary is supposed to be directly transferred by the central government to the settlement fund trustee for the payment of benefits. If half of this money is directed to the Department of Public Safety, there will be less money for the retirees:

Last but not least, the Bill also contains an ambiguous catchall provision. The specific phrase in § 2507(b) states: "... all revenues collected by the courts of the Commonwealth pursuant to 1 CMC § 3403 or fines or fees collected pursuant to 7 CMC § 3206 and 7 CMC § 3251 *or any other law....*" (emphasis added). The fines and revenues collected by the courts of the Commonwealth are extensive. For example, we collect moneys as a third party custodian and hold those funds in trust, and we collect fees for probation services. While these funds are not paid into the Judicial Building Fund, this proposed language would arguably cover them. The

¹ As a result of the settlement agreement entered into in the NMI District Court between Betty Johnson and the Commonwealth Government, the loan for the Guma Hustisia became an asset of the Retirement Settlement Fund.

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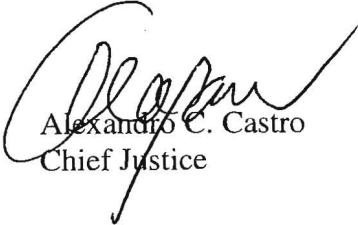
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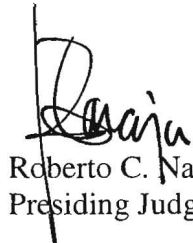
catchall language of the bill makes all of this revenue potentially subject to the Department of Public Safety Operating Fund. While this may or may not be the intent of the Legislature, the funds that will be diverted to the new operating fund should be clearly defined, and the inclusion of a catchall provision is unnecessarily ambiguous in light of the size and scope of revenue collected by the courts.

This is not the first time that the sharing of the fines and fees collected by the Judiciary has arisen. During Department of Public Safety Commissioner Tudela's term, the Judiciary and the DPS entered into discussions regarding raising traffic fines and then sharing the increased amount. The Judiciary is still willing to work with DPS to increase traffic fines, and then equitably share the increase in revenue, but because of the outstanding balance owed on the Judicial Building Fund Loan, the current amount collected must continue to be remitted to the Building Fund for the benefit of the retirees.

Si Yu'us Ma'ase,



Alexandro C. Castro
Chief Justice



Roberto C. Naraja
Presiding Judge